

If it's not broken, don't fix it: review of religious policy in Costa Rica

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Abstract

Costa Rica is world-renowned for being the oldest and most stable democracy in Latin America, the abolition of its standing army and its progressive environmental protection policies. Costa Rica is also the only remaining Catholic state in Latin America. In recent years, more and more voices demand that the country should become a secular state. In this study, I take an in-depth look at Costa Rica's religious policy from a political science perspective using data from the Religion and State Project which I complement by primary and secondary sources such as interviews, newspapers reports, jurisprudence and legal data. Using this data, I compare Costa Rica's religious policy with that of other regions, including democracies and non-democracies. I argue that there are only minor forms of favoritism of Catholicism and only a few instances in which minority religions are being discriminated. I conclude that the confessional nature of the Costa Rican state is merely symbolic. Because symbols matter, the confessional nature of the Costa Rican state could be reformed, but I posit that other reforms should be prioritized in order to guarantee full religious freedom for all religious and non-religious groups.

Keywords:

Secularism, religious policy, religious freedom, religion and politics, Costa Rica

Introduction

The majority of Latin American countries have been electoral democracies for about three decades and have made substantial progress in terms of quality of democracy, notwithstanding remaining challenges. O'Donnell (1993) explains that in many Latin American democracies, the state does not "effectively establish its legality over its territory", leading to the existence of "brown areas", a color code referring to peripheral areas that combine democratic and authoritarian features. Dabène (2007) discusses how the disastrous social-economic policies have led to electoral behaviors that are dysfunctional for the stability and quality of democracy. Carrillo-Flórez & Petri (2009) argue that the increase of the performance of parliamentary institutions is a pending task in Latin America.

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Since Latin America's democratization in the 1980's, the legal protection of religious freedom is guaranteed by international treaties and national Constitutions. Most Latin American countries are signatories to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the American Convention on Human Rights, which protect freedom of religion. As far as national Constitutions and state interference in religion are concerned, there are no major concerns related to the legal protection of religious freedom. Data from the Religion and State (RAS) Project (Bar-Ilan University) confirm that apart from some forms of preferential treatment given to Catholics and some registration requirements and limitations on proselytizing, Latin American states have one of the lowest levels of government involvement in religion, with the notable exceptions of Cuba and Mexico.

Today, Latin America remains a majority Catholic continent, but the political role of Catholicism has been on the decline. Mexico famously became a secular state in 1857 (Gill, 1998, 2008). Throughout the 19th and 20th centuries, many countries in the region moved in a similar direction (González & González, 2008). The latest countries in the region to become secular states were Argentina (1994) and Bolivia (2009). As of today, Costa Rica is the only remaining Catholic state in Latin America. What does this mean in practice for Costa Rica's religious policy and the respect of the right to religious freedom in this country?

In this study, I provide a comprehensive description of Costa Rica's religious policy using the RAS dataset (Fox, 2008, 2014, 2015, 2016, 2019; Fox, Finke & Mataic, 2018). Directed by Jonathan Fox, the RAS dataset follows a socio-metric (quantitative) methodology that focuses specifically on "the relationship between religion and the state apparatus." It "measures the extent of government involvement in religion" (2011) based on the coding of a broad range of primary sources. Although the RAS dataset is limited to the political dimension of religious freedom, it integrates both formal (legal) and informal dimensions of the subject. In other words, the methodological design covers both legal restrictions on freedom of religion and policies or customs that restrict religious freedom in practice.

The methodology of the RAS dataset uses complex coding standards which do not allow any expert appreciation or judgment on the observed variables. A student of Ted R. Gurr, Jonathan Fox used the Minorities at Risk project (Gurr, 1993) as a starting point for the development of his composite measures of religion and state, by adapting and broadening its religious discrimination variables beyond the context of ethnoreligious minorities. (He also collected data on specific religion variables for use with the Minorities at Risk dataset.) The dataset developed in the framework of this project includes variables for 'official religion', 'religious discrimination against minority religions', 'regulation of and restrictions on the majority religion or all religions' and 'religious support', as well as other topics. Additional variables measure policies including religious education, the registration of religious organizations, restrictions on abortion, restrictions on proselytizing, and religious requirements for holding public office or citizenship. A societal module was added to the RAS dataset in 2017. The variables that measure actions taken by societal actors describe societal discrimination and minority societal actions (Fox, Finke & Mataic, 2018).

Although the RAS dataset is the primary source of information for my description of Costa Rica's religious policy, I complement it with primary and secondary sources of information. I use newspaper reports, survey data, jurisprudence and legal data to update the RAS data (which only runs until 2014) as well as to characterize the way religious policy is perceived by the population. I also use a small sample of personal interviews with religious leaders and members of faith-based political parties for contextualization and to provide some additional qualitative nuances that are not borne out by the RAS data.

In this study, I deliberately avoid taking a historical perspective, even though I make some historical references when necessary. I am fully aware that the relationship between Catholicism and the state in Costa Rica is the result of a complex interaction since colonial times that has to a large extent shaped the identity of the Costa Rican population and has determined the evolution of its political institutions. However, this historical relationship has been comprehensively addressed elsewhere (Acuña, 1972; Rodríguez, 1977; Monge, 1980) and is not the object of this study. Rather, my main purpose is to present objective data about the current laws and policies governing religious policy in the country from a political science perspective, based on the conviction that this is important for an informed debate in a democratic society that is too often dominated by assumptions about facts rather than the facts themselves. By presenting the RAS data I therefore aim to bring clarity into the debate and provide a constructive basis for decisionmakers.

