

Political Islam and Secularism: Insights from the Hamburg Demonstrations and Beyond

Islam politico e laicità: spunti dalle manifestazioni di Amburgo e oltre

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ABSTRACT

This article delves into the evolving concept of "political Islam", particularly through the lens of recent demonstrations in Hamburg. It examines the intellectual and socio-political movements within Muslim communities and explores how Islamist trends and ideologies have been analyzed in scholarly and policy-focused literature since the 1970s. By investigating the integration of religious and political spheres, the formation of new identities, and the efforts to position Islam as a significant influence in public life, this study highlights the complexities of political Islam. Additionally, it addresses the impact of epistemological shifts in the 1980s and 1990s, challenging the secularization thesis and emphasizing the persistent role of religion in modern societies. The article also considers contemporary debates on the compatibility of political Islam with secularism, the challenges of integrating Islamic principles into state governance, and the importance of religious literacy and big data in countering radicalization and fostering social cohesion. The Hamburg demonstrations serve as a case study to illustrate these dynamics and the ongoing dialogue surrounding political Islam.

KEYWORDS

Political Islam; Secularism; Pularism; Political Action; Radicalization, Religious Education

RIASSUNTO

Questo articolo approfondisce il concetto in evoluzione di "Islam politico" in particolare attraverso la lente delle recenti manifestazioni ad Amburgo. Esamina i movimenti intellettuali e socio-politici all'interno delle comunità musulmane ed esplora come le tendenze e le ideologie islamiste siano state analizzate nella letteratura accademica a partire dagli anni '70. Investigando l'integrazione delle sfere religiosa e politica, la formazione di nuove identità, l'articolo affronta l'impatto dei cambiamenti epistemologici

negli anni '80 e '90, sfidando la tesi della secolarizzazione e sottolineando il ruolo persistente della religione nelle società moderne. L'articolo considera anche i dibattiti contemporanei sulla compatibilità dell'Islam politico con la laicità, le sfide di integrare i principi islamici nella governance statale e l'importanza della alfabetizzazione religiosa e dei big data nel contrastare la radicalizzazione e promuovere la coesione sociale. Le manifestazioni di Amburgo servono come caso di studio per illustrare queste dinamiche e il dialogo continuo intorno all'Islam politico.

PAROLE CHIAVE

Islam Politico; Laicismo; Pluralismo; Azione Politica; Radicalizzazione; Istruzione Religiosa

SUMMARY: 1. *Hamburg Demonstrations and political islam at stake* – 2. *The secularism of the state, pluralism, and respect for human dignity in the face of religiously founded political expression* – 3. *The political action of political Islam (and its limits)* – 4. *Big data, religious literacy and political Islam.*

1. Hamburg Demonstrations and political islam at stake.

In April and May 2024, in Hamburg, several demonstrations organized by radical Islamic groups like Hizb ut-Tahrir called for the establishment of a caliphate¹. The echo of these demonstrations has reached Austria as well, where Interior Minister Gerhard Karner stated that these claims are contrary to the Austrian legal system, sparking debate among legal experts. In fact, jurists like Alois Birklbauer and Ingeborg Zerbes argue that freedom of expression protects these declarations unless there are concrete plans for violence or subversion. Despite the provisions of the recently introduced Section 247b in the Penal Code, commonly known as the "political Islam offense," the legitimacy of these demonstrations is questionable².

¹ Euronews, <https://www.euronews.com/my-europe/2024/04/30/german-chancellor-scholz-says-islamist-rally-will-be-met-with-consequences>.

² JAN MICHAEL MARCHART, *Ist der Kalifat-Ruf in Österreich tatsächlich verboten? Juristen zweifeln an Karners Ansage*, in *Der Standard*, 6.5.2024,

The purpose of this article is to examine whether the positions of Birklbauer and Zerbes are truly founded and to extend a discussion on the legitimacy of the political demands made by radical Muslims aimed at supporting the creation of a regime akin to a caliphate.

In this framework, it must be emphasized that in Austria Section 247b of the Penal Code, introduced less than three years ago, was strongly supported by the ÖVP (Austrian People's Party), particularly during the election campaign in 2019; the Chancellor Sebastian Kurz explained that the objective of this crime was to act against political Islam³, considered the basis of terror. Hence, one of the innovations introduced by the Austrian anti-terrorism package - known as the "Anti-Terror-Paket", developed in response to increasing terrorist threats and religious radicalization⁴, particularly after the terrorist attack in Vienna on November 2, 2020, approved by the Austrian Council of Ministers on December 16, 2020, and subsequently by the Parliament on July 7, 2021 - is strictly linked, at least from the political point of view, to the idea of combating political Islam.

Accordingly, the crime of "Section 247b of the Austrian Penal Code introduces the new offense of "religiously motivated extremist association."⁵ This crime punishes those who found or participate in an association that constantly attempts to illegally replace the essential elements of the constitutional democratic state with a social and state order based exclusively on religion. The crime is configured even with mere participation in the association, provided that one of the members commits a serious crime manifesting the religiously motivated extremist nature of the association.

<https://www.derstandard.de/story/3000000218902/ist-der-kalifat-ruf-in-oesterreich-tatsaechlich-verboden-juristen-zweifeln-an-karners-ansage>.

³ Krämer emphasizes that political Islam is a diverse phenomenon and should not be equated with violent or extremist Islamism. It spans a wide array of ideologies, from proponents of an Islamic republic to supporters of an Islamic monarchy or a revived caliphate. This spectrum includes both self-identified liberals and staunch conservatives. While some Islamists are viewed as moderate or pragmatic, others are seen as radical, militant, or extremist. Importantly, political Islam is found not only among opposition groups but also within ruling entities. Gudrun Krämer, *Political islam*, in *Encyclopedia of Islam and the Muslim World*, Editorial Board, 1, 2004, p. 540.

