

# Church-EU Dialogue under Article 17.3: Consensus-Seeking Instrument or Power Strategy?

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**Abstract:** In 2005, the European Commission formally inaugurated a “structured dialogue” between European institutions and major faith traditions and non-confessional bodies in Europe. The provision for dialogue was envisaged ostensibly as a mechanism to include religious and non-confessional perspectives in the ongoing construction of the wider European project. The language of “dialogue,” consensus-seeking, and mutual learning dominates both religious and political justification for this formalized provision. Analysis considers emerging praxis in the intervening period (2005–2010) to determine the extent to which consensus-seeking has prevailed over the role of power and interests. Findings indicate that a number of elements relative to the configuration of dialogue praxis have severely inhibited the communicative potential of the provision enshrined in Article 17.

Ye shall know them by their fruits — Matthew 7:16

## INTRODUCTION — PUBLIC RELIGION AND POLITICS

Until the autumn of 2008, and the world financial crisis, it is fair to say that much of Europe was dominated by more post-materialist debates,

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particularly in the period following September, 2001. How does Europe govern religious pluralism? What is Europe? What are Europe's values? These questions encapsulated a preoccupation with issues beyond that of physical and economic security (Inglehart 1977; 2008). Issues of identity, of difference, of self-understanding, and the corresponding negotiation with the "other" were projected to the forefront of popular, academic, and political debate. Correlating these trends, increasing pressure was also placed on what had been considered a given within the sociology of religion: the secularization thesis (Norris and Inglehart 2008; Bruce 2002; 2011; Berger 1999; Stark 1999). Secularization was understood as the process whereby religion would gradually lose its significance as modernization proceeded apace. Following the end of the post-war era, and paralleling the re-emergence of ethno-nationalist conflicts in various world regions after the fall of communism, scholars drew attention to inverse trends to the secularization paradigm. They noted the comparable rise in religious activism in the political space (Huntington 1996; Kepel 1995).

This religious "resurgence" has legitimized a "return" of religious voices to the public sphere, including very prominent — and contested — questions around the role of religion in policy-making (Casanova 1994). The Archimedean point for the following study is the inclusion of a specific provision within the Lisbon Treaty (effective 2009), which allows religious interests to interact directly with the European Union's primary institutions. The institutionalization of dialogue between religious associations and the institutions of the European Union (EU) was included in the Draft Constitution of 2004 (as Article I.52) and subsequently retained in the Lisbon (or Reform) Treaty of 2007. Article 17 in the Treaty on the Functioning of the European Union (TFEU) is worded as follows:

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member states;
2. The Union equally respects the status of philosophical non-confessional organisations;
3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations (*European Communities* 2007).

The inclusion of the third subsection, providing for a dialogue between religious and political institutions, was strenuously opposed by a range of civil society actors, spearheaded by liberal Catholic, humanist, and

feminist associations (Houston 2009). It was also the subject of a contentious debate in the European Parliament (EP) in September 2005 following the first formal dialogue event in July 2005 (*European Parliament 2005*). Objections emerged concerning the limited range of participants, the exclusion of non-religious perspectives, and potentially conservative perspectives that might influence future policies.

This analysis considers the relationship between the official discourse of political and religious actors around the issue of religion's role in politics and the empirical and tangible non-discursive practices that have emerged in parallel (Burton and Carlen 1979). This is to pose the Foucauldian question, what is the function of a discourse in a field of non-discursive practices (Foucault [1969] 2002)? This imperative emerges from a more critical trend in social and political research, one that questions the normative assumptions at the heart of contemporary political theory (Shapiro 2005; 2003; 1999; Flyvbjerg 1998). Here, analysis dispenses with the normative debates and the assumptions of a communitarian inflected political discourse around diversity, participation, and deliberation, as well as the role of religion as a component of "civil society." Instead our objective is to trace the contours of this official discourse and consider its place in the wider field of emerging political praxis. The objective is to examine the disparity between the expressed ideals underpinning the formalization of church-EU dialogue on the one hand and the actual operation of the provision on the other.

As recently as January, 2013, the European Ombudsman issued a decision against the European Commission as a result of complaint brought against it by the European Humanist Federation (EHF). The EHF had sought to include the issue of religious exemptions under national law on the agenda of the dialogue provision. The European Commission's rejection of this request was deemed by the Ombudsman to represent a failure on the part of the Commission to properly implement Article 17 of the TFEU. As paragraph 49 of the Decision made clear:

In this respect, the Ombudsman finds that the Commission was wrong to argue that, by engaging in the dialogue proposed by the complainant, it would go beyond the "spirit" of Article 17 (1) and (2) TFEU. By rejecting the complainant's proposal for a dialogue seminar, on the grounds that this would go beyond the spirit of Article 17 (1) and (2) TFEU, the Commission failed to implement Article 17(3) TFEU properly. This constitutes an instance of maladministration (*European Ombudsman 2013*).

This analysis considers the extent to which the ostensible ambitions for the provision, as expressed by its supporters within the EU's institutions and among institutional and associational religions, are borne out by emerging practice since its formal inauguration in 2005. The research undertakes a close examination of a range of textual sources that emerged prior to the inaugural dialogue event and throughout the period up to 2010. The study examines naturally occurring documentary evidence emanating from both the political institutions of the EU, specifically the public statements, and utterances of prominent office holders, as well as the public statements of key office holders within religious associations from the period prior to the time of the Convention on the Future of Europe up to 2010. These include the documented contributions of religious associations to the Convention, which are recognized as dialogue partners by EU institutions.

The key stakeholders on the European institutional side included the Bureau of European Policy Advisors (BEPA), which is a discrete unit within the Commission tasked with undertaking analysis for the formulation of policy, as well as coordinating the Commission's interaction with civil society, including that of the dialogue process with churches (Bureau of European Policy Advisors 2013). Broader comments by high profile EU actors, such as Commission Presidents and Presidents of the EP are also examined.