I also use the RAS dataset to compare Costa Rica's religious policy with that of other regions, including democracies and non-democracies. The main purpose of this comparison is to justify my main argument that Costa Rica's religious policy is by no means exceptional nor extreme when compared to Western and Latin American democracies. The comparison is also a useful benchmark to determine the priority areas for the reform of the country's religious policy.

After presenting the RAS data on religious policy in Costa Rica and comparing it to other regions, I discuss two central aspects of the relationship between religion and politics in Costa Rica: the practical significance of the principle of separation of church and state and the role of religion in the Costa Rican political system. The RAS data falls short in explaining these two important aspects which I discuss using survey data and interviews. I finish by discussing the pending agenda of reforms of religious policy taking the comparative RAS data as a starting point. I distinguish between priority reforms aiming at correcting some (minor) discriminatory aspects of Costa Rica's religious policy and the symbolic reform of transitioning to a secular state. I end with some concluding remarks.

Costa Rica's religious policy

Religious policy involves numerous dimensions that are not always acknowledged by the broader public. Often religion and politics is marred with assumptions that lack any factual basis (Klocek & Bledsoe, 2021). Therefore, it is important to use objective data as a basis for further discussions.

In recent years, there has been a growing interest in academia in the documentation and measurement of religious freedom, leading to the development of an increasingly rich corpus of religious freedom monitoring instruments, ranging from qualitative monographs and narrative reports to surveys and quantitative tools (Petri & Buijs, 2019). Thanks to this effort, data is available for cross-national comparisons which give an indication of the scope of religious freedom and religious conflict worldwide.

This serves an apologetic purpose: the numerical importance, occurrence and scope of this phenomenon justifies its analysis (Sauer, 2019). By objectively observing the (quantitative) impact of an issue, it can then be considered a “social fact” to use Durkheim’s concept (1893), i.e., an objective social phenomenon which can be an object of research, i.e. “a single reality that is independent of any observer” (Yin, 2014:17). The measurement of the quantitative impact of religious freedom violations at a global scale also allows for an improved understanding of individual cases, such as Costa Rica. It is a means to situate specific cases within a broader context – identifying global trends –, from which comparative results can be distilled. Cross-national comparison allows isolating those variables that tend to have a stronger influence on the development of religious conflict.

To bring some clarity in a sometimes emotion-loaded debate, I look at the four dimensions of religious policy that are covered by the RAS Project: ‘official religion’, ‘religious discrimination against minority religions’, ‘regulation of and restrictions on the majority religion or all religions’ and ‘religious support’, which I apply to Costa Rica and compare to other democracies as well as non-democracies.

Throughout this study, I define religion simply as “A belief system that includes a more or less coherent set of beliefs in which reference is made to (a) transcendental being(s), which is seen by its adherents as important for who they are, and which influences their individual and collective behavior.” (Petri, 2020:78) This definition has the advantage of covering both the institutional (organic) dimension of religion as well as individual expressions of religiosity, “new religious movements”, etc. The reference to Catholicism in the Costa Rican Political Constitution refers specifically to the religious institution; the reference to “other forms of worship” implies a broader definition of religion.

Official religion

The confessional nature of the Costa Rican state is explicitly mentioned in article 75 of the country’s Political Constitution which reads: “The Roman Catholic and Apostolic Religion is the religion of the state, which contributes to its preservation, without hindering the free exercise in the Republic of other forms of worship that do not contravene universal morality or good customs.” (Asamblea Constituyente, 1949, translation from Spanish by author). This is still the original formulation of this article as part of the Constitution that was adopted in 1949. (A constitutional reform in 1975 changed its numbering from article 76 to 75.)

Based on this article, three initial conclusions can be reached regarding Costa Rica's religious policy. First, the combination of two forms of state favoritism of Catholicism – symbolic, by affirming it as the religion of the Costa Rica state and financial, by mandating budgetary support to the Catholic Church – unquestionably constitutes a form of discrimination of all other religions (as well as the non-religious population), which do not benefit from these types of support. (The financial contribution of the state to the Catholic Church was substantially reduced in 2004, when the Government removed the Catholic Church's annual subsidy from the national budget – US Department of state, 2021.)

At the same time, the freedom of worship of minority religions is guaranteed, at least within reasonable boundaries, and Catholicism is not made mandatory for Costa Rica's citizens. Furthermore, article 75 of the Constitution explicitly states that state support of Catholicism should not occur at the expense of other religions – the phrase “free exercise” seems reminiscent of the First Amendment of the US Constitution: “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.” –, thereby confirming Costa Rica's adherence to the human right of freedom of religion for all faiths. This is implicitly confirmed in the first part of article 28 of the Constitution, which reads: “No one may be disturbed or persecuted for expressing his opinions or for any act that does not infringe the law. Private actions that do not harm public morality or public order, or that do not cause damage to third parties, are outside the scope of the law.” The right to religious freedom is also contained in article 18 of the International Covenant on Civil and Political Rights (1966) and article 12 of American Convention on Human Rights (1969), which are legally binding in the country.

Costa Rica was among the first 48 nations that voted in favor of the Universal Declaration of Human Rights (UDHR) on 10 December 1948. Interestingly, the Costa Rican Constitution that was adopted on 7 November 1949, only one year later, contains the essence of all the human rights stated in the UDHR, including the right to religious freedom, but uses very different formulations and ordering.

Finally, the fact that Costa Rica has an official religion does not mean that the state is subordinate to this religion, as there are no formal stipulations in the Constitution that require the Legislative, Executive or Judicial Branches to seek approval for any decisions at the Catholic Church. Inversely, the state also does not dominate the church's institutions. In this sense, the principle of separation of church and state is respected in Costa Rica (Petri, 2022). There is also no informal subordination of the political system to the Catholic Church as I argue further down.