⁴ ALESSIA MISSIAGGIA, *La dimensione religiosa nella lotta al terrorismo: il caso austriaco*, in *Stato, chiese e pluralismo confessionale*, Rivista telematica (www.statoechiese.it), 9, 2024, p. 96.

⁵ NABIL SANALLAH, *Joint Statement Anti-Terrorism Bill not in Line with Basic Human Rights Standards*, 2021, ENAR, <https://www.enar-eu.org/joint-statement-anti-terrorism-bill-not-in-line-with-basic-human-rights/>.

The term "political Islam" in reality does not officially enter the penal code⁶.

The rationale of the law – at least from the perspective of the *intentio legislatoris* – is to combat islamism that is, the ideological movement embraced "against those who are not terrorists but create fertile ground for terrorism." The purpose of this new crime, according to the government and Chancellor Sebastian Kurz, is to prevent Islamic associations from invoking the constitutional protection offered by the Austrian Basic Law for freedom of religion and freedom of expression when they spread extremist ideas. Additionally, it would allow for the creation of a registry of imams, seemingly to closely monitor who can deliver sermons and the content of those sermons within places of worship.

The new law has faced criticism for several reasons.

Firstly, the wording of Section 247b is considered unclear, risking sanctioning opinions not favored by the government, thus limiting religious expression; moreover, the measures seem to specifically target the Islamic community, as the anti-terrorism package amended the 2015 Islam Law, strengthening controls on Islamic associations and facilitating their closure. This has raised concerns of religious discrimination and violations of the principle of equality among religious denominations. Criticisms also focus on the law potentially limiting freedom of religion, guaranteed by Article 9 of the European Convention on Human Rights, which allows state interventions only when strictly necessary for public order, not national security⁷.

It must be emphasized that the section 247b that we can call crime of "political Islam" in Austria, represents an attempt to counter extremist ideologies that can lead to terrorism, but it raises significant questions about balancing security and religious freedom. The effectiveness and impact of this measure are still subject to debate, especially in terms of respecting fundamental rights and non-discrimination⁸.

Probably, the situation suffers from a certain difficulty in hypothesizing a shared definition of political Islam.

⁶ ALESSIA MISSIAGGIA, *La dimensione religiosa nella lotta al terrorismo: il caso austriaco*, cit., pp. 103 - 105.

⁷ ALESSIA MISSIAGGIA, *La dimensione religiosa nella lotta al terrorismo: il caso austriaco*, cit., pp. 105 - 108.

⁸ ALESSIA MISSIAGGIA, *La dimensione religiosa nella lotta al terrorismo: il caso austriaco*, cit., p. 104.

In recent decades, islamism⁹ has been a prominent topic within the humanities and social sciences, describing the intellectual and socio-political activities in Muslim communities. Since the 1970s, significant scholarly and policy-focused literature has delved into Islamist trends, movements, actions and ideologies¹⁰. Researchers have developed various classifications to understand how Islamic references are used to legitimize political actions and to build political ideologies¹¹: this field of study examines the fusion of religious and political realms, the formation of new identities, and the efforts to make Islam a key influence in public and political arenas. These initiatives are framed by diverse interpretations of Islamic traditions, aiming to reshape society and politics according to specific religious understandings.

The last 20 years of the 20th century saw these developments intersect with major shifts in academic thought, including cultural, linguistic, transnational, and colonial studies. These shifts significantly impacted the study of political Islam by challenging the secularization thesis and exploring the role of religion in public life societies¹²: these studies emphasized the enduring vitality of religion

⁹ In this article the term "Islamism" will be used interchangeably with "political Islam," referring to a range of ideologies that advocate for Islam to govern social and political spheres, as well as personal life.

¹⁰ As Jong and Ali point out, in the 1980s and 1990s, scholarly interest in the political expressions of Islam surged across various disciplines in the humanities and social sciences. This increased focus was driven by several key events, including the Iranian Revolution of 1979, the Soviet-Afghan War (1979–1989), the assassination of President Sadat in 1981, the rise of the Muslim Brotherhood, the Hama Uprising in Syria in 1982, Muhammad Zia-ul-Haq's Islamization policies in Pakistan (1977–1988), and the World Trade Center bombing in 1993. These events were often viewed as part of the broader movements labeled as "Islamic fundamentalism," "Islamic revivalism," and "Islamism," which were further characterized by terms such as "radical," "traditional," "militant," and "conservative." ABBAS JONG, RAMI ALI, *Political Islam as an Incomplete and Contested Category: A Post-Foundationalist Revision*, cit., p. 3.

¹¹ OLIVIER ROY, *The Failure of Political Islam*, Cambridge University Press, Cambridge, 1994; GILLES KEPEL, *Jihad: The Trail of Political Islam*, Harvard University Press, Cambridge, 2002; JOCELYNE CESARI, *What Is Political Islam?*, Lynne Rienner Publishers, Boulder, 2018; ABBAS JONG, RAMI ALI, *Political Islam as an Incomplete and Contested Category: A Post-Foundationalist Revision*, in *Religions*, 14, 2023, pp. 3 ff. (<https://doi.org/10.3390/rel14080980>); GUILAIN DENOEU, *The Forgotten Swamp: Navigating Political Islam*, in *Middle East Policy* 9, 2002, pp. 56 -81.