Among religious associations, the most prominent actors were the two main Christian bodies that have established close contact with BEPA, the Commission of the Bishops Conference of the European Community (COMECE), and the Conference of European Churches (CEC). The former are tasked with representing the interests of the Holy See/Vatican in Brussels, while the latter is a pan-European umbrella body for Reformist and (some) Orthodox Christian churches (Anglican, Lutheran, etc.). Reformist tradition is also represented by high profile figures in the Anglican and Lutheran church, such as the Bishop of London and the Bishop of Hulme, while the Chairperson or Prelate of the Evangelical Church of Germany (EKD) has also attended most or all of the formal events. Orthodox Christianity is also represented repeatedly by the Russian Patriarch, the Greek Orthodox Patriarch, and the Metropolitan Emmanuel of France. Among other religious associations there is the Conference of European Rabbis. These bodies have had a repeat presence at formal dialogue events since 2005. Among Islamic groups the situation is somewhat more complicated. The Islamic associations invited to the annual formal event have been drawn from across Europe and reflect a measure of the diversity within that faith, particularly

along the sectarian divide of Shi'ite and Sunni. Yet even here (as noted in Appendix 5) there remains a clear tendency to favor the attendance of particular bodies or individuals. The President of the Islamic Community of Austria has attended on three consecutive occasions, while the Muslim Council of Britain has attended twice, as has the Muslim Council for Religious and Racial Harmony, the European Islamic Conference and the Director of the Islamic Centre in England. Other organizations, among them the Federation of Islamic Organisations in Europe are listed as officially recognized bodies on the BEPA website. The attendance patterns and other patterns of interaction (tables in the Appendices) arguably reflect the emergence of a "core" of religious associations in the eyes of the European institutions. What is not clear is the precise selection process involved in choosing who is to attend, who is an interlocutor, and who sets the agenda for discussion.

What opened the door to formal church-EU dialogue was the broader contextual transformation in political rule among advanced democracies and the expansive role of civil society, something articulated specifically within the EU's White Paper on Governance (*European Commission* 2002). Governance, a comparatively recent object of study (see Treib et al. 2007; Kohler-Koch and Rittberger 2006; Kjær 2004; Kooiman 2003; 1999; 1993; Sibeon 1999), differs from government insofar as it accounts for the expansion of the operation of political control beyond the confines of traditional legislative, bureaucratic, executive, and judicial state institutions. The net expansion of the political decision-making process beyond the confines of these institutions demarcates an important transformation in the nature of the state (Treib et al. 2007), and by extension the EU (*European Commission* 2002; Kohler-Koch and Rittberger 2006). The specific locus of that transformation concerns the relationship between state intervention and societal autonomy (Treib et al. 2007, 2). Both policy formulation and its implementation are influenced and affected by a greater number of actors in addition to the state's formal institutions (Kohler-Koch and Rittberger 2006, 28).

Kjær (2004, 15) has noted that governance has an overriding concern with the issue of political legitimacy (something pertinent to EU studies) insofar as the overall management of the "rules of the game" are orientated to achieving greater democratic acceptance of democratic control and policy. She identified two forms of legitimacy. Input legitimacy is that gained through greater participation by societal actors and output legitimacy, which is concerned with results, is gained through

the implementation of policy that is both effective and acceptable in achieving an aggregate benefit for the common good.

Kooiman (2003, 3) describes governance as a form of interaction with a cooperative private and public character, which is contrasted to what he describes as “do-it-alone” government through the organs of state only. In traditional government, through executive, legislative, and bureaucratic structures, policy is formulated and implemented, with little input from non-governmental actors. The crucial distinction he identified between government and governance is the creation of “*common* responsibilities next to individual ones” through the state’s engagement with “previously uninvolved partners” (Kooiman 2003, 3–4 emphasis added), which are concerned with “shared” governing issues.

In light of these broad conceptualizations, governance is defined here as a general transformation in the modality of democratic rule, whereby political institutions incorporate market and civil society agency into policy formulation and implementation. Governance allows analysis to consider the interaction of public religion as an organized interest (or in E. E. Schattschneider’s term “mobilised bias”; Schattschneider 1960, 28) in the context of a form of politics and policy-making that is at base more receptive to non-state forms of authority, influence, and expertise. The EU has not, unlike its member states, begun from the point of traditional state monopoly on policy-making toward governance. Governance was the only conceivable option open to the Union given its limited range of competencies and the centrality of inter-state relations and inter-governmentalism (Moravcsik 1993). Corporate forms of religion (Westerlund 1996) have, through the evolution of governance and EU governance modalities in particular, established an important strategic position within the supra-national decision-making apparatus, capitalizing on the transformation of contemporary politics in advanced democracies.

To date, we have had a little over eight years of formalized dialogue between the EU (specifically the Commission) and religious associations and non-confessional organizations. In that time, regular contact between the European Council and the main Christian religious associations has been formalized into established practice. This evolution of church-EU contact can provide us with an emerging picture of practice. Analysis takes as its point of departure the need to consider the dichotomous relationship between consensus and conflict. In other words, rather than analyze the dialogue provision through the prism of deliberation and consensus-building as a normative marker, we consider instead the manifestation of opposition to the dialogue to be indicative of a contested

power relationship (Flyvbjerg 1998). The presence of conflict is not an aberration to be ignored, but rather an indicator to be followed. The analysis contends that, despite the overt references to ideas of consensus-building and the provision of a communicative space for religious associations as a specific component of civil society, the provision reflects standard interest representation in practice, with the emergence of core and peripheral actors relative to the EU's institutional apparatus.