Religious discrimination against minority religions

The second dimension of religious policy is religious discrimination against minority religions which is measured by 36 different variables in the RAS dataset. These variables cover aspects such as restrictions on religious practices, restrictions on religious institutions and the clergy, and restrictions on conversion

and proselytizing, among others. Based on the most recent data available (2014), the Costa Rican state discriminates against minority religions in only a few areas (7 variables), and it generally does so only in a mild form:

- Some religious groups complain that their temples are periodically being closed because of noise and traffic issues, claiming prejudice against them, although there is no indication of effective discriminatory intent.
- Minority religions need to register to be legal or receive special tax status, which is a fairly straightforward administrative procedure, which the Catholic Church does not need to do because of its official status.
- Until 2003, non-Catholic clergy were not allowed to enter prisons as chaplains. After being legally granted unrestricted access, they often continue to be restricted in practice.
- The same situation applies to the access of non-Catholic chaplains to hospitals and other public facilities: legal restrictions were lifted in 2003 but are not always applied in practice.
- Non-Catholic missionaries and other religious workers are required since 2006 to apply for temporary residency before arrival in the country, rather than entering as tourists and changing status as is possible for foreigners in general and for Catholic clergy specifically.
- One minority religion, the Unification church, was declared a “dangerous sect” by the Government. This group is nevertheless free to continue to hold meetings.
- There were several cases of restrictions on observance of religious law related to the refusal of a school to allow a Seventh-day Adventist student to re-schedule an exam originally scheduled for a Saturday in 2010 and the denial of a high school director of a request for leave to celebrate a Jewish holiday in 2012. More recent similar (anti-Semitic) incidents in public schools were quickly addressed (Radio Jai, 2017; Sala Constitucional, 2017). In 2013, an opposition legislator made anti-Semitic remarks against Jewish Vice President Luis Liberman.

As can be observed, the instances of religious discrimination of minority religions are relatively minor. In fact, some of them have been addressed recently, such as the access of chaplains to jails, hospitals and other facilities. The closing of temples or the issues related to the accommodation of religious beliefs in education, although they are often corrected after talks between religious leaders and public officials, do reveal a worrying lack of religious literacy within the Public Administration.

Regulation of and restrictions on the majority religion or all religions

The third dimension of religious policy is regulation of religion which can simply be defined as “all government laws, policies, and practices that limit, regulate, or control the majority religion in a state, or all religions in a state” (Fox 2013:41). Two preliminary remarks are in order. First, every state has some form of religious policy and regulates religion in one way or another. This is true for both democratic and authoritarian states. In fact, a great number of dimensions of religion can be and are regulated by states. To illustrate this point, the RAS dataset describes religious regulation through 29 variables, which can be complemented by 9 detailed variables measuring certain religious policies.

Second, the nature of the state regulation of religion can be more or less restrictive for religious groups. This is a central point in the work of scholars like Fox (2016) and Philpott (on the Muslim world, 2019). Often religious policy differentiates between religion in general, the majority religion and some or all minority religions. Major differences can be observed between democratic and authoritarian states, but also within them. State regulation of religion can range from, for example, simple administrative requirements such as the registration of religious organizations, which is standard in most democracies, and severe restrictions such as state interventions within religious groups or even the outlawing of particular religious practices or complete religions. The latter is more common in authoritarian states, particularly those that enforce a strict antireligion policy (such as communist states) or that favor one religion at the detriment of others (such as theocratic states). In the case of Costa Rica, the RAS dataset identifies some issues in five areas of religious regulation, which can affect the majority religion as well as all other minority religions:

- Following articles 131, 142, 159 of the Constitution, Catholic clergy cannot hold the following political offices: President or Vice President of the Republic, Minister or Magistrate.
- In line with article 28 of the Constitution, religious political propaganda by clergymen and laymen is prohibited. The practical implication of this article is that religious institutions are not allowed to make political statements other than sermons, nor participate at an institutional level in electoral processes. Political parties are also prohibited to use religious symbols in politics (this rule is included in article 55 of the Electoral Code and has been in effect since an 1895 constitutional reform).
- Foreign religious workers must belong to a religious organization accredited by the Ministry of Foreign Affairs and Religion.
- The state is the owner of some Catholic religious buildings but allows the church to use them freely.
- Following an executive order, religious organizations must submit applications to the local municipality and comply with the safety and noise regulations established by law to establish places

of worship. This executive order was revised in 2009, modifying the allowable distance between places of worship and their surroundings.

As can be observed, most forms of religious regulation in Costa Rica are limited to administrative procedures related to the accreditation of foreign religious workers and zoning regulations for the establishment of places of worship. The most substantial form of religious regulation is the prohibition of religious actors to engage in the political process at an institutional level and for political parties to use religious symbols. This restriction does not, however, limit the freedom of expression of religious actors, nor is it understood to prohibit political parties from having an ideology that is inspired by religious beliefs.

The aforementioned restrictions are relatively minor and apply to all religions. This is not the case of the restrictions on clergy holding political office which only apply to Catholics. Technically, this restriction is discriminatory toward Catholicism since it does not apply to non-Catholic clergy. It was nevertheless upheld by the Constitutional Chamber, in its ruling about an unconstitutionality claim that was filed in 2014, alleging that the appointment as Minister of the Presidency of Melvin Jiménez, a former bishop of the Lutheran church, a Protestant denomination, was unlawful (Sala Constitucional, 2014a).

