

# What's New in Our Current 'International Secularism'?

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Nathaniel Berman's paper offers us a rich study of the interwar reflections about the intertwining between religion and nationalism, seen as 'forces' both dangerous and necessary, which should be 'freed' or 'tamed' in order to create a new political order. This theme is approached through its theorization by the French Collège de Sociologie and its non-academic philosophy of the sacred (mainly Bataille's transformation of the Durkheimian idea of a 'left sacred' and a 'right sacred'), but also through the discourses and the practices of international law, by prominent lawyers, or through the way European nations dealt with the status of 'minorities' or with colonized people living under status of Protectorate. I much appreciate Berman's evocation of these various reflections and the way they 'complicate' (both as analysis and as symptoms) the problem of secularization as well as the question of legal internationalism.<sup>1</sup> Let me develop these two points, before coming to some aspects of Berman's reflection that seem to me less convincing or more questionable.

Berman's inquiry about the various interwar discourses about the articulation between religion, nationalism, and international order sheds light on the various possibilities of theologico-political combinations, from the colonial French idea of a necessity of 'disciplining' a diffuse and potentially dangerous religious force (Islam, or the 'primitive' religions of Africa) through a political Protectorate, to the view of religions (and the theme of the 'world religions') as a tool to create a shared feeling of solidarity, against the nationalist tendencies (in the writings of some prominent international lawyers of the 1920s). Would it be possible to build a kind of typology of these various combinations between religion, national identities, and internationalist projects? Reading Berman's paper, I was thinking that a sociological approach, such as Bourdieu's attempts to situate the discourses in their relations to the positions of power in the intellectual field, would be useful – in order to rebuild the 'space of (social) positions' (*l'espace des positions*) (of the American prominent international lawyer, of the 'marginal' French 'sociologist of religion', of the authorities in charge of the Protectorates, and so on) and its relationship with the 'space of "position-takings"' (*l'espace des prises de position*). Without necessarily

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1 Other recent works seem to go in the same direction: see E. Shakman Hurd, *The Politics of Secularism in International Relations* (2008); E. Balibar, 'Sécularisme et cosmopolitisme: Héritages, controverses, perspectives', (2011) 14 *Raison publique* 191–228.

following Bourdieu's deterministic view of these relationships, it is clear that the view of the role of religion in international relations developed by an international lawyer who is also a counsellor of such institutions as the Society of Nations or the UNO 'cannot' be the same as that of a writer and 'free' sociologist fascinated by the link between literature as an 'experience of limits' and the experience of the sacred, and inclined to value everything that goes in the direction of the subversion of the 'normal' social order. Without claiming that their social positions 'explain' the content of their discourses, we cannot ignore the effects that their social positions might have on the subject of religion as a factor of order or 'disorder' either.

But even without such a sociological complement, Berman's paper shows the complexity of the role played by religion both 'in the internationalist imagination' and in the reality of international relations. It seems to me (and it is not necessarily a criticism, because that corresponds to a methodological choice) that Berman favours the study of the role of religion in the '*imagination*' of theorists of religion and of activists of legal internationalism, and lets aside the question of the 'effective results' this imagination has had in shaping historical reality. But I fully agree with Berman's statement, when he asserts that 'rejecting views which relegate religion to the margins, I maintain that religion has played a recurrent and highly fraught role in the internationalist imagination, with which it has maintained complex relations both of rivalry and of complicity'. This thesis implies a criticism, which I share, against the view of modern times as the moment of a pure process of secularization in the sense of a retreat of religion. Berman makes a striking and imaginative use of the distinction between a 'secularization-transfer' and a 'secularization-retreat' that I have proposed in *La Querelle de la sécularisation*, and unveils the phenomena of 'contamination' of a logic by another one. For instance, he follows Bentwich's argument against 'the conventional "supersessionist" account of the relationship between a definitively secularized international law and its medieval religious predecessors . . . in favour of . . . dialectical processes among secularization-retreat, re-entanglement through contagion, and secularization-transfer'. Indeed, 'the establishment of sovereign states at the expense of medieval Christendom, that paradigm of secularization for conventional legal historiography, was simultaneously a re-entanglement between religion and nationalism'. The secularization of the European world after the Westphalian Peace was a complex phenomenon, not only the progress of a secular rationality, but also what current German historiography calls a process of 'confessionalization' in which the confessions became a central piece in the formation of the modern nation-states. Later on, in colonial or semi-colonial contexts, 'constructions of religious difference have served as the fulcrum around which the legitimation of international authority and the construction of new ideas of sovereignty have turned'. In other words, the role played by religion cannot be limited to a (classical) chapter of the genesis of international law, in which religion would be partly 'relegated' (with the birth of the nation-states upon the ruins of the *Respublica Christiana*) and would have otherwise played a 'precursor' role with the theologians-lawyers such as Vitoria. This narrative is certainly not entirely untrue, but it becomes illusionary when it suggests that, after, let's say, the sixteenth and seventeenth centuries, international law would have become a purely secular matter in

which religion played only a marginal role. The colonial 'game' with the 'fanaticism' or the religious and moral 'backwardness' of the indigenous people, legitimating their need of a 'civilized' protection, is a convincing instance of this persistence.