¹² SABA MAHMOOD, *Politics of Piety, The Islamic Revival and the Feminist Subject*, Princeton University Press, Princeton, 2005; ELIZABETH SHAKMAN HURD, *The Politics of Secularism in International Relations*, Princeton University Press, Princeton and Oxford, 2008; TALAL ASAD, *Formations of the Secular: Christianity, Islam, Modernity*, Stanford University Press, Stanford, 2003.

in shaping social, cultural, and political dynamics, thereby challenging the notion that religion belongs solely to the public sphere¹³. This academic work acknowledged the continuous presence of political Islam in modern societies, emphasizing its role in shaping social, cultural, and political dynamics, thereby contesting the notion that religion solely belongs in the private realm¹⁴, investigating the transformation of Islam in modern societies and its multifaceted influence on various aspects of public life¹⁵.

From this framework, according to Cesari¹⁶, it can be pointed out that today's political Islam is an ideology aimed at creating a hegemonic form of religious nationalism through the homogenization of religion. This homogenization has been realized by "grafting Islam into state institutions" to produce a hegemonic Islam at the national level: the incorporation of religious institutions within the public apparatus in Islamic states has strengthened existing tendencies towards a literal interpretation of religious texts and a true homogenization of Islam within the interpretative keys offered (or rather imposed) by the holders of political power¹⁷.

In the same time, as highlighted by Olivier Roy¹⁸, today's political Islam is no longer a proponent of internationalism focused on the centrality of the umma in the project of building a pan-Islamic political community, but rather of a nationalism aimed at establishing state control over religious practice, and promoting political quietism within the nation-state using religion (as interpreted by the ruling class) to encourage loyalty to the rulers¹⁹.

On the other hand, as noted by Asef Bayat²⁰, political Islam today must confront post-Islamism: a multitude of informal groups of Muslims who meet within civil society in political projects related to the immanent without partisan connotation and mainly aiming at one

¹³ JOSE CASANOVA, *Public Religions in the Modern World*, Chicago University Press, Chicago, 1994.

¹⁴ DALE EICKELMAN, JAMES PISCATORI, *Muslim Politics*, Princeton University Press, Princeton, 1996.

¹⁵ CHARLES TAYLOR, *A Secular Age*, Harvard University Press, Cambridge, 2007.

¹⁶ JOCELYNE CESARI, *What is Political Islam?*, cit., p. 65.

¹⁷ JOCELYNE CESARI, *What is Political Islam?*, cit., pp. 66 - 73.

¹⁸ OLIVIER ROY, *The Failure of Political Islam*, cit.

¹⁹ JOCELYNE CESARI, *What is Political Islam?*, cit., p. 121.

²⁰ ASEF BAYAT, *Making Islam Democratic: Social Movements and the Post-Islamist Turn*, Stanford University Press, Stanford, 2007, p. 10 ff.

or more specific objectives and not the holistic vision of a community in which political determination is implemented through *sharia*²¹. Now, it's time to move more deeply towards this direction.

2. The secularism of the state, pluralism, and respect for human dignity in the face of religiously founded political expression.

As seen, political Islam has been analyzed from various perspectives, revealing its significant impact on contemporary society. This discourse includes groups advocating for a political system based on *sharia*, sometimes using force to promote this belief: examples of such movements can be found in regions like Palestine, Afghanistan, and Pakistan, where political agendas are closely tied to strong ethno-religious nationalism, highlighting the multifaceted nature of islamism²².

The concepts of secularism and secularization have often framed the analysis of political Islam and Islamism: for example a key question in these discussions is their compatibility with secularism. Opinions range from viewing political Islam as inherently incompatible with secularism to considering it potentially harmonious, exploring different forms of interaction: islamism is frequently described as a reaction against secularism and a revival of Islam in the public sphere, based on the premise of separating political and religious spheres while acknowledging their unique relationship²³.

Political Islam is often contrasted with private religious practice, leading to associations with religious extremism, terrorism, and authoritarianism. However, it must be pointed out that some perspectives approach political Islam without assuming a strict

²¹ ASEF BAYAT, *Making Islam Democratic: Social Movements and the Post-Islamist Turn*, cit.

²²VINCENZO PACILLO, *Religious Fundamentalism. Secular Democracy and Rule of Law: The Role of the Legislator Between the Public and Personal Dimension*, in *Il Diritto Ecclesiastico*, 1, 2017, p. 154.

²³ MUHAMMAD KHALID MASUD, *The construction and deconstruction of secularism as an ideology in contemporary muslim thought*, in *Asian Journal of Social Science* 33, 2005, pp. 363-383; OLIVIER ROY, *Secularism and Islam: The Theological Predicament*, in *The International Spectator*, 48, 2013, pp. 5 - 19; MOHAMMED AYOOB, DANIELLE NICOLE LUSSIER, *The Many faces of political Islam: Religion and politics in Muslim societies*, University of Michigan Press, Chicago, 2020, p. 111 ff. (manly on Turkey).

separation between religion and the secular, suggesting that islamism reflects a broader dynamic between secular and Islamic worldviews.

The extensive literature on political Islam reveals diverse perspectives on how Islamist movements relate to state power. These perspectives range from viewing political Islam as a modern phenomenon linked to nation-state dynamics, to understanding it as a continuation of historical Islamic governance, and seeing it as a reformative force with varied objectives and methods. The relationship between political Islam and state power remains a topic of ongoing debate.

According to Roy²⁴, the emergence of Islamist movements in the mid-20th century, such as the Muslim Brotherhood, was fundamentally a response to the perceived failure of existing Muslim countries to embody true Islamic governance. These movements asserted that no contemporary Muslim nation could be genuinely considered an "Islamic state." This assertion highlighted an important acknowledgment: there existed a profound divide between religion and politics within these countries. The proponents of an Islamic state recognized that the integration of religious principles into political structures could not simply be a matter of restoring past glories; it required a revolutionary change. This revolutionary aspect was necessary because, historically, there was never a comprehensive model of an Islamic state beyond the early and arguably controversial period of the Islamic community under the Prophet Muhammad and the Rashidun Caliphs.