Although discriminating between Catholic and non-Catholic clergy may indeed seem unfair (Duarte, 2018), there may nevertheless be a rationale for it. One could argue that the profession of pastor in Protestant churches is rather comparable to a teacher and is not a ministry as is the case with the Catholic sacrament of priestly ordination which implies some form of loyalty to another state, the Vatican (Petri, 2019b). Whatever may be the case, it is interesting to observe that the Catholic Church faces more restrictions in this area than other religions, although it is the official religion. It is also a confirmation of the principle of separation between church and state. Finally, it suggests that the Catholic Church has less political influence than what is commonly believed, a point I will come back to below.

Religious support

The fourth dimension of religious policy is religious support, which refers to two related aspects: the enactment of religious laws and the provision of material support to religious institutions. The RAS dataset distinguishes between 52 types of religious support. The Costa Rican state engages in only seven of them:

- Only Catholic priests and public notaries can perform state-recognized marriages. Wedding ceremonies performed by other religious groups must be legalized through a civil union.

- Abortion is restricted. The Costa Rican Penal Code only permits an abortion to be performed to prevent danger to the life or health of the pregnant woman when this danger cannot be averted by any other means.
- The Ministry of Public Education provides subsidies to private (faith-based) schools (both Catholic and non-Catholic) to reduce tuition.
- There is no government funding for clergy, except for salaries of teachers of Catholic religion in public schools.
- The Government does not provide any direct general grants to the Catholic Church since 2004 when it removed the Catholic Church's annual subsidy from the national budget. However, the Catholic Church receives funds for repairs or maintenance of its churches. In 2012 an Adventist church in Limón was also reported to have received public funding to support a construction project.
- There is an official entity dealing with religious affairs, which is a department of the Ministry of Foreign Affairs and Religion.
- Religious education is present in public schools. A ruling by the Constitutional Chamber in 2010 ordered that the Catholic Church should no longer have the authority to approve the hiring of the 1,400 teachers of religion, a mandatory subject. It also ordered that alternative religion classes should be offered for non-Catholic students (Murillo, 2019). Both things have not materialized, mainly because of a lack of qualified teachers (Cerdas, 2021).

As with the other forms of religious policy that were previously discussed, state support for religion is very limited in Costa Rica, including for the official religion. There certainly are some areas where there is favoritism of the Catholic Church, but much of this has been eliminated in recent years. Catholic priests can perform state-recognized marriages and the state pays for the maintenance of Catholic Churches (which in some cases are buildings with a historic value), but other forms of budgetary support were eliminated in 2012. In sum, religious support only mildly favors Catholicism.

Religious support by the state is not necessarily advantageous for the religions that benefit from it (Linz, 2006). Indeed, as Kuhle has shown in her study of Scandinavian countries, religious support is often accompanied by state control and far-reaching interventions in the autonomy of religious institutions (2011). A similar dynamic can be observed in Turkey where the state aggressively supports Islam but at the same time instrumentalizes religion for its foreign and domestic political objectives (Pastoor, 2012). Based on the RAS dataset, there is no evidence that this is the case in Costa Rica, as the state does not seem to dominate the Catholic Church, or any other religious group for that matter.

Inter-regional comparison

Figure 1

Comparison of Costa Rica's religious policy with other regions

| Religious policy | Costa Rica | Western democracies | Latin America | Middle East | Other regions |
|--|-------------|---------------------|---------------|-------------|---------------|
| Official religion | Yes | 29.6% | 3.7% | 86.9% | 12.3% |
| Religious discrimination against minority religions | 7 out of 36 | 6.04 | 4.04 | 15.22 | 7.98 |
| Regulation of and restrictions on the majority religion or all religions | 5 out of 29 | 2.67 | 3.22 | 8.96 | 5.72 |
| Religious support | 7 out of 52 | 9.19 | 6.26 | 24.04 | 9.62 |

Source: own elaboration based on the Religion and state dataset (2014).

From a comparative perspective, ‘official religion’ is not a very meaningful variable. Indeed, the group of countries that have an official religion is quite heterogeneous. It includes theocratic states such as Iran or Saudi-Arabia, but also Western democracies such as the United Kingdom or Norway. In the former group, the state not only has an official religion – a variant of Islam in both cases – but is also subordinate to the clerics of this religion, and it actively discriminates against religious minorities. In the latter group, one religion (or multiple religions, in the case of the United Kingdom) has a special status, but this is not to the detriment of the freedom of other religious groups. Costa Rica can evidently be categorized within the latter group. It is interesting to note that if Costa Rica is indeed exceptional in Latin America, but not among Western democracies, where close to 1/3 of the countries have an official religion (Figure 1).

In terms of the other three dimensions of religious policy – religious discrimination, regulation and support –, Costa Rica is by no means an outlier compared to Western democracies and Latin American countries. Its scores are close to the average of these regions. Costa Rica engages only slightly more in religious discrimination and religious regulation than the average Western democracy but engages significantly less in religious support. By contrast, in the Middle East, on average, scores on all these indicators are substantially higher (Figure 1).

Key aspects of the relationship between religion and politics in Costa Rica

To contextualize the data presented in the previous section, I now look at two key aspects of the relationship between religion and politics in Costa Rica: the practical significance of the principle of separation of church and state and the role of religion in the Costa Rican political system.

The practical significance of the principle of separation of church and state

The political participation of religious ministers or the existence of faith-based political parties remains contentious in Costa Rican society as recent court cases reveal (Sala Constitucional, 2014b). The designation of Evangelical politicians Gonzalo Ramírez and Eduardo Cruickshank as Presidents of the Legislative Assembly (in 2017-2018 and 2020-2021, respectively) and the qualification of Fabricio Alvarado for the second round of the presidential elections in 2018 has been much talked about. It has been argued by many that they constitute a violation of the principle of separation between church and state (Chevez, 2018). This reasoning, however, hinges on a misconception of the scope of this principle.

