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Giancarlo Anello

Homo Religiosus in a Globalized World
Why Religious Individuals are Actors of Global Law

Abstract
Religious institutions are players of transnational dynamics and influence the transformations of law, at a global level. Moreover, some worldwide religions gave rise to legal systems (Canon Law, Jewish Law, Islamic Law, Hindu Law, etc.) that interacted (and continue to interact) with the secular law of the states. Taking into account the legal nature of the religious order, this paper focuses more on 'individual religiosity' rather than on 'institutional religions' as factors of Global Law. In order to do so, it outlines a conventional definition of Global law, then analyzes the meaning of the term 'religion' in legal language, and, lastly, shapes the type of legal relevance that 'religiosity' may have in the global order. Conclusions compare the regulatory power of transnational constitutionalism to religious laws and try to argue how religious individuals can be actors of Global Law.

Keywords: *Homo religiosus*; Global Law; Religious Laws; Institutions; Individual and Collective Religious Freedom

1. Introduction[1]

Religious institutions influence the transformations of law at a global level in many ways. Some religions include legal systems—Canon Law, Jewish Law, Islamic Law, and Hindu Law are some examples—that interact with secular, state law[2]. In other cases, religious norms and principles inspire individuals to claim alternative versions of human and civil rights before national and international jurisdictions. In this paper, while taking into account the characteristics of global law, I will address the latter approach, assuming that 'religiosity,' more than organized religions, is the universalizing force that guides individuals when they act as private players of the global scenario in their selection of which instruments and remedies are better for achieving their religious goals. My intention is to offer some insights into important differences between religion as it is typically (but perhaps superficially or, at least,

[1] An early version of this paper was presented at the International Conference 'Global Law vs National Law?' Italian-American Dialogues on Constitutionalism in the 21st Century, Bologna, October 10-11 2019. An abridged version of this essay is published on line on https://canopyforum.org/tag/giancarlo-anello/. I would like to thank Professors Peter Schuck and Michael McDonnell for their comments. Moreover, I thank Melisa Vazquez and Karen Brothers for reading and commenting on the draft.

[2] The concept of 'Institution' has many profiles and characteristics. In this paper, I shall refer to the general and widely accepted definition of Douglass North (North 1991, 97), according to which «Institutions are the humanly devised constraints that structure political, economic and social interaction. They consist of both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights). Throughout history, institutions have been devised by human beings to create order and reduce uncertainty in exchange».

incompletely) understood at an institutional or state level. I will also examine the phenomenon of the religious, understood in a more anthropologically-informed and nuanced way, which nevertheless impacts institutions and states. In short, I will try to show how *homines religiosi* represent an underestimated factor of transformation for global law. More specifically, in the introduction, I shall present a conventional definition of Global Law; then I shall criticize the current way of conceptualizing the legal relevance of religion in the legal sphere; and, finally, I shall conclude by arguing why and how 'religious individuals' can be considered real actors of Global Law.

2. The Global Legal Context: a Conventional Definition

To understand religion and law globally, it is necessary to recognize that global law is the result of an economically-driven globalization. Processes that originated in the economic sphere led to the emergence of a global community of actors and practitioners, so that it resembles the historical notion of *lex mercatoria* and its characteristics[3]. However, globalization is not limited to the economy; it has important implications for law, as well. In recent years, this phenomenon has definitely extended its frontiers beyond trade, economic transactions, and deals, and characterized various aspects of basic legal positions of individuals. This transformation is well encapsulated by the following description:

> Since the end of World War II, with the creation of the United Nations, the rules and structure of the traditional inter-state community have been changing. International law is increasingly shifting its focus from the state to the individual. It gradually lost the features of the classical era, placing greater emphasis on individuals, peoples, human beings as a whole, humanity, and future generations. State sovereignty has been redefined by developments in the field of the safeguard of human rights, peoples' law, the 'human' environment, the common heritage of mankind, cultural heritage, sustainable development and international trade. New norms protect the universal community's interests. New actors, other than states, are emerging on the international scene. New international norms allow individuals, groups of individuals, corporations, and non-governmental organizations to bring claims before international jurisdictions[4].