Roy further argues²⁵ that Islamic law, or *sharia*, is inherently a flexible and interpretive legal system, not a rigid code. It relies on the expertise and judgments of scholars and jurists who adapt its principles to varying contexts. When states attempt to codify *sharia* into state law, they encounter significant issues. The nature of state governance demands uniformity and control over legal interpretations, which conflicts with the dynamic and interpretive essence of *sharia*. As a result, the implementation of *sharia* by the state often leads to one of two outcomes:

- The End of the State: In cases like the Taliban in Pakistan or Afghanistan, the imposition of *sharia* as state law can destabilize the state. The inflexibility and extremity

²⁴ OLIVIER ROY, *Secularism and Islam: The Theological Predicament*, cit., p. 13.

²⁵ OLIVIER ROY, *Secularism and Islam: The Theological Predicament*, cit., p. 13.

required to maintain such a system can lead to chaos and the breakdown of state structures.

- The End of *sharia*: In countries like Iran, where the state has incorporated *sharia* into its legal system, the process has often led to the dilution of *sharia's* authenticity. The need for state control and uniformity means that *islamic law* becomes rigid and loses its interpretive nature. Over time, this leads to a disengagement of the learned clergy from the state's legal processes, as seen with the increasing control of Iran's legal system by a secular, lay apparatus such as the Revolutionary Guards.

Moreover, Roy underscores that secularism in Europe is not uniform, and the integration of Islam involves intricate interactions among state policies, religious practices, and cultural norms: this dynamic process reflects broader debates on religion's role in modern secular states and the challenges of integrating diverse religious traditions within these frameworks²⁶.

From the Italian constitutional perspective, secularism is understood not as state indifference to religion but as protection of pluralism and expansion of freedom, according to criteria of impartiality. This approach suggests that the issue of political Islam, or the "right to political Islam," must be considered within the broader context of general relations between religion and politics in the Italian legal system. Secularism prevents public authorities from making value judgments on religions and ensures fair treatment of political activities, regardless of their religious or spiritual orientation.²⁷

²⁶ OLIVIER ROY, *Secularism and Islam: The Theological Predicament*, cit., pp. 10-11.

²⁷ As Pacillo points out, Italian secularism allows for the utilization of resources and expertise from religious communities to address social challenges such as poverty, education, and public health. This approach fosters a more inclusive, tolerant, and supportive society, promoting a cooperative and participatory perspective. Additionally, religious communities can provide a sense of belonging and moral guidance to their members, thereby enriching the social and cultural fabric. This is an open secularism grounded in respect for the dignity and right of individuals to be themselves, acknowledging that religious identities are deeply intertwined with personal identity. This entails safeguarding religious freedom, ensuring that individuals can practice their faith and maintain their cultural and religious traditions as long as they are not harmful. It contributes to a social environment that respects the distinction between civil and religious matters, upholding fundamental human rights and the principle of non-interference by clerical powers in public affairs. VINCENZO PACILLO, *Per sempre giovane. La laicità nel dibattito culturale francese: scrittori e politica ecclesiastica da Victor Hugo a Annie Ernaux*, Mucchi, Modena, 2024, pp. 323 - 324. In the same perspective, Barbera conceptualizes secularism as a "process" that inherently ensures mutual respect, reciprocal understanding, and the cohesion of a political community, irrespective of the outcomes

From the standpoint of the relationship between secularism and reasonableness, political discussions intended for the public sphere should be grounded in rationally acceptable arguments rather than assumptions based on religious doctrines, which inherently divide citizens. According to John Rawls' principle, religious reasons can be part of public discourse on fundamental political matters, but this is permissible only if, ultimately, sufficient political reasons are presented to justify any policy supported by those religious reasons. This ensures that the discourse remains inclusive and accessible to all citizens, regardless of their individual religious beliefs.

Therefore, just like any other "right to a political religion," the right to political Islam exists to the extent that a series of religious arguments underlying a political claim are open to a confrontation with the reasonableness of decision-making choices aimed at ensuring the public good and the protection of fundamental rights.

Naturally, in the background, there is the issue of confessional and cultural pluralism that the supreme principle of secularism is called to guarantee²⁸.

As Nicholas Wolterstoffs notes, the obligation to always provide non-religious rational motivations to support political claims could impose an excessive cognitive burden on religious citizens, thus condemning them to a sort of irrelevance of their thinking in the public sphere, with evident prejudice to pluralism²⁹. Based on this observation, Jürgen Habermas seeks to ensure the political inclusion of religious citizens by limiting Rawls' clause on political deliberation to the institutional level, thus proposing to eliminate the obligation to provide reasons not based on religious beliefs in political

achieved. This process-based approach to secularism is akin to the democratic method explicitly enshrined in the Constitution under Article 49, and is aligned with the principle of loyal cooperation. AUGUSTO BARBERA, *Laicità*, Società editrice il Mulino, Bologna, Kindle Edition, p.145. See also GIUSEPPE CASUSCELLI, *Diritto e religione nell'ordinamento italiano, ovvero cosa è il "diritto ecclesiastico"*, in SALVATORE BERLINGÒ, GIUSEPPE CASUSCELLI, *Diritto ecclesiastico italiano. I fondamenti. Legge e religione nell'ordinamento e nella società d'oggi*, Giappichelli, Torino, 2020, spec. pp. 5 ss.