## THE OFFICIAL DISCOURSE OF DIALOGUE

A range of sources provide us with a tentative but surprisingly consistent picture of the official positions of the key stakeholders to emerge around the provision for structured dialogue between the EU and confessional and non-confessional bodies. What is common to them, aside from the themes that they address and embody, is that they share the characteristics of an "official" discourse (Burton and Carlen 1979; Hayward 2009). Official discourse, aside from seeking to persuade publics of the "truth" of a given statement, is ultimately an attempt to reflectively reinforce the beliefs and theoretical horizons of the political/bureaucratic elites themselves. "Official" discourse has several key characteristics. First, it embodies the official opinion of the particular institution or body that is presented to an audience, whether this is political, religious, or otherwise. Second, the speaker is viewed in terms of their relationship to a specific organization or association. Additionally, the particular speaker holds a prominent role and embodies a high position of authority within the organizational hierarchy. Third, that the utterances of the speaker are in the *public* domain, whether published through media articles, speeches or press releases, official documents posted on internet websites, or positions articulated on the organization's website. A discourse should show a level of consistency across both time and space.

Prominent in the official discourse of the stakeholders concerned with church-EU dialogue's the idea of sharing. There is the concept of shared — and sometimes "core" — values as a mainspring of peaceful coexistence and as a normative underpinning for the ongoing project of European construction. Minority faith representatives, majority religious associations and institutions, and political institutions reflect and reiterate this concept of shared (or core) values. As Sajid (2006) puts it: "The message is very clear: we need to create a common platform on common, shared human values." We encounter also an official

declaration, in line with much international discourse throughout the latter part of the twentieth century, concerning the validation of diversity and respect for other identity forms. For example, Commission President Barroso articulated the European Commission's official position thus:

Our approach, based on our concept of human dignity must reconcile identity and openness, dialogue and respect [...] My Commission is determined to protect and promote cultural diversity as well as to bring our common cultural heritage to the fore, as it is required to do by the Treaties (Barroso 2004).

The imperative behind the need for a set of common values was articulated by the Catholic and Reformist Churches in their joint 2001 document, the *Charta Oecumenica*:

Without common values, unity cannot endure. We are convinced that the spiritual heritage of Christianity constitutes an empowering source of inspiration and enrichment for Europe (Charta Oecumenica 2001).

Among Christian advocates, the assumption that common values are an intrinsic component of any projected "unity" is tied to a much more specific confessional horizon, the spiritual heritage of Christianity. Implicit in the language of the Christian associations is the prospect of Christian churches contributing to a much wider sense of commonality, an optimistic articulation of Christianity being supportive of a broader sense of "European-ness."

The language of "consensus" and deliberation are prominent within much of the political and confessional/non-confessional discourse. What is articulated is the desire to be open to difference, to express differences respectfully, and to come to a common agreement as a result of shared horizons of meaning. Perhaps unwittingly, the former European Parliamentary President, Hans Poettering, captured this in the language of classic Habermasian discourse ethics:

True dialogue means each component of society is able to express its point of view with respect for the other. Consensus can then emerge from the truth about particular values or goals (*European Parliamentary President* 2008).



Similarly, the EHF, in its submission to the Convention outlined the imperatives of late-modern governance and the potential for civil society to contribute to the realization of a shared society and fair politics:

People must talk to each other, religions must talk to each other, cultures must talk to each other. The organizations of civil society can respond to this approach (European Humanist Federation 2002, 2).

Ecumenical Patriarch Bartholomew, speaking to the European Parliament during the Year of Intercultural Dialogue in 2008, outlined the demands and responsibilities that dialogue placed upon the interlocutors.

For dialogue to be effective, to be transformative in bringing about core change in persons, it cannot be done on the basis of “subject” and “object.” The value of the “other” must be absolute — without objectification; so that each party is apprehended in the fullness of their being (Patriarch Bartholomew 2008).

A further common thread running through official discourses produced by political and confessional bodies is the imperative of respect for diversity and the promotion of tolerance.

In today’s interdependent world, I am convinced that cultural diversity and dialogue must go hand in hand. And this dialogue must be based on respect for the culture of the other (Prodi 2003).

In addition, diversity was not only to be tolerated; it was seen as a positive good in itself and that the EU had a responsibility to ensure that this was reflected in the future Europe.

The European idea was based on the firm determination to make sure the Europe of the future would be different — a Europe of peace, tolerance and respect for human rights. A Union of diversity where differences are accepted and perceived as enriching the whole (Prodi 2004).

Minority religious associations also articulated these imperatives of working toward greater tolerance and mutual respect.

[T]he need to enhance the values of mutual understanding, working for peace and the welfare of society, moderation and inter-cultural dialogue, removed from all inclinations of extremism and exclusion (*Federation of Islamic Organisations in Europe* 2008).

Churches and confessional organization also point to the new trajectory in modalities of rule, and how a space has opened up for non-state actors to participate in the ruling process. Churches are clearly conscious of the opportunity to capitalize on the shift toward increasing the role of the third sector. Not only has this space opened up for civil society actors to contribute to meeting various societal challenges, but the EU has an obligation to include those components of society that are legitimately embedded in it.

At the same time, it is clear that societal challenges cannot be solved through the mere intervention of political institutions. Answers can be found by seeking partnerships with or consultation of various sectors of society. Intermediate organisations, legitimately anchored in society, play a supportive role in this respect (Conference of the European Community 2002, 3).

And from CEC:

European institutions have not only an obligation to disseminate information but also to listen to communications from the citizens, national parliaments and civil society [...] Churches together with their related organizations and agencies are ready to be the partners of the European political institutions in an effort to contribute to the developing of a Europe that is not only prosperous and democratic, but also sustainable, trustworthy for its partners and supported by its citizens (Conference of European Churches 2006, 5).