Indeed, whilst separation of church and state is a key principle in liberal democracies, it should not be understood to forcefully separate faith and politics, for which there is no basis in legal philosophy. Perhaps the most common mistake when assessing religious policy is to equate the separation of church and state with the separation of faith and politics, as if they were identical forms of regulation.

The separation of church and state can be seen as an answer to religious oppression and a constitutional safeguard of religious tolerance. Conceptualized and redefined by a broad group of intellectuals, ranging from John Locke to James Madison, the separation of church and state institutes a – healthy – distance between organized religion and the nation-state: religious institutions should not be subordinated to nation-states or vice versa. In practice this principle implies that governments no longer designate clergymen and churches do not have to be consulted for political decisions (Petri & Visscher, 2015).

The analysis of the RAS dataset in section 2 confirms that these two dimensions are respected in Costa Rica. Notwithstanding some minor issues that I will come back to in section 4, there is no evidence that the state is subordinate to any religious institution and there also is no unreasonable state control of the majority religion or minority religions. It is important to mention this is the case despite Catholicism being the official religion of the Costa Rican state. In fact, whether the state is confessional or not is almost irrelevant. As we have seen in inter-regional comparison of religious policy the previous section, there are confessional countries that do not necessarily support religion, just as there are non-confessional states that do support religion.

The principle of separation between church and state does not imply that religious actors should be prevented from expressing or manifesting their faith in the public or political sphere. In an illuminating article entitled “Religion in the Public Sphere,” the German philosopher Jürgen Habermas (2006) makes a strong case against the separation of faith and politics. He argues that in a democracy, all opinions, whether secular or religious, should have the opportunity to be expressed freely. José Casanova concurs, suggesting that religious should be allowed to “play a positive role in the revitalization of the modern public sphere.” (1994:214)

In other words, the use of religious arguments in public debate or the participation of religious candidates does not constitute a disrespect for the principle of separation between church and state because it is not an illegitimate subordination of one institution to another, but simply the free expression of ideas in a democratic society. It would also be ironic to restrict religious expression in the public debate of liberal democracies when one considers that the democratic rule of law, of which the separation of church and state is a central principle, is highly indebted to religion – more precisely, to Judeo-Christian legacy (Witte, 2006, 2008). It should be remembered that religion – particularly Christianity – has clearly passed on its legacy to modern democracy in the West (Sampson, 2009).

Not only is there no basis in legal philosophy for the separation of faith and politics, but it is also uncommon among liberal democracies. According to the RAS dataset, prohibitions on the participation of clerical representatives exist in only a dozen Latin American countries but are rare internationally. In European democracies, such restrictions do not exist, and France, the cradle of secularism, is no exception.

Coming back to Costa Rican politics, there is therefore no reason whatsoever to restrict the participation of confessional political parties or the use of arguments inspired by religious convictions, as long as this does not lead to the subordination of the state to religion (I will come back to this point in the next section). Rather, all groups – confessional and non-confessional – should be allowed to participate freely in the democratic game, letting the political majority decide about the policy outcomes. In this respect, it is worth noting that the Costa Rican electorate considered unattractive the political project of the Evangelical candidate Fabricio Alvarado in the 2018 presidential elections and overwhelmingly voted for his opponent (and namesake), Carlos Alvarado.

The role of religion in the Costa Rican political system

The role that religion plays in politics can be assessed at four levels. First, a frequently heard claim is that the Catholic Church wields considerable cultural influence in the country (Duarte, 2018) which translates into an informal political preponderance (Animales Políticos, 2021) or at least some degree of influence over decision-making (Murillo, 2021). For starters, the scope of the cultural influence of Catholicism in Costa Rica in the twenty-first century is not easily determined. There is no doubt that Catholicism has strongly influenced Costa Rican identity and political institutions since colonial times (Acuña, 1972; Rodríguez, 1977; Monge, 1980), which is still visible today. A sizable proportion of the population identifies as Catholic although it's no longer the majority of the population – 47.5% according to a recent survey (Murillo, 2021) –, Catholic holidays and rituals are an important part of Costa Rica's identity, Catholic religion classes are offered in public schools, and the Government traditionally allows the Catholic Church to participate in social, economic and political events.

At the same time, the cultural influence of Catholicism seems to be waning somewhat. Indeed, church attendance among Catholics is low – only 48% of Catholics attends mass on a weekly basis (Pew Research Center, 2014:43) –, people who identify as Catholics hold very diverse political views which range from the most progressive to the most conservative extremes of the political spectrum, and new religious movements (Pew Research Center, 2014:69-86), including Protestant groups – which in the Latin American context often implies a radical rejection of anything Catholic (Gooren, 2007) –, have been on the increase (Murillo, 2021). This is not to say that the cultural influence of Catholicism in the country has disappeared, far from it, but it is weaker than it used to be.

Second, a careful examination of the political decision-making process in Costa Rica reveals that there is no empirical evidence for Catholicism's presumed informal political influence. In private conversations, an advisor to the Episcopal Conference of Costa Rica confided to me that their statements are rarely taking into consideration by politicians (Anonymous priest, 2015).

