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Free Exercise of Religion and Science Policy: A New Look on Creationism in Europe

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Abstract

The present paper draws attention to the major differences in legal frameworks addressing the problem of creationism in Europe and in the United States. Although it may seem that European and US solutions share multiple similarities, after the close analysis we realize that the policy justification methods at the old and at the new continent are built on two different philosophies. The first one, legal, is inspired by the concept of the Wall of separation between church and state. The second one, epistemological, is based on the reflection in philosophy of science. In the long run, these two approaches may bring us to astoundingly different policy choices. This perspective article hopes to provide a strong conceptual foundation for policymakers having to deal with the problem of creationism as well as to invite researchers to more interdisciplinary studies about the place of 'epistemic minorities' in our society.

Keywords: United States; Legal; Fundamental constitutional rule; Philosophies; Human rights

Introduction

The creationist question over the world

From Scopes Trial to Kitzmiller V New Dover District, for the last hundred years legal disputes about the possibility of banning the teaching of evolution or about introducing creationism to public schools shaped the understanding of the concept of the wall of separation between church and state in the United States of America [1,2]. This fundamental constitutional rule expressed by Thomas Jefferson at the dawn of the American republic, and confirmed in the famous Everson v. New Jersey Board of Education in 1947, barred religious right from influencing school curricula. Virtually all the rulings concerning creationists (Edwards V. Aguillard, Epperson V. Arkansas, Webster V. New Lennox District etc.) appealed to the wall of separation to justify the rejection of creationist claims, which were judged not only unscientific, but first and foremost, religiously inspired.

In Europe, creationism was perceived as nothing more than an American bizarrerie until the middle of 2000s when after the rise of Islamic creationism in France, the Council of Europe expressed its anxiety over the penetration of creationist movements of different kinds (Muslim, Protestant, Catholic, Orthodox) to schools all over the continent [3]. Some countries took direct steps to deal with this problem. France banned the infamous "Atlas of Creation" of Turkish fndamentalist Harun Yahya from all the school and university libraries (making it less accessible than Hitler's Mein Kampf) [1], while the United Kingdom introduced special agreements for the so-called free schools (parent- or community-run, publicly funded establishments introduced in 2011 after the victory of Conservatives), explicitly forbidding teaching creationism and obliging schools to strictly follow biology curricula.

Without entering into details, it may seem that in spite of European specifities, the Old Continent's difficulties with creationism are not so different from the American ones. Of course in Europe these are not judges and legal precedent that answer the problem but public regulations applied by administration, however in the end the result is the same. This common reductionism overlooks completely the fundamental, and much more profound, conceptual divide between Europe and the US, namely the rationale behind banning creationism. The goal of this perspective article is to provide a glimpse on an analytical framework that might help to explore this major difference by lawyers and policymakers. The first part of the article quickly summarizes the legal background of religion-related legal conflicts and the second one aspires to clarify the major difference between discourses about creationism used in Europe and in the United States. Overall, its goal is not that much to provide precise answers but rather to stimulate creative thinking in a field that seems to be completely neglected by researchers.

Legal background

In the US the First Amendment to the Constitution introduces two major clauses: the Free exercise clause and the Establishment clause [4] serving as an interpretative foundation for all religion-related cases. While the European Convention of Human Rights guarantees in its article 9 the freedom of religion, no "wall of separation" is ever mentioned. While some countries (such as France) introduce this concept in their constitutions, many others are traditionally closely linked to specific churches (the Church of England in the UK, the Greek Orthodox Church in Greece or the Church of Denmark in Denmark) and such wall is by definition absent from their legal systems. This sole fact makes possible in the pan-European legal system banning teaching evolution. Some of the most famous creationist cases in the US (Scopes "monkey" trial, Epperson v. Arkansas) concerned precisely the legal ban of teaching the Darwin's theory. The opponents of the ban successfully invoked the wall of separation and the Establishment clause forbidding the entanglement of church and state. No similar case would be possible on the European level, since the state-church entanglement happens to be common in some countries, and religiously motivated ban on evolution would not be a priori violating anyone's religious freedom.

One could argue that the freedom of religion in the ECHR at least guarantees that creationism would not be taught in schools. However,