There are obvious parallels with the predominant themes within contemporary political theory. There is the emphasis on organic bonds of attachment, of community; there is the corresponding mediation of inter-community distinctiveness and the collective striving toward a society of shared values and equality. These contributions from political, confessional, and non-confessional actors exhibit a similar official discourse, which finds its conditions of possibility emanating from a notable shift in the practice of rule toward the end of the 20th century.

## **DIALOGUE PRAXIS**

In his extensive theoretical exposition of how Associational Democracy could provide a framework for the management of religious diversity, Bader outlines how existing interest group representation and lobbying

are compatible with his vision (Bader 2007, 215). However, in an accompanying footnote, Bader acknowledges that:

The appropriate modes of representation for different types of minorities in the political process in divergent contexts are largely unexplored research themes. *AD certainly does not provide a ready-made blueprint to answer urgent questions such as: which religions should be represented in which ways, in which fields, regarding which issues* (Bader 2007, 334:18; emphasis added).

Conceivably, this inability to provide more concrete proposals for the involvement of religion in the political sphere stems from the embryonic nature of the theorizing. Alternatively, it emanates from the implicit recognition that the formalization of Associational Democracy of religion is easier said than done. Ultimately, choices about who participates, who doesn't, how participation is to be configured, and in relation to what issues, do eventually have to be confronted, and that means that the process of exclusion, whether unintentional or not, becomes as important as that of inclusion. The implications of this for our analysis rest on establishing the viability of a normatively impelled reconfiguration of participatory or deliberative politics, which finds itself grafted onto existing and well establish political and policy processes — lobbying (Greenwood 2003; 2007). Our analysis is concerned with how these discursively expressed ideals are connected to practice.

Heritier (1999) has identified two key properties in EU decision-making and policy processes: its basic and invariable diversity and the default approach in decision-making, the pursuit of consensus. Yet several questions emerge at this point: *who* should be considered an interlocutor, and why should the interpretations that they embody be taken as an authoritative one from the perspective they claim to represent? Why, in fact, should religious identity markers supplant other identity markers? There is even less consideration of the profound difficulty in securing “political compromise” (Bellamy and Warleigh 1998, 464) from actors who may view the process as part of a strategy to actualize preferences rather than as a search for a common, consensus-based truth. Michalowitz highlights a useful question, which is pertinent at this point: is lobbying by private/corporate interests a means of interest mediation between meso-level actors and political authority, or is it more appropriate to describe it as mutual instrumentation (Michalowitz 2004)?

One important distinction between terms that are often elided over within official discourse is the important difference between participation and deliberation. Emerging from the shift toward a “governance” modality, and the inclusion of non-state and non-political actors is the normative value placed on participatory democracy (Held 2006). It is clear that participatory democracy is a prominent normative paradigm within the EU, as expressed variously and enshrined in the Lisbon Treaty. Active citizenship and engagement through (voluntary) organizations is a good in itself, usually in the sense that citizens learn to appreciate participation at any level. However, participation is not the same as deliberation (Mutz 2006; see also Vitale 2006). Deliberation, in the Habermasian sense, is where opposing, antagonistic, or incompatible perspectives are exposed to one another in a public sphere, thereby subject to revision or adjustment, and a working consensus achieved. As Mutz points out, participation and deliberation are not only different — they may even be antagonistic. It was Sunstein (2002; 2000) who drew attention to the risks inherent in relying on “deliberation” in what he referred to as “enclave” settings, that is, those settings where only like-minded participants are present. Group polarization occurs because, Sunstein argues:

Groups, and group members, move and coalesce, not toward the middle of antecedent dispositions, but toward a more extreme position in the direction indicated by those dispositions. The effect of deliberation is both to decrease variance among group members, as individual differences diminish, and also to produce convergence on a relatively more extreme point among pre-deliberation judgements (Sunstein 2002, 178).

Generally, prevailing analyses considers the formation of institutional or associational religion as an *effect* (or end point) of pre-existing mobilized interests. A traditional political science reading of actors as the end points of power is exemplified by Schattschneider’s concept of the “mobilization of bias” (Schattschneider 1960, 28). His insight is largely concerned with the trajectory and patterns of political conflict *once these biases are crystallized*. However, his descriptive term is useful for our purposes, insofar as it establishes the analytically distinct entities of an association or organization as a “bias” (with a specific normative orientation and related interests) and the idea of its “mobilized” form (in the form of a self-constituted association or institution). A necessary task for our research is to uncover the imperatives and processes of bias mobilization, in our case normative perspectives on society grounded in religious beliefs, in order

to understand the implications of their foundational ideologies and substantive goal-directed strategies for EU governance. Theories of deliberation have tended to view aggregate interlocutors as *given* entities within the power matrix of politically initiated dialogue, without considering these interlocutors as the *outcome* of antecedent (and ongoing) power struggles within their respective independent spheres. Such a viewpoint tends not to give sufficient weight to the normative interpretations and imperatives of biases, still less to how they differ from each other.

In surveying the literature on EU interest group representation, Woll (2006) identifies four branches of analysis: the corporatism-pluralism debate; collective action; European governance; and the Europeanization of interest groups. The latter two are of particular relevance here. Frequently, the inclusion of civil society interests is viewed as a mechanism by which an identified gap in democratic accountability can be bridged. As Greenwood (2003, 177) notes, any issue “packaged” as mitigating the democratic deficit already has a head start in garnering a sympathetic hearing from EU institutions. The legitimacy question is important because it provides a strategic opportunity for the religious associations under analysis to place themselves in a utilitarian role within the Unions decision-making system. Closely related is the idea of “Europeanization” of interests through their mobilization and interaction at the supranational level (Warleigh 2001). The debate over the legitimacy issue is multifaceted and ongoing, but a skeptical note on its capacity to deliver legitimacy should be noted. A conceptual or logical leap has occurred in attributing the term “civil society” to what is ultimately “interests” and the utility of interests as a panacea for the Union’s legitimacy woes is open to contestation (Curtin 2003; Sudbery 2003). Lorenzo (2003), for instance, has questioned whether the channels available for influencing policy and decision-making in Europe are equally open to all who might have a stake. It gives some salience to the point made by Hix (2005, 213), that the rapid proliferation of interest group activity at EU level since the mid-1990s correlates a notable *decline* in support for the EU.