An analysis of the behavior of deputies to the Legislative Assembly as well as Executive authorities confirms this is the case as the following examples illustrate. Ana Elena Chacón actively promoted *in vitro* fertilization and same-sex marriage as deputy for the Social-Christian Unity Party (PUSC, in Spanish) – a party that claims to be inspired by Catholic Social Teaching – (2006-2010) and as Second Vice-President of the Republic (2014-2018), directly going against the doctrine of the Catholic Church (Mora, 2015; EFE, 2018). In 2011, the Propaganda Control Office of the Costa Rican Ministry of the Interior ordered the Catholic radio station Fides to suspend an advertising campaign entitled “*In vitro* fertilization is against life” because the campaign involved minors talking about the subject (ACI Prensa, 2011). Finally, the Ministry of Education adopted a sexual education curriculum, ignoring the loud protests of the Catholic Bishops (ACI Prensa, 2018). More examples could be cited, but one conclusion is in order: the Catholic Church can hardly be considered an influential political actor, let alone a societal veto player – an actor that has the authority to block changes in the political status quo – (Petri, 2019a), as Fink analyzed in the case of Italy (2009).

Going further back in history, it is worth noting that the Civil Code of 1888 established civil marriage (whilst maintaining Catholic marriage) and allowed divorce (Duarte, 2013), in direct opposition to Catholic doctrine. Divorces have tripled between 1990 and 2016 (Fallas, 2017). The high rate of divorces continued during the COVID-19 pandemic (Díaz, 2021).

Third, individual legislators of civil servants may of course be inspired by personal religious convictions (Alcántara, 2018), but there is no evidence that these convictions lead them to operate in very different ways nor that they receive orders from any religious organization (Petri, 2022). A confusion that is often made is that the Catholic-inspired Social Christian Unity Party (PUSC in Spanish) or the various Evangelical political parties receive orders from the Catholic Church or the National Evangelical Alliance

respectively. This is pertinently untrue as I confirmed in various interviews (Anonymous priest, 2015; Anonymous pastor, 2018). These parties indeed have a clear ideological orientation that is rooted in their religious worldview, but this is not different from secular parties that are inspired by socialist, liberal or environmentalist worldviews, and they are autonomous from religious organizations.

Furthermore, religious institutions do not participate in the electoral process, but they should have the right to freedom of expression, as any other civil society actor has in according with Habermas' ideal presented above. What is important, is that the primacy of representative politics is respected. This means that religious actors are entitled to publicly express their views on any subject they consider pertinent, including political matters, if the decision-making remains with the representative institutions, which has been the case without exception since 1949 (Petri, 2022).

It must be remembered that the Protestant community is extremely divided, with a plethora of different denominations that in the most cases do not have an articulated vision of politics (Freston, 2001, 2018; Petri, 2017). It is quite obvious that a majority of Protestants oppose abortion or same-sex marriage, but beyond these points, there is little consensus nor clarity about their political views (Pew Research Center, 2014). Furthermore, in personal conversations, representatives of Protestant parties have complained they do not receive much support from their constituency and Protestant pastors criticize they are generally not open to receiving this support (Anonymous pastor, 2018). In any event, it would be wrong to view any Protestant party as the political expression of the Evangelical Alliance, which is not representative of the full breadth of the Evangelical sector. It must also be remembered that the overwhelming majority of the country's Protestants do not vote for Protestant parties (Petri, 2022).

Based on the foregoing analysis, I conclude that that the principle of separation of church and state is generally respected. I also conclude that there is no evidence that the Catholic Church is a societal veto player in Costa Rican politics. Individual politicians may feel committed to follow the church's doctrine, but the observation of voting behavior does not suggest this is the case. Finally, the Catholic Church has opposed legislation without success. Catholicism's presumed political influence is mostly a perception of the population; religious leaders do not feel influential at all.

Religious policy: pending agenda of reforms

Even though the principle of separation of church and state seems to be respected in Costa Rica, my analysis of the country's religious policy reveals some issues that require to be corrected in the areas of religious discrimination, regulation and support in order to guarantee full religious freedom for all religious and non-religious groups. Most of these issues can easily be addressed and do not require constitutional reforms. In the following, I first discuss the reforms I consider a priority, before discussing a possible symbolic reform of becoming a secular state.

Priority reforms to ensure full religious freedom

In terms of religious discrimination of minority religions, I've identified issues in a few areas. There are difficulties to obtain visas for non-Catholic missionaries. This aspect of immigration legislation should be revised to ensure that visa applications of religious workers from all religions are treated the same way. This is also true for the registration of religious organizations, which should be identical for Catholics and non-Catholics. Similarly, non-Catholic chaplains should be granted the same access to jails and hospitals as their Catholic counterparts. Furthermore, it is legitimate for the state to intervene if abuses occur within a religious organization, but no religious group should ever be labelled a "dangerous sect."

As observed, some minor cases have arisen related to religious accommodation in education. The positive is that the cases have mostly been addressed following talks between religious leaders and public officials, but the negative is that there seems to be a growing lack of religious literacy within the Public Administration. Training programs should be implemented in order to increase the sensitivity of public officials to the needs of religious individuals. I also believe this should be included in Public Administration programs in universities (Petri, 2021a).

So far, I've only discussed the involvement of the state in religion, but it must not be forgotten that religious discrimination can also originate by non-state actors. Fortunately, societal restrictions of religion are very reduced in the case of Costa Rica (Pew Research Center, 2020). This being said, there has been an increase of anti-Semitic incidents in recent years which demands vigilance (Anti-Defamation League, 2014).

Turning now to religious regulation, reforms in two areas are in order. First, a level playing field must be created concerning the political participation of clergy which is not accessible to Catholics. In all fairness, the same rules should apply to clergy of all religions, notwithstanding the qualitative difference between ordained Catholic priests and leaders of other religions as I've argued above.