²⁸ ILIA PASQUALI CERIOI, *Interpretazione assiologica, principio di bilateralità pattizia e (in)eguale libertà di accedere alle intese ex art. 8, terzo comma, Cost., in Stato, Chiese e pluralismo confessionale*, Rivista telematica (www.statoechiese.it), 26, 2016, spec. p. 6 s.

²⁹ NICHOLAS WOLTERSTOFF, *The Role of Religion in Decision and Discussion of Political Issues*, in ROBERT AUDI, NICHOLAS WOLTERSTOFF, *Religion in the Public Square*. Rowman & Littlefield, London, 1997, p. 105.

deliberations that take place within what he calls the "informal public sphere."³⁰

This proposal has some consequences.

The first concerns the duty - not only political but also legal - to express true "horizontal tolerance" towards religiously founded political opinions, and therefore that those who express such opinions can enjoy equal consideration and respect compared to non-religious citizens, without being excluded a priori from the political arena.

The second is the need for it to be possible, outside the parliamentary halls and those of justice, outside the places where administrative power is exercised or where decisions capable of impacting the community are made in an institutionalized manner, to express a policy based on religious arguments, and therefore to construct a political act that is religiously founded: it must be possible, to return to the title of our contribution, to express "political Islam."

Two questions, however, loom in the background.

The first: is this freedom of religiously founded political expression content-wise unlimited?

The second: can political Islam structured in associations regulated by private law fall within the "informal public sphere"? And would this inclusion of organized political Islam in the informal public sphere also concern the establishment of a political party founded on *sharia*?

The first question requires a thorough reflection not only on the limits to the freedom of expression delineated, within the space of the Council of Europe, by the European Court of Human Rights, but also - concerning internal public law - on the relationships between art. 21, art. 19, and the protection of human dignity.

As well known, the Strasbourg jurisprudence has extensively used article 17 ECHR on the prohibition of abuse of rights to limit the sphere of expressions that can be considered protected by article 10, excluding from the legally protected sphere any form of expression that can spread, promote, or justify hatred or discrimination based on intolerance for ethnic, national, or religious reasons, provided that any restrictions or sanctions imposed are proportionate to such a

³⁰ JÜRGEN HABERMAS, *La religione nella sfera pubblica. Presupposti cognitivi dell'uso pubblico della ragione da parte dei cittadini credenti e laicizzati*, in ID., *Tra scienza e fede*, trad. it. a cura di MARIO CARPITELLA, Laterza, Roma-Bari, 2006, spec. p. 35 ff.

legitimately pursued purpose³¹. The rationale for this choice is undoubtedly to protect the respect for the equal dignity of all human beings: as argued by Jeremy Waldron, such respect implies the right - guaranteed to every person - to be part of society as a full member, to be able to count on effective social interaction regardless of their belonging to a particular category or minority group³².

It is for this reason that - even from the perspective of the Italian Supreme Court - the freedom of religiously founded political expression "has no absolute value," but must be coordinated "with other constitutional values of equal rank." In particular, the right to freely express one's thoughts encounters the limit sanctioned by art. 604-bis of the penal code, which, in the first paragraph, sanctions at letter a) anyone who propagates ideas based on racial or ethnic superiority or hatred, or instigates to commit or commits acts of discrimination for racial, ethnic, national, or religious reasons; at letter b) it sanctions anyone who, in any way, instigates to commit or commits acts of violence or provocation to violence for racial, ethnic, national, or religious reasons.

According to the Supreme Court, the "propaganda of ideas" consists of the dissemination of opinions aimed at influencing the behavior or psychology of a broad audience and gathering support, while "racial, ethnic, or religious hatred" is not integrated by any feeling of generic antipathy, intolerance, or rejection attributable to reasons related to race, nationality, or religion, but only by a sentiment capable of determining the concrete danger of discriminatory behaviors, and "discrimination for racial reasons" is that based on the personal quality of the subject, not - instead - on their behaviors³³.

3. The political action of political Islam (and its limits).

To verify what kinds of juridical limits the political islam can meet, it is necessary to start from the premise that, according to the

³¹ WALTER KÄLIN, JÖRG KÜNZLI, *The Law of International Human Rights Protection*, Oxford University Press, Oxford, 2019, p. 501 ff.

³² JEREMY WALDRON, *The harm in the hate speech*, Harvard University Press, Harvard, 2014, spec. p. 85 s.

³³ Italian Court of Cassation, VI criminal sect., judgment n. 33414/2020, <https://giuridica.net/wp-content/uploads/2020/11/Cassazione-penale-33414-2020.pdf>.

Strasbourg Court, secularism (which certainly constitutes in its most essential core a supranational principle, heritage of European constitutionalism, with a parametric function concerning the norms of the states that have ratified the Rome Convention) entails the obligation to protect - through the legislation of each member state of the Council of Europe - ideological and confessional pluralism³⁴. This implies not only that the signatory states of the 1950 Rome Convention must constitute themselves as participatory democracies based on free elections, but also that they must guarantee - to every believer - the possibility of expressing their values within an individual or community "life project" and of creating social groups that bring those values into the public sphere³⁵. The limit of this freedom must be found in respecting other principles/values expressed by the Rome Convention that are considered preeminent and non-derogable: thus, nothing prohibits the creation of entities or associations devoted to a *latu sensu* political action, but also political parties of religious inspiration, provided that these have the purpose of implementing their ideological program in legal norms that respect the principles of democratic constitutionalism³⁶.

³⁴ ZACHARY R. CALO, *Pluralism, Secularism and the European Court of Human Rights*, in *Journal of Law and Religion* 26, 2010, pp. 261-280; ROBERTA MEDDA-WINDISCHER, *Militant or pluralist secularism? The European Court of Human Rights facing religious diversity*, in *Religion, State and Society*, 45, 2017, pp. 216-31.