The challenge, both in terms of research, and indeed of policy praxis, is to examine whether the attempt to short circuit the pursuit of a genuinely deliberative society and polity through already existing modalities of stakeholder engagement such as lobbying and interest representation is viable. Are we, by virtue of an official discourse that is largely congruent with prevailing trends in political theory, confusing neo-corporate strategies with real reform toward a democracy that embodies these very

ideals? Have the pleasant sounding syntaxes of political and civil society actor statements seduced those concerned (academically or politically) into thinking that interest representation actually does embody the ideas of shared space, mutual respect, consensus and tolerance, and the pursuit of common goals? We need to contrast theory with praxis. Here, analysis seeks to isolate the subtle but important variation in the modes of interaction between the informal and formal manifestations of dialogue and to consider these in light of the actions of prominent religious institutions or associations within the equivalent timeframe.

Our study draws upon documentation produced after several dialogue events (in November 2001 and October 2002) under the auspices of the “Soul for Europe” initiative, which relate directly to the question of church-EU dialogue (Group of Policy Advisors 2002; 2003). Those who participated at the events arranged by the Group of Policy Advisors<sup>1</sup> (Appendix 1) ranged across the multiplicity of faith traditions, and included religious, cultural, and academic figures from across Europe. This is an important detail in itself, from the point of view of the ideal deliberative model implied in the statements outlined above.

By contrast, since 2005 dialogue has been characterized chiefly by *bilateral* contacts between the Commission and a narrow selection of associations (Appendix 2). When the annual formal event is examined these have engaged only the main monotheistic traditions for most of the life of the dialogue process (Appendix 3). Notable exceptions of this convention include the 2006 event, which included the Dalai Lama, and the more recent 2010 event, which included Sikh and Hindu participants for the first time. In short, the broader participatory range that characterized the informal events (in Appendix 1) was not the *modus operandi* for the formalized provision since 2005 (Appendices 2, 3), the net effect of which is the fragmentation of the dialogue process and the erosion of deliberative *telos*. The greater bilateral emphasis afforded little opportunity for substantive *deliberation* over specific policy questions with each other. In addition, there have been (to date) clear asymmetries in contact frequency between various religious associations attending the annual formal meeting between the Commission and the monotheistic faiths (Appendix 5). The findings confirm Schlesinger and Foret’s earlier assertion of a strong bias toward the main Christian associations, through core associations (COMECE and CEC; see Schlesinger and Foret 2006).

What is clearly inferable from the tabulated breakdown is that some religious traditions are accorded a more prominent formal role than others. Hinduism, for example, though included in the informal seminars of

2001 and 2002, is absent from any aspect of the formal process with the Commission since 2005 until 2010. But the question here is not merely about the (mal-) distribution of contact opportunities with the Commission. It is primarily about the clear absence of the recognizably *inter-discursive* modality that was approximated through the informal deliberative democratic ideal outlined by Bader (2007, 245). Although former Commission President Jacques Delors encountered considerable difficulty in the early 1990s in getting coherent religious voices to engage with the EU's institutions (Foret and Schlesinger 2007), the formalization of the dialogue provision and its incorporation into the Draft Constitution was a result of sustained, coordinated lobbying efforts by the two main Christian associations, COMECE, and CEC, throughout each of the rotational presidencies around the period of the Convention. While the main Christian denominations pursued the formalization of dialogue and the deepening of bilateral consultations, their former Humanist partners in dialogue found themselves increasingly at odds with the emerging pattern, culminating in their opposition (along with other civil society bodies) to the dialogue provision when it finally manifested itself as Article I.37/Article I.51 of the Draft Constitution.

Even before the Convention, the European Commission invited proposals from Christian associations for furthering the practical development of church-EU dialogue. In response, Christian church association recommendations included *inter alia* the call for an explicit coordinating body to deal with the representations of religious associations, minimal media attention (COMECE-CEC 2002; 1999) and, in its response to the White Paper on Governance, CEC suggested a "differentiated approach" to religious communities by European institutions (Conference of European Churches 2002a: section 2.12), a request that would be echoed by CEC in its contribution to the Convention (see Conference of European Churches 2002b). The joint response in 1999 by COMECE and CEC put forward recommendations that included:

- Establishing a Joint Preparatory Group, which would consist of staff from COMECE, CEC, and the Commission tasked with the preparation and planning of the dialogue meetings and monitor follow-up implementation;
- Establishing dialogue meetings, which would deal with major issues on the EU agenda, and exchange ideas with European civil servants involved with the theme of the meeting;
- Working Sessions, which would facilitate more direct input from the churches in relation to specific policy questions;

- Presidential Meetings, which were envisaged as an opportunity to discuss matters of “mutual concern and interest” about European integration (COMECE-CEC 1999).

In a follow-up joint document (COMECE-CEC 2002), both associations reiterated their preference for a pre-legislative consultation procedure that would enable churches to comment on planned legislation. In addition, dialogue seminars between both associations and the European Commission were proposed, but no mention is made of including other religious associations, still less any other relevant non-religious associations or wider civil society. The working sessions and presidential level meetings were again stressed as desirable developments. The 2002 submission also included a proposal for the establishment of a “liaison office” within the Commission to facilitate contacts between the Commission and these church associations and religious communities, as the current contact mechanism within Group of Policy Advisors was deemed inadequate given the growing plurality of issues. This liaison office was envisaged as a specific mechanism to facilitate “the consultation of Churches and religious communities on planned legislation” (COMECE-CEC 2002: section 3).