Second, although there does not seem to be any discriminatory, zoning legislation is sometimes too restrictive, in particular for temples of Pentecostal groups and new religious movements which were ordered to close. This is a frequently encountered issue in urban planning, which requires urban planners to be more sensitive to the specific needs of each religion (Petri & Osorio, 2021). The same applies to sanitary legislation which is perceived by Protestant groups to discriminate against them, especially those that have only small temples and do not have the material possibility to meet all the sanitary requirements.

Sanitary measures to combat the Covid19 pandemic, however justified, also imposed objective restrictions to some of the collective dimensions of freedom of worship (Petri, 2021b; Flores & Muga, 2020), limiting the possibility of congregating, participating in processions or attending funerals, as pointed out by the Inter-American Commission on Human Rights (2020).

Regarding religious support, the main point concerns the financial support that is given by the state to the Catholic Church. As was explained, most of this was stopped in 2004, but some forms of funding remain. To remove any form of favoritism of Catholicism – and avert the risk of state control of this religion –, all remaining funding to the Catholic Church must be eliminated. An exception could be made for buildings that have a historical value, but the parameters for this must be clearly delineated.

Two more issues in the area of religious support are abortion and religious education in public schools. The legalization of abortion will likely be on the agenda of the 2022 elections (Abarca, 2021). Religious education in public schools has already been loosened from the influence of the Catholic hierarchy in 2010 but has yet to be fully implemented (Murillo 2019; Cerdas, 2021). Providing alternative religious education classes for other religions is understandably complex from a logistical perspective, as there are often only a few non-Catholic students in public schools, although online religion classes could be a practical alternative.

Symbolic reform: toward a secular state

Should Costa Rica implement the substance of the reforms I recommended in the previous section, it would come very close to the ideal of religious freedom in which there is no discrimination, regulation nor favoritism of any religion. In my view, these reforms should be the priority as they directly affect the rights of religious believers as well as those of atheists and agnostics. Reforming the Constitution to eliminate Catholicism as the country's official religion will not magically deal with any of these issues. As I stated above, the confessional nature of the Costa Rican state has little to no bearing on all other fields of religious policy, and is therefore, essentially symbolic. Perhaps this is the main reason why no fruitful attempts have been made to amend article 75 of Constitution, which has been frequently reformed since its adoption in 1949.

Because symbols do matter, removing the official religion from the Constitution may nevertheless be desirable, primarily to acknowledge the most noteworthy changes in religious demography that occurred in the country since 1949, namely the substantial growth of non-Catholic groups (especially Protestants), atheists and agnostic, as well as small religious groups such Jews, Muslims and other new religious movements. It must be recognized that the demands for a secular state are heartfelt among some sectors of the population (Duarte, 2018; Anímales Políticos, 2021). If this route is taken, however, some caution is in order.

The main issue to consider should Costa Rica decide to amend its Constitution to become a secular state, is what type of secular state (and secularism as a religious policy) will replace the current confessional state. At a basic level, secularism can be defined as “an ideology or set of beliefs advocating that religion ought to be separate from all or some aspects of politics and/or public life” (Fox, 2015:28), a position many religious and non-religious people share. There are, however, many types of secularism.

A useful categorization is made by the former Archbishop of Canterbury Rowan Williams in *Faith in the Public Square* (2012). He distinguishes between what he calls 'procedural' and 'programmatic' secularism; the former we should not worry about and even embrace, the second is a real reason for concern. Williams defines procedural secularism as a public policy that does not give any advantage or preference to any religion, in which the state acts as a neutral moderator that allows for all religious voices to express themselves in the public sphere. The historical origin of procedural secularism is the Enlightenment which led to the understanding that the church and the state should be separated but does not necessarily imply any hostility toward religion. By contrast, programmatic secularism is the position that the state should not be clouded by any private (religious) convictions and that any reference to religion should be excluded from the public sphere (Petri, 2020b).

Williams' distinction, although helpful, is a simplification, because similar political arrangements can be more or less hostile to religion depending on the context. Following Fox (2013), political secularism can take on many different forms. Fox differentiates between four categories of political secularism: (i) laicism, (ii) absolute secularism, (iii) neutral political concern and (iv) exclusion of ideals, which range from a radical separation of religion and state to less extreme separation policies. A more elaborate typology of secularism can be found in Fox (2015).

The key factor is not so much whether a state has a formal separation from the church (and religion in general), or has an official religion, but whether its policies are hostile to religion, particularly whether they favor one religion or discriminate against minority religions. In the case of the United States or Mexico both have a strict separation of church and state, but in the former religious expression in public debate is frequent, whereas in the latter this is not deemed acceptable. By contrast, the United Kingdom has an official religion, but although this gives the church of England some privileges in some areas (which some may criticize), it does not imply any noteworthy discrimination of minority religions (Fox, 2013).

Making these distinctions is important because political secularism is not monolithic, and not all forms of secularism are equally desirable (Fox 2013:33-35). A neutral state in which all religious voices can freely express themselves and all religions are respected is preferable to a theocratic form of government in which the clergy of a particular religion wields temporal power. But a society in which religious voices in the public sphere are silenced can hardly be considered pluralistic and inviting for democratic debate, mainly because it discriminates between political convictions that are based on religious worldviews and those that are not, contradicting Habermas' ideal (Petri, 2020a).