³⁵ VINCENZO PACILLO, *Religious fundamentalism, secular democracy and rule of law : the role of the legislator between the public and personal dimension*, cit., p. 164.

³⁶ According to Peter Danchin, the Court, aligning with both the Turkish Constitutional Court and the majority of the Third Section of the European Court, found Shariah incompatible with democratic principles because it is an unchanging religion that does not accommodate political pluralism or evolving public freedoms. The Welfare Party's plans to create a plurality of legal systems based on religious beliefs, potentially using force, were also deemed incompatible with the European Convention on Human Rights (ECHR). The Court adopted the concept of "militant democracy," which may sacrifice certain democratic rights to preserve democracy itself.

However, there was significant dissent. Three judges from the Chamber of the Third Section and Judge Kovler from the Grand Chamber disagreed with the majority's findings. Judge Kovler argued that the majority missed an opportunity to analyze legal pluralism in depth, suggesting that modern legal theory recognizes plural personal statuses under specific conditions. He criticized the majority for assuming liberal premises without justification and for failing to recognize competing claims to freedom and self-determination.

This dissent highlights that the Court's decision, based on the principle of non-discrimination, might obscure the complex nature of the conflict in Turkey, which is deeply rooted in the historical context of Kemalism and the role of Islam in political legitimacy. The concept of militant democracy, as applied in this case, may authorize states to take a militant stance against religious freedoms that threaten their substantive democratic principles. Cfr. PETER G. DANCHIN, *Islam in the secular nomos of the European Court of Human Rights*, in *Michigan Journal of International Law*, 2010, spec. p. 705 ff.

This implies that a political Islam mainly formed by intermediate groups characterized by specific public participation projects inspired by the Muslim religion and capable of being implemented in respect of fundamental rights and confessional and ideological pluralism cannot in any way constitute a problem for secular democracies: in the "informal public sphere,"³⁷ to quote Habermas³⁸, the freedom of religious actors must be maximum, especially when they express the full compatibility of their political project with the fundamental principles of the Constitution³⁹.

The issue is more complex in front of nationalist political Islam, which exalts the principles and values of *sharia* as a political project directed at all Muslim citizens of a given state in an oppositional dialectic towards liberal democracies.

It must first be clarified whether the legal system of the state can admit that - in the name of a religious precept - associations founded statutorily on principles contrary to fundamental legal goods such as the non-violent education of the minor, equality between men and women, or a reduction of the standards of protection of fundamental rights as guaranteed by the Italian legal system are admissible⁴⁰.

Any organization founded on principles that violate fundamental individual freedoms, deny legal equality between men and women, or seek to overthrow the core principles of Italian democracy (including respect for inviolable human rights under Article 2 of the Constitution) cannot be recognized under Article 1 of Law 1159/1929, nor can it form an agreement with the state⁴¹.

³⁷ CRISTINA LAFONT, *Religion and the public sphere: What are the deliberative obligations of democratic citizenship?* in *Philosophy & Social Criticism*, 2009;35, spec. pp. 131 ff.

³⁸ JÜRGEN HABERMAS, *Religion in the Public Sphere*, in *European Journal of Philosophy* 14, 2006, pp. 1-25, spec. pp. 9 ff.

³⁹ According to John Finnis, the Court in the Refah case held that a regime of plural religious legal orders would conflict with the European Convention on Human Rights (ECHR) guarantees of equality and the rule of law. This was because such a regime would infringe on the principle of non-discrimination in public freedoms. The Court reasoned that the implementation of Sharia was incompatible with the concept of a "democratic society," making the threat to democracy posed by Refah tangible and immediate, justifying the party's dissolution. JOHN FINNIS, *Endorsing Discrimination Between Faiths: A Case of Extreme Speech?*, in IVAN HAREM, JAMES WEINSTEIN (eds.), *Extreme Speech and Democracy*, Oxford, OUP, 2009, pp. 430-444.

⁴⁰ See GIUSEPPE DALLA TORRE, *Dignità umana e libertà religiosa*, in CARLO CARDIA (ed.), *Studi in onore di Anna Ravà*, Giappichelli, Torino, 2003, pp. 287-300.

⁴¹ According to Colaianni, religious statutes must adhere to the legal framework of the state, which encompasses both constitutional principles and fundamental laws. This

Nevertheless, according to Casuscelli⁴², the recognition of religious freedom is improperly conditioned on a formal declaration of loyalty to democratic institutions, which violates the Constitution. According to the Constitutional Court jurisprudence, religion should not be used instrumentally for state purposes or vice versa: moreover, the Constitution intentionally excludes public order as a limit on religious freedom to prevent discretionary prohibitions or limitations on religious activities, ensuring that religious freedom is not curtailed based on the prevailing political climate.

Finally, it appears inadmissible - according to Habermas's reasoning - to create political parties with the aim of transposing merely confessional norms into the state's legal system that are not rationally justifiable. This contrast arises from the assumption that both freedom of opinion and freedom of religion imply state neutrality; this implies the necessary foundation of legislative production processes on the reasonableness of the normative provisions and not on their divine and/or fideistic origin.

Does this inadmissibility impact political Islam?