Thus, today, the objective of global law is to identify, from the great variety of international practices in political and jurisprudential contexts, a uniform set of legal rules, principles, and procedures for the purpose of managing global human rights, interests, goods, groups, and cultures. These features of global law demonstrate that there can be a competition between secular and religious norms. As for religions, the nature of global law is indicative of their augmented relevance in the sphere of global normativity and human rights for a number of reasons.

Global law is non-state law. States are not the only legal actors and power-players in the global system. Instead, this system includes non-state players, including international organizations' agencies, private and civic actors (both associations and individuals), NGOs, and multinational enterprises[5]. Such subjects are established to pursue a particular agenda, whether it be human rights, humanitarian standards in wartime, environment care etc., business interests, etc., and, in doing this, they follow

[3] Grief (2006); Le Goff (2007: 119 ff.).
[4] Ziccardi Capaldo (2015).
[5] Tourme Jouannet (2013: 51 ff., 78 ff.).

private purposes and criteria and use the law as an instrument to achieve those goals[6]. The fact that global law is non-state law has an important effect on the global legal-scape: Not being an expression of States, global law need not necessarily be religiously neutral, and, in fact, religiosity can be a reason of legal action beyond the limits of the secular state.

Additionally, unlike many state law systems, global law is not terribly concerned with formalism. The focus of global law is on the utility and *function* of norms rather than on their *form*. At the global level, what serves to compel behavior serves as law. For example, beyond a defined territory, a religious group can manifest its legal nature through government, by being able to discipline its members, enforce its rules, and regulate its membership, out of consideration for the legal processes of the state, sometimes competing with the state in regulating the behaviors of people.

Moreover, global law is polycentric and complex. In the world of legal globalization, people, organizations, and states are simultaneously governed by multiple systems of rules, religious laws included. Rule systems are produced by states, organizations, and religious institutions and may not be consistent, deriving their authority and character from autonomous legal sources and religious laws[7];

Finally, the multiplicity of international courts and tribunals (ICJ, ECtHR, ICC, ECJ) and their conflicting jurisdictions make the current legal framework more and more complex and give religious law new opportunities for legal recognition. The conflicting jurisdictions due to the multiplicity of international courts and tribunals is the consequence of the fact that, on a global level, there are more regulatory forces of power; there are different levels of regulation, especially in economic and social areas.

3. 'Religions *vs* the Religious'[8]

To tackle the big query of the meaning of religion in the legal sphere, I will address the problem by placing the human being – a particular type of human being, the *Homo religiosus* – at the center of my reasoning. The complexity of this undertaking is due to the difficulty of finding a global meaning for the term 'religion' in legal language. This is a problem that I studied elsewhere[9], and that here I will just summarize.

In the history of revelations, the word 'religion' does not have a uniform meaning. All religions have sacred literatures containing oral traditions, historical materials, and ethnic sources, on which the validity of the religions is dependent. All those materials involve diverse beliefs and require a specific methodology[10]. Moreover, the term 'religion' itself in the context of European history does not delineate any strict category. For example, the Latin word *religio* had a discussed etymology. On one side, we have Cicero[11] who derives the word from the verb *re-legere*, referring to all those who are carefully engaged in acts of divine worship and to those who, so to speak, read them carefully. On the

[6] Catá Backer (2012, 111).
[7] Catá Backer (2012: 118 ff.).
[8] The title of this paragraph openly acknowledges its legacy with the first section of Dewey (1967).
[9] Anello (2016), Anello, Arafa (2017).
[10] Waardenburg (2017: 3 ff.).
[11] *De natura deorum*, (II, 28, 72).

other side, we have Augustine[12] who makes mention of the word *re-ligare*, and – remembering that Greek does not have a specific term for religion (the Greek word *latraios* simply refers to something which is hidden) – connects the meaning of *religio* to the Greek word *threskeia*, which literally means 'worship' and 'piety'[13]. As Wilfred C. Smith put it:

> [...] (m)en throughout history and throughout the world have been able to be religious without the assistance of a special term, without the intellectual analysis that the term implies. In fact, I have come to feel that, in some ways, it is probably easier to be religious without the concept; that the notion of religion can become an enemy of piety. One might almost say that the concern of the religious man is with God; the concern of the observer is with religion[14].