Noteworthy contributions by other churches relating to the development of church-EU interaction include the Russian Orthodox Patriarch’s response to the Commission’s White Paper on European Governance. The Patriarch made the point that:

[T]he Church should not be limited only to participation in discussing the interethnic and interreligious relations. The representatives of the Church are ready to take part in discussing the development of the Pan-European security system, social problems, ethics of applying modern technologies, migration etc. (*Orthodox Response* 2001).

Echoing these sentiments, the EKD, in its response to the White Paper, made it clear that “consultations” with advisors to the Commission President were “no substitute for participation in policy-making processes.” Furthermore,

In particular, the dialogue seminars alone cannot satisfy the EKD’s desire for stronger consultation and dialogue mechanisms in connection with draft legislation (*Evangelical Church of Germany Response* 2001).



It is noteworthy also that EU institutions clearly do not regard formal requests from dialogue partners on equal terms. In 2007, responding to an enquiry from an MEP from the Alliance of Liberals and Democrats for Europe (ALDE) group, the then President of the European Parliament, Hans Poettering, made the point that:

We are in the early stages of this dialogue and at the moment there is no standing structure on an inter-institutional basis to plan, coordinate and work out an agenda, as has been demanded by many of our interlocutors (Poettering 2007)

In fact, the evolving demands of COMECE with respect to the operation of dialogue began to take shape in a speech given by its President, Mgr. Adrianus van Luyn to that organizations' plenary session in November 2007. Having outlined that "dialogue" was "constructive for all Christians" and was an "expression of the Church's solidarity with the world" (Commission of the Bishops Conference of the European Community 2007); the COMECE President then posed a series of questions that appeared to indicate a certain level of dissatisfaction with the current operation of the dialogue provision.

How can it be guaranteed that the dialogue is not reduced, wrongly and inadmissibly restrictive, to two partners: political representatives on the one hand and religious representatives on the other (Commission of the Bishops Conference of the European Community 2007, 5)?

This opportunity to pursue the expansion of the dialogue provision beyond the bilateral level was not intended to include other religions or non-confessional associations in policy discussions, however. Its full implications emerged in a later document jointly issued by COMECE and CEC in early 2010. In it, the two Christian associations made another series of proposals regarding the implementation of Article 17.3. Principal among these was a desire to expand church association contact with the EU beyond the Commission, the Parliament, and the Council to include its other EU institutions and consultative bodies (COMECE-CEC 2010, section IV.I). The statement also reaffirmed a desire to maintain an avenue to "address the EU institutions on their own behalf in relation to matters of their specific concern" (COMECE-CEC 2010, section IV.I). These requests for strengthened bilateral exchanges were implemented within months. By July 2010, a "Dialogue Seminar Event" co-organized by COMECE and

CEC had been attended by a range of EU institutions including the Economic and Social Council of the EU (see Appendix 4).

By contrast, repeated requests by the EHF to be formally included as a participant in the annual dialogue event were consistently refused. In March 2010, the EHF again requested that the upcoming annual event with the Presidents of the Commission, Parliament, and Council fully reflect Europe's diversity by including both the non-religious perspective, Sikhs, Buddhists, and Hindus (*European Humanist Federation* 2010). In the event, the Sikh and Hindu faiths were represented. However, the EHF and other philosophical and humanist perspectives met separately, and only with the Commission in October of 2010.

The clear disjunction between the official commitment to dialogue and inclusiveness on the one hand and the manifest pursuit of differentiated and deepened *exclusive* (or co-exclusive) bilateral relations with a pivotal EU institution on the other hand speaks to a different set of imperatives to the ones we might expect from a stress on the ideals outlined by Rawls, Habermas, or Bader. The range of issues pursued by the various religious associations is diverse, but the process of selecting either the participants or the themes for discussion remains opaque. Previous dialogue topics include commentary on ongoing EU legislative initiatives, as well as on more strategic and long term reflections on Europe and its integration; the environment, biomedical ethics, development aid, migration and asylum, intercultural dialogue, and more recently poverty and exclusion. A further range of issues where the views of churches would be highly relevant, but which have not yet materialized in any of the dialogue seminars, was highlighted by an all-party working group of MEPs in a letter to the Presidents of the main institutions in December 2007 (*European Parliament Working Group* 2007). In their letter the group proposed:

[A]n agenda that deals with issues such as racism, xenophobia, extremism, gender discrimination and violence against women, homophobia and violence against LGBT people, freedom of speech and freedom of religion, discrimination in education, sexual and reproductive health, and the role churches and non-confessional organisations can play in addressing these.

There is, of course, no onus on the part of political authorities to adhere to the ideals of normative theorists. Nevertheless, two points are worth making. First, the official discourse employed by prominent actors (political and religious) involved in or associated with the dialogue provision has

consistently drawn on such second order normative standards in justification of praxis. Second, it seems clear that the EU generally, and the Commission in particular, were more than willing to support (albeit symbolic) informal initiatives that did approximate the deliberative standard of greater inclusion, but have not transposed that mode of interaction to the formal structures operative since 2005. Even the more recent practice of dialogue seminars remains institutionally bilateral. The tendency to conceive “dialogue” in light of the face-value standards of deliberative understanding, power-free mutual interaction, and consensus seeking, even on specific policy matters, neither approximates nor illuminates the emerging pattern. The “dialogue” provision, therefore, needs to be considered in light of alternative questions such as interests and power.