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it must be noted the European Court of Human Rights, contrary to the US Supreme Court often appealing to the First Amendment, tries to avoid invoking the Article 9 of the ECHR as long as a different qualification is possible [5]. And it happens that one of the articles often used to "displace" the article 9 is the article 2 of the first protocol to the ECHR which guarantees the right of parents to raise their children according to their own religious and philosophical convictions. Does it mean that a state allowing for creationism classes would not violate the Convention? In the case Folgero v. Norway from 1997, the Court established that Norway violated the Convention by introducing obligatory religion classes for all pupils. In its argumentation however, the Court established that what violated the Convention was not the fact of teaching the history and the doctrines of the Norwegian Lutheran Church, but the goal of "moral and Christian" upbringing, expressed in official policies. It is not the content of teaching but its context that defines what is allowed and what is not. In other words, creationism presented not as a religious concept having as a goal to promote a particular religious worldview, but as an alternative scientific theory in the "teach the controversy" way, might be probably taught in obligatory school classes, not to mention a variety of its "soft" versions, loosely religiously inspired [6]. While the American system allows for "deep tracing" of potential state religion entanglements in the law-making process, permitting for the analysis of the rationale of the decision, this is not the case in Europe, where the direct violation of one's freedom is necessary to invalidate a law. Even if one established that any creationist classes infringe his or her freedom, the state (or a school) could invoke the public interest clause (as expressed by the paragraph two of the Article 9). Whether in a creationist-dominated community it might not be justified by public interest to present creationist views in the class to all students is an open question. If the rhetoric is properly used, the rationale such as the promotion of social integrity and understanding might convince the Court.

As we can see not only the ban on evolution would be possible in European states but potentially also creationist teachings.

Principles V policies

This legal reflection brought us to the core of the problem. Without a proper legal framework in countries not adopting the wall of separation, the rationale of "anti-creationist" measures is not based on the complex ethical principle thriving to mutually protect state and religious communities from "entanglement" but rather on the epistemological goal of promoting "good" science. The difference between these approaches is strikingly visible in the UK. The already mentioned British free schools and academies faced an accusation of being too often creationist hubs[1] and British Humanist Association launched a successful campaign against funding them.

While in the US after the decision Lemon V Kurtzman in 1971, financing private faith schools would be most probably impossible, in a legal system with no "wall of separation" such as the British one, there is no a priori reason to forbid such an entanglement of state and churches. If so, how to prevent teaching creationism? The government introduced to "free school" agreements special paragraphs about evolution. Recently, also academies were covered by the agreement stating explicitly that "[Creationism] does not accord with the scientific consensus or the very large body of established scientific evidence; nor does it accurately and consistently employ the scientific method, and as such it should not be presented to pupils at the Academy as a scientific theory" [2,3]. These are epistemological inefficiencies of creationism that made it inacceptable, not its inherently religious nature.

These two approaches reflect two different "creationism banning" methods. In the first one, we appeal to fundamental constitutional rules, in the second one the ban is introduced through contractual policy measures.

The goal of this perspective article is not to present a full-fledged study on this difference, but rather to show that we may be lacking in our reflection about how different state policies interfere with the freedom of religion of the citizens, including the creationists wishing to transmit their convictions to their children. If we aim creationism neither examples from the US[4] nor from France [7] suggest that the "wall of separation" is actually more successful in fighting this phenomenon. On the other hand, it is hard not to recognize that this solution offers a stable formal measure preventing creationist influences (including evolution ban), contrary to policies that appeal to epistemological considerations opening a wide academic debate about the reliability and the stability of scientific method and about the objectivity in science [8]. In the same time the "stability of science" justification for policies might be weaker and more controversial than a simple "wall of separation", but it covers a much wider range of phenomena not necessarily religiously motivated. Education is becoming more and more often an arena of struggles between parents rejecting some parts of curricula. Creationism, climate science[5], vaccine-related questions are already being contested and some suggest that the same problem will arise with the introduction of brain sciences to biology curricula.[6] Should states be allowed to "force" on people scientific ideas? Can citizens refuse to accept state-sanctioned science? The ultimate question is how to organize the societies inhabited by a diversity of "epistemic communities" sharing very often incommensurable worldviews, not necessarily being motivated by religion (for the problem of non-religious creationists [9,10]. Whether there exists a universal epistemic standard for knowledge production may be a question for philosophers, however it is up to political scientists, lawyers and policymakers to suggest organizational measures which will allow the ethical governance of profoundly fragmented modern societies, where people living next to each other might possess completely different conceptions of the world consciously rejecting mainstream science or governmental expertise.

Conclusions

By this perspective article I hope to sensitize readers to the interdisciplinary problem of the relations between different kinds of legal and epistemological policy justifications. The growing complexity of social issues as well as their multidimensionality requires more integrated approaches, uniting, in this case, religious studies, law and philosophy of science. By definition, this kind of problems must be discussed in interdisciplinary milieu, allowing for new and original approaches. Hopefully, in spite of the absence of similar studies, this article will serve as an invitation for further research.

[1]http://www.theguardian.com/education/2012/mar/19/sheffield-christian-free-school-creationism-ofsted?INTCMP=SRCH

[2]http://www.politics.co.uk/news/2014/06/18/secular-triumph-as-government-bans-creationism-from-free-sch

[3]It is worth mentioning though that no similar provisions exist to prevent for example holocaust denialism

[4]http://www.gallup.com/poll/170822/believe-creationist-view-human-origins.aspx

[5]http://ncse.com/climate

[6]http://www.evolutionnews.org/2012/07/is_neuroscience062531.html

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