In his view, this opens the door to the distinction between 'faith' and 'religion'; basically, the term 'faith' is defined as having complete trust and confidence, while the term 'religion' is normally used to name a set of objective and firm rules and includes doctrines and institutions. Of course, it is possible to have faith in God or a religion, but it is also possible to have faith in a secular text such as a Constitution or a civil code, as with secular religion. Smith, moreover, explains that we can distinguish 'faith', as in personal faith, from 'cumulative tradition,' the set of rules and data that refer to the religious institutions. The remarkable part about this assertion is that the link between the two is the living person.

For years, the debate on the meaning of 'religion' has fostered different interpretations coming from the Asian/Eastern traditions[15]. Asiatic scholars affirm that in the past there have been relatively few languages into which one can translate the word 'religion' outside of Western civilization – *dharma* is one of them. More exactly, in the oldest traditions, there is no word to reflect the modern term 'religion', that is, the concept of a unitary system of beliefs embodied by people. This is the case for the Sanskrit texts of Hinduism, for the Buddhist Mahayana, and for the Pali Buddhism Theravada. This was also true of the ancient Egyptian or Hebrew texts, of the classical Chinese, as well as of the Greek texts of the New Testament[16]. Normally, all of these sources describe vital aspects of human behaviors such as faith, obedience and disobedience, piety, truth, and rites but not a self-contained and systematic entity of notions and beliefs.

Islam is partially an exception to this scheme. While other traditions represent themselves as a set of beliefs or obligations, Islam is one of the few religious beliefs that, from its origins, represents itself as a 'religion' among religions. It aims to be the best among the religions of humanity (*inna dîna Muhammadin khaîr al-adîan*) and, in doing so, it is ready for an explicit religious global competition. For example, Islam is endowed of a proper name ('Islam' itself is a verbal name – a *masdar* – of the verb *aslama*) and its culture possesses a term (*dîn*) which describes the religion as a system of beliefs and objective rules[17]. Yet, the Arab root has two other meanings: there is a verbal noun translating the idea of 'judging, passing judgment, passing sentence'; and along with this, 'judgment, verdict'; there is the verbal noun of a verb 'to conduct oneself, to observe certain practices, to follow traditional usage, to

[12] *Retractationes*, (I, 13).
[13] *De Civitate Dei* (X, 1).
[14] Smith (1991: 19).
[15] Cohn (1967: 73).
[16] Smith (1991: VII).
[17] Smith (1991: 81).

conform'; and thence 'conformity, property, obedience', and also 'usages, customs, standard behavior'[18].

Thus, the Arab word clearly refers also to the idea of 'the perceptivity that lies in every man' understood as a religious quality[19], so that the *dîn* is exactly that faculty that requires individuals to judge reality according to religious categories. To put it succinctly, for all those reasons, I underscore that the word 'religion' does not have a uniform meaning in the global context, so that each observer tends to identify something as 'religious' as an extrapolation from his own culture. In other words, in defining religions, scholars apply the model of the tradition they know and – more – describe other traditions in terms of it.

This puzzling conception has influenced the legal sphere where different national laws defined different religions in a local way, contextualizing them according to their own cultures, which is to say, according to their national legal system[20]. To be more precise, even though many statutes and constitutions address 'religion', the 'legal' interpretation of this notion always depends on the institutional forms religions have historically and culturally assumed in local legal systems. When mentioned in international legal documents, its interpretation is the reason for conflicts and competing explanations intended to define what kinds of behaviors are guaranteed by means of religious freedom. The consequence is the absence of a homogeneous and universal treatment of religions – as organized denominations – in the legal sphere. Moreover, this situation is complicated by the contemporary 'personalization of religious practices'[21] and influences the concrete regulation of the individual profile of freedoms and rights:

> Within post War transnational constitutionalist systems religion was meant to be understood as just another right to protect. As against the universalizing framework of transnational constitutionalism, with its focus on human rights, democracy, participation and non-discrimination, religion was viewed as important but parochial. Religion divides and does not compromise. It tolerates but cannot accept equality among those of different faiths. And it used religion to emphasize the fundamental character of the state as supra religious. Within the hierarchy of norms, the religious was treated as subordinate to universal secular and political norms. Yet religion, and institutionalized religion, did not acquiesce, either in the West or in the non-Christian world[22].