For all practical purposes, Costa Rica's religious policy can be described as procedural secularism already. Notwithstanding the minor issues discussed in the previous sections, the state is neutral toward religion, and religious voices can be freely expressed in public life, without the state being subordinate to them in any way. The only difference is the symbolic affirmation of Catholicism as the state's official

religion. To eliminate this symbolic favoritism, article 75 of the Constitution could simply be amended to say something like the following: “Costa Rica is a secular Republic. The state is neutral toward religion and does not hinder the free exercise in the Republic of any form of worship that do not contravene universal morality or good customs”, but the largely unrestrictive religious policy of the country should be left untouched.

In many countries of the world, at the end of the nineteenth century and the beginning of the twentieth century, there were fierce (and in many cases bloody) struggles between conservatives and anticlerical liberals over secularism in general and faith-based education in particular. Broadly speaking, in countries such as Mexico, France, Turkey and Venezuela, the anticlerical actors won. In countries such as Colombia, Costa Rica, The Netherlands and Germany, the conservatives won. This historical context is highly relevant for this study. The anticlerical legislations and the marked secular education system inserted the notion in the minds of the population of Mexico, France and the formerly communist East-Germany that religion should only be ascribed to the private sphere, without the option of manifesting itself in the public sphere. In this case, not talking about religion or one’s own convictions is part of a normalized cultural pattern that few recognize as self-censorship (Petri, 2021).

Political secularism is not a violent ideology in itself. Countries like Mexico (1857), France (1905) and Turkey (1921) have religious policies based on secularism, but this does not necessarily lead to physical violence against religious groups (although it could be argued, that there may be forms of symbolic violence against religious groups in these countries).

Political secularism can, however, lead to significant restrictions on religious minorities and religious groups in general (Gill, 2008; Grim & Finke, 2011; Fox, 2013, 2015; Koesel, 2014; Sarkissian, 2015). As a political ideology, it is central to various totalitarian ideologies, including communism and fascism, which are characterized by “extreme hostility toward religion” (Koesel, 2014:7). These “antireligion political ideologies” or “extreme secular ideologies” seek to implement policies that ban religion from all aspects of public and private life (Fox, 2015:31), or to limit and control religion as much as possible (ibid. 55). When societies are governed by such antireligious ideologies, they target religious groups (Sarkissian, 2015:3) and “are likely to experience conflict over the role that religion should play in public life and politics if portions of the population do not subscribe to the ruling ideology” (ibid. 19). Contemporary examples of antireligious political systems are North Korea, China, Belarus and Vietnam, to cite some of the most extreme cases.

Although generally not violent, political secularism can also take the form of what has been referred to as ‘secular intolerance’, which can be defined as a radical expression of secularism seeking to exclude religion not only from the public domain but also from various private spheres, in direct contradiction of the principle of pluralism (Buijs, 2013; Buijs, Sunier & Versteeg, 2013). It is based on the indifference

to, rejection or exclusion of religion and religious considerations based on the conviction that religion should not have a visible influence on society, particularly on education and politics (Philpott, 2002; Petri & Visscher, 2015).

Nussbaum (2013), while almost exclusively referring to cases of intolerance against Muslims, analyzes the sharp rise of anti-religious sentiments in the Western world, especially since the terrorist attacks of September 11, 2001 (this trend is commonly referred to as 'securitization theory'; see Cesari, 2013). Mexico is another case in point. The Mexican revolution (1910-1920) led to the implementation of a very strict form of secularism (Grayson, 2002; De la Torre, Hernández & Gutiérrez, 2017), which was (and is) atypical for the region. Gill writes: "Mexico represents perhaps the most extreme cases of state control over religion" (2008:115). From the 1917 Constitution onwards, the state exercised more regulatory power over religion than ever. Catholics were factually outlawed, but since all religious organizations were denied the right to exist, Protestants suffered as well. Over the years, religious regulations relaxed somewhat, but were still hanging above the country's religious groups as a sword of Damocles (Gill 2008:157). A major turning point was the year 1992, when the most anticlerical articles of the Constitution were amended (Gill, 1998, 2008; Grayson, 2002; De la Torre, Hernández & Gutiérrez, 2017; Petri, 2020a).

It would be a step back in terms of religious freedom if Costa Rica would move to a form of programmatic secularism that is, in practice, antireligious. If the template to be followed is Mexican secularism, this does not bode well for both the majority religion as well as minority religions, because it could actually lead to more religious discrimination and regulation than is currently the case. If this is the outcome of the process of moving to a secular state, the cure could be worse than the disease.

Conclusions

In this study I performed a comprehensive review of Costa Rica's religious policy. I conclude that Costa Rica's religious policy comes relatively close to what can be formulated as an ideal state, using international comparison as a benchmark. The two dimensions of the principle of separation of church and state are globally respected: the state is not subordinate to the Catholic Church (or any religious organization for that matter) and the state largely respects the autonomy of religious organizations. Religion's influence in politics is much more limited than is commonly believed and has been decreasing for some time. Moreover, there is no substantial discrimination of minority religions, no regulation of religion beyond what can be considered reasonable and that there is no significant favoritism of the majority religion. In all these areas, there are certainly issues that deserve to be corrected but they are minor and addressing them will not require cumbersome constitutional reforms.

I also found that the confessional nature of the Costa Rican state is largely a symbolic matter. Because symbols are important, reforming the Constitution to eliminate Catholicism as the official religion of the state is an option, but it is important to bear in mind that the confessional nature of the state has little to no bearing on all other dimensions of religious policy. For this reason, the priority should be to tackle substantial reforms first to ensure full religious freedom for all religious and non-religious groups, before dealing with the symbolic aspect. Furthermore, if it is decided that Costa Rica needs to become a secular state, it must not be a state that is neutral toward religion, rather than a state that is hostile to it. If it's not broken, don't fix it.

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