The purpose of the foregoing analysis was not to evaluate the capacity of stabilized church-EU relations to benefit (or not) the legitimization imperatives of either the Commission or wider European institutional governance (see Greenwood 2003, Chapter 6). It was instead to highlight the disjoint between official justification for structured church-EU dialogue and actual practice. Christian church associations have proved themselves adept at cultivating high-level contacts and securing many operational privileges for consulting the Union’s key agenda setter and principal institutions in the decision-making mechanism relative to other civil society actors. Contrasting this success with the fortunes of other perspectives is instructive. Islamic associations have had considerable difficulty in mobilizing into a coherent voice at national level, still less at EU level. Hindu and Sikh associations have only now been formally involved in even symbolic contact with the Commission President, ironically as a result of intervention by Humanists. The Humanists only managed their first bilateral meeting with the Commission President after considerable efforts on their behalf by MEPs. It is doubtless difficult to justify the wholesale establishment of dialogue with every faith tradition or philosophical conviction. But it does highlight the need to forego ideas of deliberation in favor of an analytical perspective that accounts for power, strategy and self-interest on the part of religious associations.

It must be questioned whether deepening path-dependent relations between EU institutions and particular religious associations meet the basic requirements of equality. At the very least, alternative visions of belief within any one tradition should be admitted on the same basis. Massignon noted that: “[t]he Commission Presidency refuses to select one sole interlocutor for each religion, thereby recognising the plurality which exists within each denomination” (Massignon 2007b, 578; see

also Massignon 2007a; 2008). This is not reflected empirically (Appendix 5). Over the course of the formalized provision with the Commission, the two main Christian associations (COMECE and CEC) have both retained their key place at the annual events, and while other Christian role holders were admitted (high-ranking clergy from various cities) they remained very much within mainstream institutions. Even with regard to Islamic associations there has so far been a remarkably consistent utility of particular representative bodies invited to some of the annual dialogue events.

## CONCLUSION

In the context of rapid social change, combined with the gathering momentum of the “governance” turn in politics, core religious associations have successfully carved out a privileged interlocutor relationship with the EU’s key decision-making institutions. The official rationalization for the dialogue, among both the political and religious institutions, were a composite of imperatives to manage salient diversity, support the ongoing construction of the EU through emphasis on the more affective dimension, increase participation and establish a shared vision of an inclusive “European” future.

However, the current configuration reflects what Ferrari presciently called a “closed pluralism” (Ferrari 2005). Findings demonstrate that the chimera of consensus is only sustained through the practical and imposed limitations evident through the operation of the provision. While not insensitive to the role of the dialogue provision as a specific avenue for confessional interests within EU policy processes, some other analyses have tended to view the symbolism and official discourse invoked around the dialogue as indicative of a form of sharing, as the realization of a participatory and perhaps deliberative ideal of “mutual learning.” Mutual learning is not consciously driven. The opaque selection (and exclusion) of interlocutors, the fragmentation and differentiation of “deliberative” forums and the inert nature of high profile discussion topics, along with asymmetrical organizational capacity and the failure to embody full transparency, have severely inhibited the communicative potential of Article 17.3.

There are, therefore, two principle methods of responding, both analytically and practically, to these disparities. First, we might conceptualize refinements to the current procedure in order to bring it into closer proximity to an “ideal speech” situation, without necessarily imposing the full

demands of that ideal. We might, for example, rebalance the emphasis on bilateralism with greater use of plenary, whereby all the main religious and philosophical perspectives are included in the same discursive space. We might open up the agenda setting process to wider interests, and allow the agenda to tackle contentious issues with respect to religion's impact (both positive and negative) on politics. We might make the selection procedure for interlocutors more transparent and more open to non-traditional voices, such as more liberal interpretations of religious traditions. We might even have the courage to ask hard questions of organized religion where their preferences threaten to inhibit the realization of greater civil liberties for other European citizens and interests at national level.

At base, however, it is about understanding what is actually practiced through this dialogue with a greater level of precision. For churches shaken by accelerating secularization, "dialogue" may be more about survival than "sharing." There is a realization that the state, still less the EU, can no longer determine the "correct" way of believing. Corporate religion stands to lose its monopoly on religious expression with the emergence of New Religious Movements, spiritual bricolage, the dilution of faith and rise of explicit non-belief. It is no coincidence that, beyond the immediate vicinity of the dialogue with the EU, mainstream churches do in fact characterize the prevailing values within Europe as deficient, defective or antithetical to the human spirit. The Vatican's 2003 *Apostolic Exhortation Ecclesia in Europa* is far from reticent about portraying European society as a "culture of death" (Vatican 2003). Religious associations are less concerned about the pursuit of objective truth through the revision of preferences and the "force of the better argument," than they are about protecting their status and exemptions at national level from intrusion by expanding definitions of personal liberties emanating from European Courts and the transposition of EU directives.

We might well ask: what's wrong with power strategies, even if exercised by churches? The answer, logically, is nothing, as long as we accept that with their inevitability comes an analytical (and political) responsibility to ensure that strategies that seek to impede greater freedom or maintain unwarranted privileges are open to challenge. For the objectors to the dialogue — liberal religious voices, women, LGBT and humanist groups — it is precisely this ability to challenge that appears absent from the current configuration. There is no "agonism," no provision to contest conservative opposition to ongoing expansions of civil liberties.

The analytics of power, rather than Habermasian discourse ethics, provides us with the better theoretical prism through which to examine the operation of structured church-EU dialogue (Flyvbjerg 1998). The language of deliberation, of dialogue, consensus, participation and mutual learning is subordinate and instrumental to the desire on the part of non-political stakeholders to influence public policy in a direction commensurate with corporate religious conceptions of the normative. These, for the most part, may well be benign, even beneficial, such as the churches' perspectives on poverty, but they may not necessarily be progressive, and may be a potential threat to other social movements.