The reality is that 'religion' is not a concept that originates out of the law. Rather, religion originates in a dimension of experience dominated by ethnic sources, oral traditions and behaviors, religious texts and dogma, and specific liturgy and praxis. Only subsequently, does it relate to the legal language and its categories. Additionally, though we are accustomed to using the word 'religion' to refer to religious institutions and official denominations, the term 'religion' does not inherently describe a universally understood strict category. Instead, the word 'religion' carries many different meanings and connotations in different parts of the world. In the words of William James,

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[18] Smith (1991: 101-2).
[19] Smith (1991: 287, footnote nt. 61).
[20] Anello (2020).
[21] Schuck (2017, 13).
[22] Catá Backer (2008: 126).

> The very fact that they are so many and so different from one another is enough to prove that the word *religion* cannot stand for any single principle or essence, but is rather a collective name[23].

Moreover, from a legal point of view, countries do not recognize any universally consistent way of identifying and relating to ‘religion’ through law. While some international agreements may attempt to do so, there is currently no effective homogenous and universal treatment of religions—even when considered in the limited sense of organized denominations—in the legal sphere. Furthermore, different national laws define religion in ‘indigenous’ ways that are deeply embedded in local cultural, historical, social, and other contexts. The variables of this situation multiply in global law, where institutional religions continue to be differently regulated by the national laws but their members use the global law to achieve their religious-oriented purposes.

All of the above lead me to seek a different solution to frame the idea of religion into the global legal context (or language, that is the same): If the objective of global law is to identify, from the great variety of international practices in political and jurisprudential contexts, a uniform set of principles, legal rules, and procedures to manage global human rights, interests, goods, groups, cultures, then we must consider another option – that ‘religiosity’ rather than ‘religions’ is the global factor at stake. In doing this, I focus on a particular type of human personality—what I call *Homo Religiosus*. This term is Latin for a religious person or personality, i.e., someone whose behavior and thought is motivated completely by religious ideas. Scholars of religion used the term in different senses, underlining the connection between religiosity and personal views and ideals. According to Max Scheler, the *homo religiosus* is a particular type of human personality; according to Rudolf Otto, who followed Friedrich Schleiermacher, religion is a gift or a talent by nature (*sensus numinis*) of men[24]. Lastly, John Dewey opposed ‘religious’—as an adjective that describes a quality of human experience—to ‘religion’ as a substantive noun that refers to historically situated institutions:

> To be somewhat more explicit, a religion (and as I have just said there is no such thing as religion in general) always signifies a special body of beliefs and practices having some kind of institutional organization, loose or tight. In contrast, the adjective ‘religious’ denotes nothing in the way of a specifiable entity, either institutional or as a system of beliefs. It does not denote anything to which one can specifically point as one can point to this and that historic religion or existing church. For it does not denote anything that can exist by itself or that can be organized into a particular or distinctive form of existence. It denotes attitudes that may be taken toward every object or every proposed end or ideal[25].

The opposition between ‘religion’ as a system of beliefs and ‘religious’ as a human experience led Dewey to specify that it is possible to emancipate the universal aspect of the religious experience from the relative nature of religions, given that:

> Any activity pursued in behalf of an ideal end against obstacles and in spite of threats of personal loss because of conviction of its general and enduring value is religious in quality[26].

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[23] James (1902); also Dewey (1967: 7-8).
[24] Hofstee (2019).
[25] Dewey (1967: 9-10).
[26] Dewey (1967: 27).

4. To What Extent are (Still) Religions Factors of Global Law?

Globalization has been modifying the extent of secularization – that is the common idea that state governance is not affected by religion[27]. Since the beginning of globalization, religions have increased their role and importance in the world scenario by means of their institutions, groups, and individuals. But can we distinguish the different layers of the process?

As previously noted, during post-war constitutionalism, religion was understood as just another right to protect, depending on the norms and the systems of different institutionalized religions that had found protection and regulation under the sovereignty of states and their national laws. As a result, in the globalized scenario, religions continue to be regulated differently by national laws; in contrast, 'religiosity' seems to be a universal petition that originates from individuals, their human nature, their faith, cultural habits, rights, and duties.

In other words, religions depend on their cultural characteristics, and, – in turn, as historical institutions – they are regulated and limited by the national laws. Whereas, people are often religious without the assistance of a special term. They simply have faith, despite their different communities. 'Religiosity' seems to be a more universalizing concept that is grounded in individuals' human nature, faith, cultural habits, and rights, that is to say, in their religious experience. Religiosity is a primordial thing that comprises the feelings, acts, and experiences of individual people.