A last interesting point, to me, is the genealogy of the very notion of three or four 'world religions' in the beginning of the twentieth century and the ambivalent view of their role – grounding big 'civilizations' and their rivalry (not to say their 'clash'), but possibly pacifying and 'internationalist', as long as they could be detached from the nationalist nexus in which they were often historically brought. I nevertheless wonder whether there were not several sources to this concept, knowing that Max Weber was using it in his sociology of religions already, I think, at the end of the nineteenth century, without giving to these religions a specific 'value', but stating their presence in various continents around the world.

Berman's explicit and ultimate goal, nevertheless, is not only to document this persistence of the role of religion in internationalist imagination; it is, as he writes:

to understand how the recent obsession in international debate with religion is only the latest instantiation of a recurrent struggle – rather than a pragmatic response to specific challenges, and still less a necessary worldwide mobilization to an implacable monster risen up from nowhere to challenge the liberal international order.

There are many ideas and devices here, in a nutshell, and I think I would agree only with a part of them.

First, let us admit 'the recent obsession in international debate with religion', and let us wonder about its sources. Is it only the last variation of a 'recurrent' and, it seems, a bit repetitive debate? I am always a little sceptical about the verdicts: 'nothing new under the sun' (Hans Blumenberg called that 'historical substantialism') – of course, speaking of 'the latest instantiation of a recurrent struggle' is something other than saying that nothing changes and nothing new has happened, but it nevertheless suggests that much of what seems to be new is not. How far is it true? It is a difficult point to prove, but I am not convinced by the assertion that 'our' current understanding of these matters is so impregnated by these interwar reflections – or maybe it would be necessary to be precise, in each case, as to who is the 'we' that is implied in this expression: '*our* current understanding'.

The first question, here, would be: is the interwar matrix itself a variation in this 'recurrent struggle' about the function of religion in political and international (dis)order and, if it is, why is it still remarkable? It could be easily argued that the opposition between (real) religion (as a living, personal, and non-institutional energy) and law (as an anonymous instance) has had itself a long story, preceding Bataille's philosophy of the sacred. It was a central opposition in Paul's theology itself, as Rudolf Sohm had shown it in his *Kirchenrecht*, a book that had a deep influence in Max Weber's conception of 'charisma' as a source of legitimacy directly opposed to the 'rational–legal' authority; and this opposition between an embodied-personal legitimacy and an anonymous-legal one, anchored in theology, has been present in all the 'critics of law' developed lately by Romanticism, in its 'right' form (Novalis) as well as in its 'left' form (the young Hegel, Marx, and maybe today Agamben or Badiou).

Nevertheless, it is true, I think, that Bataille and the Collège de Sociologie have ‘innovated’ and played an important intellectual role in elaborating the polarity of the sacred itself when they have placed law on the side of the ‘right sacred’ and ‘anti-law’ on the ‘left sacred’. Despite explicit criticism or denial, it has remained a source of inspiration for the scholars who looked for some ‘subversive’ or ‘revolutionary’ resources in religion or spirituality, as Foucault did at the time of the Iranian revolution or as Agamben does nowadays with his messianic horizon of a ‘real state of exception beyond law’ (a final device in his book *State of Exception*<sup>2</sup>). Here, the most ancient ‘anti-nomism’ (the Pauline one) finds a new language, partly inspired by Bataille (and especially Benjamin, in Agamben’s case). But can this influence be generalized far beyond these inheritors of a radical criticism of law, seen both as a piece and as a decoy in contemporary ‘biopower’?

The fact that some general elements or preconceptions of this reflection (the idea of ‘the sheer energy that [religion] arouses in people, which secular law fails to do and which nationalism does malevolently’) were shared by international lawyers such as Philip Marshall Brown or, today, by Richard Falk does not seem to me a sufficient reason to see a *genealogical* link between the ‘affirmation of the irreducibility of religiosity so prevalent’ in the early twentieth century and the renewal of this theme in the early twenty-first century. As Blumenberg says in *The Legitimacy of Modern Age*,<sup>3</sup> a homology (or an analogy) is not necessarily the result of a derivation. It seems to me that N. Berman does not sufficiently take into account the *historical events* that have given to the ‘affirmation of the irreducibility of religiosity’ at the end of the twentieth century (and beginning of the twenty-first) a different value and plausibility than in the early twentieth, where the defenders of this thesis had to present it largely as a *provocative, counterintuitive* affirmation. At the beginning of the twentieth century, indeed, the historical ‘trend’ in Europe seemed to be an increasing secularization-retreat, a decline of religiosity, a ‘de-Christianization’, a step in what has been seen as ‘the end of the parochial civilization’. In France, the disentanglement between the secular sphere and religion has then taken the sharp (and ‘neat’) form of the ‘separation between the Churches and the State’ legally realized by the 1905 law. When Bataille promotes his ‘left sacred’, he aims at shocking the ‘classical’ republican left as well as the Marxist left and its vision of a necessary decline of religion-illusion. At the end of the twentieth century, on the contrary, the ‘resistance’ or so-called ‘return’ of religion and the decline of some massive secularist movements have taken the form of an empirical–sociological ‘fact’: the collapse of the Soviet ‘secular’ system as well as the unexpected power of Islam as a political force have, among other events, *imposed* a ‘rewriting’ of the paradigms: secularization(-retreat) was not a ‘necessary’ process of history; a teleological or evolutionist view of history as secularization was no more possible.

