



Building the Religious Field in School within the Migration Contexts: the Case of Spain

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Abstract

In this work we address three interrelated issues: immigration, religious pluralism and education system. Religious pluralism has become more visible, largely linked to the migration phenomenon. In the school institution context, we know that the relations between religion and school have been conflictive for at least a century, especially regarding the presence of religion in this type of education [1]. This work addresses how the religious field has been built, the presence and absence of religious diversity in the Spanish education system.

Keywords: *religious pluralism, educational right, immigration, school.*

1. Law and religious freedom in Spain

In order to address religious plurality within society and the education system in an immigration context, it is necessary to approach the Spanish legal system that regulates these realities. The Spanish Constitution (1978) [2] and the law on religious freedom of 1980 (Ley Orgánica de Libertad Religiosa or LOLR) [3] established a recognition of the various faiths rooted in Spain and opened the possibility to religious pluralism. However, at the beginning, such possibility only stagnated in the legislative framework without effects in the social practice [4]. Thus, the Constitution of 1978 was a turning point in the relations between Church and State as well as from the perspective of human rights. That is obviously related to democratic transformation, which also affects the religious freedom. The article 16 of the Constitution recognizes such freedom, as well as the State secularity and the social dimension of the religious pluralism, in conjunction with the commitment of the public powers to maintain "cooperative relations" with the confessions [5, 6 and 7]. The latter indicates a certain degree of relationship with all the confessions even though with a subtle favouritism. That is to say, it is the Catholic Church the only one mentioned explicitly and in a particular way. That subtlety appeared in the draft of the Constitution while it was taking place a negotiation with the Holy See on various kind of agreements (legal, economic, educational and cultural...), agreements that were then signed in 1979 [8].

The promulgation of the LOLR develops the content of the art. 16 of the Constitution and specifies those "relationships" previously mentioned in the art. 7. Thanks to this law many of the non-Catholic groups that had been either in exile or underground during the years of the national-catholicism and in the early years of the transition -fearing even persecution- lost their fear and went out from the invisibility [8]. This law also led to the signing of agreements in 1992 with the confessions of "notorious roots": evangelical churches, Jewish communities and Muslim communities. In order for a religious confession to be able to access the Agreement, that confession has to meet two conditions, as stated in art. 7: being enrolled in the Register of Religious Entities and having established notable roots (according to the number of believers) in Spain.

2. Teaching of religions in the Spanish education system: Freedom and "formal or real" law?

In the Constitution of 1978, the teaching of religions is included in the article 27.3, which establishes the right of parents to make their children receive a religious and moral education in accordance with their convictions. In that article, parents are recognized as the holders of that right, while the State is the guarantor of it. As for the LOLR of 1980, it foresees that the public powers will adopt the necessary measures to facilitate religious formation in public education centers (art. 2.3). On the other hand, it should be underlined that its art. 7.2. indicates that the agreements with the Churches, confessions or religious communities will always respect the principle of equality. This principle is susceptible of analysis through the comparison between the different agreements and the implementation of school teaching of religions, as we will do.



First, the article 10 of the three agreements (with the Federation of Evangelical Religious Entities, Jewish Religious Entities and the Islamic Commission) [9, 10, 11] regulates the teaching of religion in the same way. This article indicates that the students, their parents and the government school bodies are guaranteed with the former's right to receive "Evangelical, Jewish, Islamic" religious education in public and private education centers, provided that, with regard to the latter, the exercise of that right does not conflict with the center's own nature, speaking of infant education, primary education and compulsory secondary education (art. 10.1). The agreements also establish that the confessions are charged to appoint teachers, and establish the programs and the textbooks to use (art. 10.2 y 10.3). Based on the text of the agreements, we can point out three aspects of interest:

- a) The three agreements mention the teaching of religion in a general way without referring to its integration in the official curriculum as a teaching subject. That is not the case of the Catholic religion, for which the agreement of 1979 specifies that "the teaching of the Catholic religion will be carried out in educational centers, in conditions comparable to other fundamental disciplines" (art. 2.) [12].
- b) The existence of "conflict" between religions is taken for granted. This justifies the freedom of the centers to not offer "other" religions. From this approach it is difficult to maintain the principle of equality proclaimed by the LOLR itself.
- c) As a result, it derives that, in a latent way, the centers are allowed to make value judgments about the suitability of these "other" religions, probably from an ethnocentric perspective, giving rise to unequal, discriminatory and selective treatment. This is especially serious considering that this freedom to refuse to offer the teaching of "another religion" is being given to state-subsidised centers, which receive public funds.

Similarly, the current education law, the LOMCE of 2016 (Ley Orgánica para la Mejora de la Calidad Educativa) [13], in its provision dedicated to the teaching of religion, establishes a point for the Catholic religion and another for "the rest". This implies a differentiation which emphasizes even more when considering that only for the Catholic religion it is indicated that "it will be included as an area or subject in the corresponding educational levels". This makes it possible for the "other religions" to be relegated to a non-teaching subject, hence with the possibility of being offered as an extracurricular activity and, therefore, not receiving equal treatment with respect to the Catholic religion. We must remember that the Constitution, when declaring that there will not be a state religion, implies the non-privilege of any religion, even more so when the art. 7.2 of the LOLR establishes that the principle of equality will govern the establishment of agreements with the different confessions. Despite the possibility that the LOMCE opens in the school practice all religions are offered within the school day with a notable difference. In the case of "other religions" (Resolutions of the 23 April 1996) [14, 15] these are only offered if there is a sufficient demand, that is to say at least 10 students, so that it is possible to group them according to their levels. It could be questioned whether the right to receive religious education should prevail (as recognized by legislation), regardless of the number of students that this implies, being the school practice a paradox or contradiction.

3. Are there "second-class" religions?

Various criticisms have arisen from the implementation of the regulations. Firstly, the instruments used to ensure religious plurality in schools have been -and are- increasingly restrictive, since only those confessions that have signed cooperation agreements with Spain are admitted. In other words, those minority confessions that have not signed these agreements are no longer present in the compulsory planning of the education centers [16]. On the other hand, in its latest report on the situation of religious freedom in Spain, published in 2018, the Ministry of Justice collected the data provided by the Federations or religious Communities (which are aware of the education reality through the families' complaints). Within these data, we must highlight: the lack of information given by the education authorities of some education centers to parents and students about the possibility of taking "other religions" classes (there are cases in which the checkboxes for the option of a religion other than the Catholic do not appear on the registration forms); the information system of many centers has not been adapted with the religion option; many centers that have the option in their forms do not then transmit the data to the Ministry of Education; also, some education administrations do not communicate the demands for the religious education to the religious federations or communities (which have to respond to such demand). Also, Riay Tatory, president of the Union of Islamic Communities in Spain (UCIDE), in an interview with the Spanish News Agency EFE in October 2019, expressed the complaints coming from the parents. Apart from some that have been already mentioned, he points out that "there are also frequent warnings from the directors of some schools



that try to dissuade parents from enrolling their children in these subjects, arguing that in order to attend them, students will miss classes in core subjects like math..."

4. Conclusion

We will conclude by pointing out that despite the secularity of Spain, the Catholic religion continues to be the privileged one in the educational system. The acknowledgment of the country's religious plurality is partial and more formal than real. It is therefore necessary to rethink the management of religions in the Spanish education system, and to develop strategies that contribute to eliminating the structural conditions and situations that allow the domination of some cultures over others. This is manifested in the invisibility and curricular injustice suffered by minorities religious in the education system [17].

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