In the global scenario, which is not religiously neutral, nor concerned with legal formalism, but instead, polycentric and complex, 'religiosity' is the global factor that guides individuals when they act as private players of the global law, selecting those global legal instruments and remedies they find best for achieving their religious goals. This does not mean that religions are useless or inconsistent, rather that their regulatory power resides not only in their institutional shapes, codes, hierarchies, community organizations, and laws but also in their own symbolic appeal, unofficial saints, separate constitutive narratives, different jurisdictional concepts and conflict resolution norms, cross-border affiliations, transnational solidarity, and international mobilization capacity. It is not a coincidence that religious leaders have, of late, increasingly sustained more and more the idea of human dignity as a direct and concrete regulatory power. For example, Pope Benedict XVII in his address to the Members of the United Nations General Assembly of April 18, 2008 challenged the idea that international law and transnational constitutionalism are the sources of universal human rights. According to the Pope, human 'religiosity' did not vanish in the secular age[28] and norms described in the international law are only secondary consequences of a more radical and anthropological regulating power, that is human dignity[29]:

> This reference to human dignity, which is the foundation and goal of the responsibility to protect, leads us to the theme we are specifically focusing upon this year, which marks the sixtieth anniversary of the Universal Declaration of Human Rights. This document was the outcome of a convergence of different religious and cultural traditions, all of them motivated by the common desire to place the human person at the heart of institutions, laws and the workings of society, and to consider the human person essential for the world of

[27] Roy (2005).
[28] Casanova (2010: 265 ff.) and Vazquez (2019).
[29] See the massive International Conference entitled 'Religious Voices, Human Dignity, and the Making of Modern Human Rights Law', Rome, Pontificia Università Antonianum, 20-22 January 2019.
https://classic.iclrs.org/content/blurb/files/Religious%20Voices%20Final%20Program.pdf

> culture, religion and science. Human rights are increasingly being presented as the common language and the ethical substratum of international relations. At the same time, the universality, indivisibility and interdependence of human rights all serve as guarantees safeguarding human dignity. It is evident, though, that the rights recognized and expounded in the Declaration apply to everyone by virtue of the common origin of the person, who remains the high-point of God's creative design for the world and for history. They are based on the natural law inscribed on human hearts and present in different cultures and civilizations. Removing human rights from this context would mean restricting their range and yielding to a relativistic conception, according to which the meaning and interpretation of rights could vary and their universality would be denied in the name of different cultural, political, social and even religious outlooks. This great variety of viewpoints must not be allowed to obscure the fact that not only rights are universal, but so too is the human person, the subject of those rights[30].

The response of Larry Catá Backer to this statement focuses even more intensely on the concrete interplay between global legal sources and their anthropological premises:

> This idea—that the expression of the communal will and the search for the Absolute is both necessary and requires the intervention of religious communities (and principally their governance and interpretive institutions—their magisteria) in shaping the understanding of the normative dimensions of law, also requires a broadening of religious participation in internal politics. […] But Benedict is suggesting something more than the control of morals within states. He suggests, as a matter of international relations, that institutionalized religion ought to serve as autonomous participants along with states in the construction of those universal norms that might legitimately bind states in their external as well as internal relations[31].

My personal synthesis is that (yes!) surely universal religiosity requires the intervention of institutionalized religions in shaping the normative dimensions of law, but (also!) religiosity itself represents a source of concrete regulation and a sort of *higher law* – more transnational and widespread than international treaties and western constitutionalism[32]. I add, therefore, that such a dependence between individual 'religiosity' and 'religious orders' is a universal element of global legal processes, but it is also a reason for competition in the interaction of regulatory forces:

> All constitutions—every single one—directly address the issue of religion head on. Some constitutions despise it, others embrace or even defer to it, and yet others are agnostic but willing to accommodate certain aspects of it. But 'not a single constitution abstains from, overlooks, or remains otherwise silent with respect to religion. With the exception of the concrete organizing principles and prerogatives of [a] polity's governing institutions, the only substantive domain addressed by all modern constitutions is religion.' What could be a

[30] The speech can be read at: http://w2.vatican.va/content/benedict-xvi/en/speeches/2008/april/documents/hf_ben-xvi_spe_20080418_un-visit.html.