Today, some scholars consider that we should rethink ‘law after secularization’<sup>4</sup> in the sense of a criticism of the classical view of law as the specifically ‘secular’

2 G. Agamben, *State of Exception* (first Italian edition 2003, American translation 2005).

3 H. Blumenberg, *The Legitimacy of Modern Age* (first German edition 1966, American translation 1985).

4 W. Fallers Sullivan, R. A. Yelle, and M. Taussig-Rubbo (eds.), *After Secular Law* (2011).

discourse and as a neutral and rational tool, the first sphere in which the autonomization toward theology has been claimed (according to the classical motto of Albericus Gentilis: *silete theologi, in munere alieno*). I do not know whether they are right in formulating this will to 'de-secularize' law (I think, on a practical and axiological level, that they are not), but the problematic seems to me less a repetition of the interwar matrix than an answer to a current state of the world. The fact that these answers partly 'repeat', partly take up, older views and commonplaces about religion and law is well shown by Berman; 'our' contemporary thought and problems are certainly far less 'new' than some scholars and actors could think, and it is always a good thing to become more aware of these continuities. But we are always on the verge of falling from one excess to another: the illusion of 'beginning *ex nihilo*' and the illusion of 'nothing new under the sun'.

I must be clear, now, that I do not want to hide the difficult question also raised by Berman's paper: it is indeed very difficult to determine the degree of novelty of the current uses of religion in the internationalist imagination of the 'mainstream' scholars or lawyers as well as in the spirit of the 'marginal' and 'subversive' movements or theorists. A good instance of this difficulty is the temptation to interpret the current relations of the West vis-à-vis the Arabic world (with situations as various as the attitudes of the Western states towards the revolutions in Tunisia and Egypt, the military intervention in Libya, the Western military presences in Iraq and Afghanistan, the non-intervention in Syria) as simply 'neo-colonialist' or 'imperialist'. Such an interpretation is quite unsatisfactory, despite the fact that some arguments about the dangerous role of 'fanaticism' and the necessary 'protective' role of the Western democracies towards the peoples (especially in Afghanistan with the Taliban), so that they can arrive at a 'mature' democracy, echo some interwar arguments in favour of the Protectorates. Talal Asad has conveyed this uneasiness well in a recent interview:

You often see colonialism where other people are blind to it, it seems, says the interviewer.

Talal Asad answers: Yes, but I'm also sometimes irritated by people who would like to explain everything in terms of colonialism. That is just so crude. I also find myself resisting people who say that colonialism has nothing to do with the present situation because colonialism is dead and gone. My own feeling is that what people assert or deny is due to colonialism should be constantly interrogated.<sup>5</sup>

Would Berman agree that we should constantly interrogate the view that 'our' present relationship with religion and internationalism is due to 'recurrent' (neo)colonialism or is his paper an attempt to convince us that it is the case? I must admit that it is not absolutely clear to me.

My last question would be about the normative value of these reflections. If we state that any 'internationalism' has links with a religious view (from Paul's disputed 'universalism' to Vitoria as so-called 'father of international law' and paternalist advocate of the rights of Indians, and maybe to Marx's messianic hopes in a humanity

5 <http://blogs.ssrc.org/tif/2011/08/03/the-suspicious-revolution-interview-with-talal-asad>.

reconciled with itself after the world proletarian revolution), *should we renounce internationalism if we want to be secular, or should we renounce secularism in order to stay internationalist?* It can sound a bit ironical, but it is not. It is an old question, to me, to know what would be an absolutely ‘achieved’ secularization and it is a debated question, today, to determine how far social critique and political hopes can be strictly secular.<sup>6</sup> Despite the fact that both secularism and internationalism have been used as tools of colonial and imperialist dominations, I still believe that both secularism and internationalism (or Kantian cosmopolitanism) have an intrinsic value and should be defended both against their (nationalist–xenophobic and fundamentalist) enemies and against their instrumentation by the Western powers. As far as I can judge, Berman would find this normative position too ‘Western’ (but I would contest the fact that ‘secularization’ is a mere Western or imperialistic matter, this time against Asad’s motto, ‘secularism is Christianity’) and maybe not ‘ironical’ enough towards what a late conference in Konstanz called ‘the rhetoric of secularization’. But here, it is a matter of ‘ultimate choice’ and of political involvement – let’s say, of decision.

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6 See the recent dialogue between T. Asad, W. Brown, J. Butler, and S. Mahmood, *Is Critique Secular?* (2009).