It is true that on occasions the Strasbourg Court has expressed doubts about the possibility of fully reconciling Islamic law with the

framework does not focus on the abstract incompatibility of a religious entity's ideology with the legal system, nor its supranational character, but rather on the potential harm that may arise from obligations imposed on adherents or the methods of action adopted by the organization. Article 8 pertains solely to the organization and objectives of the entity, not its religious ideology. The distinct constitutional significance granted to religious confessions allows their statutes to omit the listing of members' rights and obligations, unlike what is required for civil associations. This omission respects the spiritual autonomy of religious groups, such as Islam, allowing them to avoid detailing personal status distinctions like believer/unbeliever or male/female. These distinctions often blur the line between religion and cultural practices. The omission of such details is protected under the guarantee of religious diversity in Article 8 of the Constitution.

However, certain rights and obligations are inherent in the minimal legal content of associative contracts, such as voting rights, the right to withdraw, and loyalty obligations. These cannot infringe on the constitutional freedoms guaranteed to all citizens, regardless of religion, and must respect fundamental human rights. For example, while the principle of democracy in associations is not obligatory, deviations from it cannot undermine constitutional liberties.

The principle of gender equality must be upheld, meaning religious statutes cannot prevent women from exercising their right to divorce or afford men cultural defenses for discriminatory practices. Similarly, the freedom of association includes the right to leave a religion. Islamic law's harsh penalties for apostasy cannot override the constitutional guarantee of freedom of religion and personal choice. See NICOLA COLAIANNI, *Islam e Costituzione: l'ente di culto e gli statuti*, in *Forum di Quaderni Costituzionali*, 2011, www.forumcostituzionale.it.

⁴² GIUSEPPE CASUSCELLI, *La libertà religiosa alla prova dell'Islam: la peste dell'intolleranza*, in *Stato, chiese e pluralismo confessionale*, Rivista telematica (www.statochiese.it), luglio 2008, pp. 13 - 14.

non-derogable principles expressed by the Rome Convention (the main reference is represented by the Grand Chamber judgment of the Court in the case *Refah Partisi and others v. Turkey* of February 13, 2003, and in particular §123 of that decision): just as it is true that there is jihadist propaganda aimed at inciting to commit terrorist acts or justifying the latter based on an absolutizing and military vision of the relationship between religion and politics.

This does not imply, however, that there is a presumption - neither *juris tantum* nor, much less, *juris et de jure* - of incompatibility between Islamic-inspired political action and the founding principles/values of European constitutionalism. Rather, the orientation of the Court is to impose - within the confines of the Council of Europe - a mandatory space for verification - on equal terms for all actors involved - aimed at testing the possibility of admitting parties and political movements that declare themselves inspired by religious precepts within the arena of political competition. Verification that must be political-administrative, before even being the subject of criminal action⁴³.

This space for verification can only be based, in the Italian legal system, on the parametric use of arts. 1 and 3 of law 645/1952: parametric use not inhibited by the prohibition of analogy in criminal matters because limited to the issuance of the dissolution and confiscation decree provided for by the so-called "Scelba law." Therefore, an "Islamic party" - or otherwise confessionally oriented - that pursues anti-democratic purposes typical of the fascist party, exalting, threatening, or using violence as a method of political struggle or advocating the suppression of freedoms guaranteed by the Constitution or denigrating democracy, its institutions, and the values

⁴³ In this perspective, Fronzoni highlights the distinction between cultural motivations and religious convictions. Cultural motivations, which arise from societal norms rather than religious dogma, afford individuals a certain autonomy and the ability to choose whether to conform to social influences. Conversely, religious convictions, which are viewed as divine commands, tend to limit decision-making autonomy for individuals raised within these religious frameworks.

This distinction is crucial in analyzing cultural traits, religious dimensions, and criminal activities. For instance, practices like female genital mutilation, which are culturally influenced but not religiously mandated, allow individuals the choice to reject such practices, particularly when they are illegal, as is the case in Italy since 2006. On the other hand, religious practices like male ritual circumcision, perceived as divine mandates, are more difficult for believers to eschew, even when such practices conflict with legal norms. See VASCO FRONZONI, *Processi di inclusione dell'islam negli ordinamenti europei. Diritto di religione in prospettiva comparata*, Pellegrini, Cosenza, 2020, p. 209 ss.

of the Resistance or conducting racist propaganda cannot be admitted to the electoral competition.

4. Big data, religious literacy and political Islam

Political Islam is perhaps the most striking aspect of the resurgence of religion in the political sphere. This phenomenon contrasts sharply with the new wave of secularization sweeping through Europe, North America, and Oceania.

The West often views the relationship between religion and politics through a Eurocentric lens, focusing on various "historical turns": Constantinianism, the Christian Republica, the sun and moon theory versus the two suns theory, the Lutheran and Catholic Reformations, the Peace of Augsburg and Westphalia, the French Revolution, and the debate between separatism and confessionalism. This perspective is challenged by religions that do not follow these historical shifts but operate within concentric circles. Those nearest the center of these circles see the myth of a "lost paradise" as a fundamental goal, essential for achieving spiritual perfection and legitimacy at the political level.

The Austrian example of the "Vienna Forum on Countering Segregation and Extremism in the Context of Integration"⁴⁴ can be a starting point, although its limit seems to be that of focusing exclusively on what happens in Islam, exposing Muslims to an excessive burden in terms of attention and social suspicion.