The central issue, ultimately, is not whether some interventions and some desires to intervene are legitimate or not by virtue of their institutional and organizational origin. The issue comes down to which of such interventions actually inhibit the freedoms of others when measured against the EU's own norms. Does the desire of the liberal religious, secular humanist, feminist and LGBT associational alliance to limit the role of churches in political matters emanate from a counter-emancipatory imperative to restrict the public role of churches, as is frequently claimed by the religious? Or is it that they are seeking to limit the *privileged* role of churches as political interlocutors with the one political entity that can serve as a catalyst for the reform of national legislation that continues to embody structural discrimination?

## NOTE

1. The Group of Policy Advisors was the forerunner to the contemporary Bureau of European Policy Advisors.

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### APPENDIX 1 (All the data in the Appendices are derived from the BEPA website)

Participants at the Group of Policy Advisor Events 2001 and 2002

	2001	2002
Academia	4	–
Buddhism	1	2
Hindu	1	1
Humanist/Free-thought	6	7
Islamic	4	10
Judaism	4	3
Orthodox	2	1
Quakers	1	1
Reformed (Protestant)	10	13
Roman Catholic	6	6
State/Municipal	3	2
World Conference of Religions for Peace	2	1
Other	4	4
Total	54	60

### APPENDIX 2

Bilateral or Jointly Bilateral Formal Contact between the EU and Religious & Non Confessional organizations

Date	Association
January 2005	World Jewish Congress
January 2005	Conference of European Rabbis
March 2005	COMECE
July 2005	Patriarch of Constantinople
November 2005	CEC
November 2005	Anglican Archbishop

*Continued*

**APPENDIX 2** Continued

<b>Date</b>	<b>Association</b>
November 2005	EHF
November 2005	European Jewish Congress
February 2006	EKD (Evangelical Church of Germany)
October 2006	COMECE & CEC
January 2008	Orthodox Churches
April 2008	Great Masters of the Regular Obedience
June 2008	Great Synagogue of Europe
December 2008	Taizé Community
June 2009	Humanists and Non-Confessional associations
October 2009	European Jewish Congress
October 2010	Humanists and Non-Confessional associations

**APPENDIX 3**

Formal Plenary Events between Religious Associations and the European Commission (2005–2010)

<b>Date</b>	<b>Confessions attending</b>	<b>Event Theme</b>
July 2005	Christianity (Catholic, Reform & Orthodox) Judaism Islam	Meeting with Monotheistic Dignitaries <i>Rejection of Terrorism and ongoing EU integration</i>
May 2006	Christianity (Catholic, Reform & Orthodox) Judaism Islam Buddhism	Meeting with Monotheistic Dignitaries <i>Fundamental rights and mutual respect</i>
May 2007	Christianity (Catholic, Reform & Orthodox) Judaism Islam	Meeting with Monotheistic Dignitaries <i>Building a Europe based on human dignity</i>
May 2008	Christianity (Catholic, Reform & Orthodox) Judaism Islam	Meeting with Monotheistic Dignitaries <i>Climate Change and reconciliation</i>
May 2009	Christianity (Catholic, Reform & Orthodox) Judaism Islam	Meeting with Monotheistic Dignitaries <i>Economic and financial crisis: ethical contributions for European and global economic governance</i>
July 2010	Christianity (Catholic, Reform & Orthodox) Judaism Islam Hinduism Sikhism	Meeting with Monotheistic Dignitaries <i>Combating poverty and social exclusion</i>

**APPENDIX 4**

Dialogue Seminar or Themed Event formally attended by the European Commission

<b>Date</b>	<b>Association/Confession(s) attending</b>	<b>Event Theme</b>
October 2006		Healthcare Services & the European Social Model
May 2007	Eurodiaconia	Social Europe: Challenge, risk and the role of faith based NGOs
September 2007	CEC	3 <sup>rd</sup> European ecumenical assembly, Sibiu
February 2008	COMECE & CEC	Flexicurity from a Values perspective
April 2008	EHF	Secularism and Human Rights
December 2008	Eurodiaconia	Quality Social Care: Diaconia and the person orientated approach
December 2008	COMECE & CEC	Quality in an intercultural environment
June 2009	COMECE & CEC	Towards an ethical debate – climate change as a challenge for lifestyles, solidarity and social justice
November 2009	Eurodiaconia	More in need and more needed: Diaconia and social inclusion in times of crisis
July 2010	COMECE & CEC	Combating poverty and social exclusion in the framework of the EU 2020 Strategy
November 2010	AEPL/EAFT (European Association for Free Thought)	Combating Poverty and Social Exclusion
December 2010	Foundation for Ethical Understanding	[Jewish-Islamic relations]

**APPENDIX 5**

Repeat Patterns of institutional-associational interlocutor participation at the annual dialogue event between monotheistic associations and the European Commission 2005–2010

<b>Repeat Participants</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Roman Catholic</b>						
COMECE	•	•	•	•	•	•
<b>Reformist</b>						
CEC	•	•	•	•	•	•

*Continued*

**APPENDIX 5** Continued

<b>Repeat Participants</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Bishop of London	•	•	•			
Bishop of Hulme				•	•	
Chairperson/ Prelate EKD	•	•	•	•	•	•
<b>Orthodox</b>						
Greek Orthodox	•	•	•	•	•	•
Russian Orthodox	•		•	•	•	
Romanian Orthodox				•	•	•
Metropolitan Emmanuel of France	•	•				
Patriarch of Constantinople			•	•	•	
<b>Islam</b>						
Muslim Council for Religious and Racial Harmony		•		•		
European Islamic Conference	•			•		
Director of the Islamic Centre in England			•	•		
President, Islamic Community of Austria	•	•	•			
Muslim Council of Britain			•			•
<b>Judaism</b>						
Conference of European Rabbis	•	•	•			•