[31] Catá Backer (2006: 129, 130).

[32] More exactly, Fontanelli (2011: 81) explains the theory of legal relevance between different orders: "Romano tries to exemplify the most common ways in which orders enter into relations (that is to say, are relevant for each other): (i) superiority/subordination (A is superior to B); (ii) presupposition (A presupposes B); (iii) mutual independence, but shared subordination with respect to a third legal order (A and B depend on C); (iv) unilateral relevance granted spontaneously (A deliberately gives effect to B); (v) relevance borne out of succession (A merges into B). Only superiority and presupposition relationships—types (i) and (ii)—incorporate the very *existence* of a legal order into its relevance to another one. More commonly, a legal order is relevant to another in that the content of the former affects, or is incorporated in, *the content* of the latter." On the concept of 'legal relevance' in the theories of Santi Romano, see also Croce (2018: 9).

> more telling illustration of religion's omnipresence in today's world, or a stronger testament to constitutionalism's entanglement with, if not existential fear of, religion?[33]

This global competition between 'religious' orders and 'constitutional' orders takes place in different forms. The origin of the regulatory power of religions resides in the nature of the 'legal order' that religions may have in so far as they present some elements, such as their own symbolic appeal, an interpretive hierarchy, separate constitutive narratives, different jurisdictional concepts and conflict resolution norms, cross-border affiliations, transnational solidarity, and international mobilization capacity. All those aspects of institutionalized religions are also constitutive (and competitive) aspects of legal orders alternative to the state law[34].

Another example of this global normative competition can be found in Islamic 'religiosity'. On one hand, the global spread of this faith implies the rise of a sort of Islamic transnational constitutionalism in all those countries where the 'sharia' has legal relevance because of a specific mention in the Constitution like Egypt, Oman, Kuwait, Iraq, etc.[35]; or in cases where sharia is directly enforced by the State like Saudi Arabia, Iran, Pakistan, India, Bahrein, etc. As has been clearly noted:

> Obviously, there is considerable variation within, let alone among, these prototypical, or ideal-type, models. Each comes in different shapes, forms, and sizes; local nuances and idiosyncrasies abound. This variance is often rooted in distinctive political legacies, differences in constitutional structures and aspirations, and dissimilarities in historical inheritances and formative experiences, as well as significant differences in value systems and foundational national metanarratives. Such differences often feed and shape the specific ways in which the tension between religion and constitutional governance manifests itself[36].

On the other hand, in Europe, legal relevance of Islamic religiosity comes indirectly from Muslim individuals in fields like international security, religious sectarianism, mixed weddings, Islamic economics, institution building through constitutions, and, unfortunately, terrorism.

5. Conclusions: Why and How Religious Individuals are Actors of Global Law

Given that global law focuses more on agency and actions rather than on formal norms[37], the contemporary interplay between international organizations, states, religious orders, and individuals who try to obtain legal recognition of their religiosity in the international or national laws through court decisions becomes a factor of worldwide and continuous transformation. This is not exactly a novelty, but the dynamics of the process need to be underscored. Throughout global history, religious orders have always been connected to the law because (a.) religions influenced the sources of law (the custom, the statutes, the decision of courts, the opinion of jurists considered as mandatory in certain societies) and/or (b.) religions were directly considered as sources of the law. By way of example, the Bible and Christianity strongly influenced the law in Christian Europe in the Middle Ages, but, in our day, they continue to exercise a relevant role, for instance, by means of the 'law of nature' theory,

[33] Hirschl (2010: 17).
[34] Hirschl, Shachar (2018: 428).
[35] Anello (2017).
[36] Hirschl, Shachar (2018, 430).
[37] Catá Backer (2012: 105).

reinforcing ethical principles and enhancing the maintenance of moral standards, (such as correct behavior, solidarity within the community, commitment to fulfill the promises, good faith, fairness, respect for human life, respect for children, dependents, widows and people in distress), justifying indirectly the punishment of theft, murder, adultery as established in common law or in statutes. Other religions are sources of today's laws. This is the case of the Sharia law in some Islamic countries, where the Quran, and the *Sunnah* provide not only beliefs, rituals, and behaviors but also norms in the traditional family law, and criminal law, as well as in less traditional fields like bioethics and commercial law. In Malaysia, the principles of the Sharia are relevant in organizing the finance and banking system, and so on. Part of the law of modern Israel is taken from religious tradition, for instance, as regards personal status, public and religious education, and public holidays. Similarly, part of the legislation regarding personal status in India is taken quite directly from the Hindu *Dharmasastra*.