Rather, it appears increasingly important to actively engage public authorities in developing more inclusive and global strategies that can

⁴⁴ The Vienna Forum on Countering Segregation and Extremism in the Context of Integration has sparked considerable discussion, at least within academic and political circles across the border. The event was organized with the stated goal of formulating explicit strategies to counter political Islam. Among the invitees were some of the most renowned international scholars of politics and religion, such as Gilles Kepel, Magnus Ranstorp, Lene Kühle, Lorenzo Vidino, and Mouhanad Khorchide, Professor of Islamic Theology at the University of Münster. The latter has recently become the center of academic debate with his book "Gottes falsche Anwälte. Der Verrat am Islam," in which he openly condemns the "betrayal" by those who interpret Islam not as a path of individual spiritual growth but as a mere system of rules aimed at reshaping society according to values that contradict the basic order of democracy and fundamental rights (M. Khorchide, *Gottes falsche Anwälte. Der Verrat am Islam*, O. Roy, *The Failure of Political Islam*, Harvard University Press, 1994. Verlag Herder, 2020). <https://www.bundeskanzleramt.gv.at/bundeskanzleramt/nachrichten-der-bundesregierung/2021/10/integrationsministerin-raab-europaeischer-schulerschluss-gegen-den-politischen-islam.html>; <https://orf.at/stories/3234517/>

address the various challenges posed by the return of religion to the public sphere, using advanced tools and multidisciplinary approaches. From these considerations, the primary concern is not the mere existence of political demonstrations advocating for the caliphate, but the misuse of freedom of expression to disguise political propaganda aimed at undermining the fundamental principles upon which the democratic state is built⁴⁵.

The use of big data and practical reasoning provides crucial tools in determining when an expression, typically protected under Article 10 of the European Convention on Human Rights (ECHR), crosses into an abuse of rights as defined by Article 17 of the ECHR. These innovative approaches, particularly relevant in addressing the challenges posed by political Islam, have significant implications for governance, social cohesion, and the protection of privacy and religious freedom.

Big data analysis enables the monitoring of social and political trends, identifying extremist threats, and evaluating the effectiveness of integration policies. Techniques such as text mining and sentiment analysis allow for the examination of large volumes of textual data from media, social networks, official documents, and public speeches. Text mining extracts useful information from unstructured textual data, identifying recurring themes, language patterns, and temporal trends in discourses concerning political Islam. Sentiment analysis assesses the emotional tone of texts, measuring public opinion and social reactions to events and statements.

These techniques are essential for mapping radicalization dynamics and developing counter-narrative strategies. For instance, monitoring online communications of jihadist groups can identify key influencers and develop targeted counter-narratives to combat extremist propaganda. Sentiment analysis can highlight periods of heightened social tension, allowing for timely interventions to prevent conflicts. Network analysis further aids in mapping connections between extremist groups and their supporters.

Machine learning algorithms also play a significant role, as demonstrated in studies where text analysis from social media accurately classifies religious affiliations and detects extremist trends.

⁴⁵ MARIA LUISA MANISCALCO, VALERIA ROSATO (eds.), *Preventing Radicalisation and Terrorism in Europe: A Comparative Analysis of Policies*, Cambridge University Press, Cambridge, 2019.

These algorithms offer powerful tools for identifying and monitoring religious and radicalization dynamics in online communities.

Practical reasoning, on the other hand, provides a framework for applying philosophical and legal principles to balance religious freedom with national security. This involves using human rights-based decision-making to create policies that respect religious practices while preventing radicalization. Initiatives such as intercultural dialogue and educational programs promote mutual understanding and respect for all religions, reducing the risk of radicalization among young people.

However, Countering Violent Extremism (CVE) policies raise significant concerns about human rights and transparency⁴⁶. Often characterized by vague and inconsistent definitions of extremism, these policies can lead to arbitrary and politicized applications: the proliferation of CVE policies, driven largely by the United States and the European Union, has led to increased surveillance and preventive interventions that often lack a solid legal basis and accountability. This involvement can undermine trust in public institutions and distort the role of community organizations.

Moreover, the tendency to censor online content and monitor digital communications raises concerns about freedom of expression and privacy. The CVE approach has expanded surveillance to individuals not suspected of crimes but perceived as potential threats, compromising civil rights and trust in public services. The lack of clear definitions of "violent extremism" and the focus on Muslim populations have led to unjustified stigmatization and politicized management of CVE policies.

In this framework, it is necessary to emphasize that it's up to religious literacy to play an essential role for combating extremism and radicalization. The tenet⁴⁷ suggests that a lack of understanding about different religious beliefs can contribute to the appeal of radical ideologies; by educating students about the positive aspects of various religions and their contributions to culture and society, schools can

⁴⁶ See PASQUALE ANNICCHINO, *Sicurezza nazionale e diritto di libertà religiosa. Alcune considerazioni alla luce della recente esperienza statunitense*, in *Stato, Chiese e pluralismo confessionale*, Rivista telematica (www.statoechiese.it), 5, 2017.

⁴⁷ SCOTT ATRAN, *Talking to the Enemy: Religion, Brotherhood, and the (Un)Making of Terrorists*, New York, HarperCollins, 2010; KRISTINA STOECKL, OLIVIER ROY (eds.), *The Future of Religious Education in Europe: Knowledge about Religion and Religious Knowledge in Secular Societies*, European University Institute, San Domenico di Fiesole, 2015, pp. 7-18. Open access e-book at <http://cadmus.eui.eu/handle/1814/37735>.

help foster a more inclusive and peaceful environment. According to a 2018 RAND Corporation study, educational programs that promote religious literacy and tolerance were effective in reducing extremist views among youths. This highlights the critical role that comprehensive education plays in not only preventing radicalization but also in building a foundation of mutual respect and understanding within diverse communities. Implementing these educational initiatives at an early age can equip young people with the knowledge and empathy needed to resist extremist influences and contribute positively to society. Therefore, integrating religious literacy into school curriculums is a proactive measure that can significantly enhance social cohesion and security⁴⁸.

⁴⁸ ADAM DINHAM, MARTHA SHAW, *Religious Literacy through Religious Education: The Future of Teaching and Learning about Religion and Belief*, in *Religions*, 8, 2017 (<https://doi.org/10.3390/rel8070119>).