As noted, the extent of the interplay between religious orders and state orders has changed over time but has not yet vanished. In the post-modern society[38], even if the relationship between individuals is regulated by secular/human rules, it is not uncommon to see religion and law overlapping, when it is necessary to establish rules about specific items regarding life and death (abortion, contraception, euthanasia), family (marriage, divorce, adoption), but also economics, public welfare, and international negotiations. Globalization is simply renewing the shape of the long-lasting relevance of religious orders in the world. The structure of global law is increasingly shifting its focus from the state to other institutions, corporations, groups, and, even, to individuals whose actions and freedom find relevance as concrete and contextualized regulatory powers. As described, individuals need the intervention of religious institutions to shape the normative dimensions of law, but their agency matters also as a singular stance in transforming the global scenario of legal claims because the living person (and his/her experience) is the link between faith and religious orders. In fact, religious individuals move from country to country, work on a global level, and claim their rights before the national and international courts; and, in so doing, they play a role as real transnational subjects. The extent and effect of their interaction with systems of secular law depend on some general conditions:

- In some cases, religious laws are the public law of states, and, in these cases, religious individuals use their personal status in their global interactions through international public and private law (public inter-legality);
- In other cases, religious legal traditions are the source of inspiration for national or international legislation, in terms of principles, models, institutions, values and interests worthy of defense, even in terms of the protection of human rights. In such situations, the religious norm is not exactly a part of personal law, but the importance individuals give to the respect of those principles, rules, and values may urge them to interpret and use national law in an unorthodox way to achieve their purposes or to avoid the violation of religious norms. This is true of believers that claim to not to observe general law because of their religious freedom (personal inter-legality);
- Lastly, the norms of religious laws can be seen as principles of faith that inspire the thinking, indirectly and culturally, behind individual and group behaviors – a fact that closely recalls the conciliar theory of *potestas mediata in temporalibus*. In this case, their relevance is not so much connected to the possibility of the subject asking for the application of confessional norms. Instead, it relates to the inner and experiential dimension of the individuals and is expressed in concrete legal behavior or in personal

[38] Grossi (2010).

interpretations of human and fundamental rights, which may depend on religious meanings and values (intercultural inter-legality).

The legal relevance of religiosity implies a new focus on duties at a global level, insofar as the duties have the largest part in a faith-based agency. To belong to a 'globalized religious community' means that individuals not only have codified fundamental rights but also a 'set' of religious norms to observe (called variously, *mitzvoth*, *wugūb*, *officia*), and some individuals give to the observance of their faith the same importance they give to respecting the law of the (secular) State. To describe and name this pragmatic connection, I use the Italian formula '*agire religiosamente connotato*'[39], which here I roughly translate as 'faith-based will', and I assume that the concrete interplay 'in context' between religious individuals and state-law/international law drives the current global transformation of law.

In conclusion, such *homines religiosi* represent a factor of transformation of global law, even without any connection to religious institutions, because their behavior and thought are motivated completely by religious cultural premises. To be sure, individuals need the intervention of religious institutions in shaping the normative dimensions of law, but their agency matters also as a singular stance in transforming the global scenario of legal claims because the living person is the link between faith and religious order before secular law. From this perspective, religious obligations and duties represent rules for action, and give substantial meaning to different behaviors in the legal sphere. In many cases, religious individuals express their primary interest not only in applying the norms of religious law or their own state, but, just as significantly, when translating their religious/cultural habits[40] into legal claims that produce the concrete effects of religious demands and obligations into the legal systems where they actually live (for instance, the Islamic *riba* prohibition). In such cases, 'religiosity' manifests itself within the legal limits provided by norms that consider religion to be a fundamental human freedom to be respected in different forms in pluralistic and democratic societies. Understanding this concrete interplay between religious individuals and the state-law/international law 'in context' is crucial to any attempt to drive a global transformation of law.

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[39] Anello (2019).

[40] Blanco (2014).

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giancarlo.anello@unipr.it

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