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Religious freedom and education. A modern dilemma expressed in the jurisprudence of Colombia[1]

Libertad religiosa y educación. Un dilema moderno expresado en la jurisprudencia de Colombia

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Abstract

Objective: To study the different ways in which the Constitutional Court of Colombia (1991-2020) has ruled in cases where students (or applicants) demand the respect of their right to freedom of religion and worship in educational institutions. Methodology: From a qualitative perspective, we identify the jurisprudential line related to the subject, and analyze the arguments issued by the Court in each the sentences that compose the line. Results: The Court's arguments are divided into two types: one that is categorized as pluralist, which privileges the right to religious freedom of the individuals, and another one that is categorized as uniformist, in which institutional norms are privileged regardless of the particular religiosity of the individuals. Conclusions: Religious diversity in educational establishments reveals some of the dilemmas and tensions existing in liberal modernity, particularly concerning the debate on the management of different worldviews and value systems in communities and institutions that claim to be pluralistic.

Keywords: Education, Constitutional Court of Colombia, pluralism, religious diversity, religious freedom.

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Resumen

Objetivo: Estudiar las diferentes maneras en que la Corte Constitucional de Colombia (1991-2020) ha venido fallando en casos donde estudiantes (o aspirantes a serlo) invocan el derecho a la libertad religiosa y de cultos en establecimientos educativos. Metodología: Desde una perspectiva cualitativa, se identifica la línea jurisprudencial relacionada con el tema, y se analizan los argumentos emitidos por la Corte en las sentencias que componen la línea. Resultados: Los argumentos de la Corte se dividen en dos tipos: uno que es categorizado como pluralista, en el cual se privilegia el derecho a la libertad religiosa de los individuos, y otro que es categorizado como uniformista, en el que se privilegian las normas institucionales independientemente de las creencias religiosas particulares. Conclusiones: La diversidad religiosa en establecimientos educativos revela algunos de los dilemas y tensiones existentes en la modernidad liberal, particularmente en lo concerniente al debate sobre el lugar de la religión en el espacio público y la posibilidad de que convivan diferentes sistemas de pensamiento y de valores en comunidades e instituciones que pretenden ser pluralistas.

Palabras claves: Corte Constitucional de Colombia, educación, diversidad religiosa, libertad religiosa, pluralismo.

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I. INTRODUCTION

Although we live in a "secular age", as stated by Charles Taylor (2007), the salience and dynamism of religious diversity in contemporary societies is a widely recognized fact (Bidegain and Demera, 2005). After having adhered to the secularist theses of past decades –according to which modernization meant the progressive disappearance of religion–, renowned authors like Peter Berger have affirmed that those theses were simply wrong and that "the world today is as furiously religious as it has always been" (Berger, 1999, p. 2). Furthermore, many religions in the world, far from disappearing, take a leading role in the development of societies (Casanova, 1994). Likewise, Habermas (2009) assures that "religion maintains a public relevance while the secularist certainty that in the course of an accelerated modernization, religion will disappear on a world scale, is losing ground" (p. 69). Empirically, social scientists observe that in the last decades there has been a process of de-privatization of religion in politics, the media, and civil society (Furseth *et al*, 2019).

Latin America is certainly one of the areas of the world where we must acknowledge a remarkable religious diversity (Bastian, 2004), and Colombia stands as a prominent example of this (Beltrán, 2013; Sarrazin, 2017). Moreover, different religious communities claim their active role in society and their right to manifest themselves in the public sphere (De La Torre y Semán, 2021). Contributing factors in this process are the loss of the Catholic monopoly, greater cultural and religious flows on a global scale, a liberal modernity that favors spiritual pursuits, and a political framework that allows religious pluralism (Parker, 2005; Beltrán, 2013).

Modern states, by declaring themselves as pluralist, recognize the religious diversity within their societies. This is the case in Colombia, particularly since the declaration of the Political Constitution of 1991, which affirms, from its first article, that this is a pluralist nation. The current Political Constitution also establishes the freedom of religion and worship as a fundamental right; thus, in its article 19, it affirms that "everyone has the right to freely profess a religion and to spread it individually or collectively. All religious confessions and churches are equally free before the law". Furthermore, Article 13 of this Constitution asserts that every person "is born free and equal before the law [...] and shall enjoy the same rights, freedoms and opportunities without any discrimination for religious reasons [...]". This religious pluralism occurs within the model of a secular State the strives to protect the cultural diversity of the country (Sarrazin and Redondo, 2018). Indeed, since 1991, the Colombian State has no official religion, so different religiosities are now less restricted by the former monopoly of Catholicism (Beltrán, 2013).

Concerning educational establishments, in the past they were heavily influenced by Catholicism, but currently they must be understood as pluralistic places which recognize, tolerate and include religious diversity. However, as researchers, we must ask: How is this pluralism handled in practice within educational institutions? What kinds of conflicts have appeared in these social contexts? These questions refer to a much broader debate about the possibilities of building modern societies that really include the plurality of beliefs and values (Habermas, 2009; Touraine, 2000).

In schools and universities, it is possible to find more and more people with different religious affiliations, who are willing to demand the respect of their right to freedom of religion and worship. Institutions *and* teachers must adapt to these realities. As stated by Méndez (2016), it is necessary to acknowledge "a diversity of possibilities in the classroom, a diversity which must be diagnosed each year" (p. 12). Schools are places where there can be a combination of several religious identities; educators, following the constitutional mandate, must recognize all of them (Méndez, 2016, p. 12). Notwithstanding, in practice, religious discrimination in educational settings can still occur, for example, when a person's right to education is not respected due to his/her religious affiliation (Méndez, 2016, p. 37). There are indeed situations of intolerance for religious reasons in educational settings. Those situations of discrimination affect mainly non-catholic believers, and atheists (Beltrán, 2020, p. 23).

Although the legal framework, as Jiménez de Madariaga (2011) notices, favors pluralism within the institutions, such framework is not always fully implemented. The first aspect to consider is that religions are not limited to a series of beliefs in a person's mind; religions are also translated into values, norms, ideals, motivations and behaviors that are manifested in public spaces and become socially relevant (Stokes, Baker and Lichy, 2016, p. 40). For this reason, the relationship between religious diversity and modern institutions such as educational establishments is complex and often problematic. The challenge is considerable for, as Mardones (2006) affirms, modern societies do not really know how to manage the relationship between religion and public or semi-public scenarios. As this paper shows, educational establishments must cope with a diversity of beliefs, values and practices that are not necessarily compatible with the institutional norms and values.

In recent years, the debate about religious freedom and secularization has gained momentum. There are multiple ideological confrontations regarding the legitimate place of religion in public spaces and within the framework of constitutional democracies (Iranzo y Manrique, 2015). Some post-secularist views, like the one held by Habermas (2009), question the secularist principle that relegates religion to the private sphere, a principle that is also known as the "privatization of religion" (Luckmann, 1973). As Casanova (2009) has noted, Secularists disregard the growing number of demands coming from people who consider that the State or the public institutions –such as schools and universities– should adapt to the different religious communities, granting them special rights and prerogatives.

Religious believers do not necessarily demand to participate in the construction of State policies and legislation; they demand the possibility of thinking and acting in ways that are different from those prescribed by the dominant institutions. Indeed, as we shall see, there are many conflicts between religious believers and educational establishments, since the norms and policies of the latter are sometimes at odds with the ideals of the former. How much should institutions tolerate the particularities of different religions? To what extent can those institutions be truly pluralistic and inclusive? What are the limits of institutional autonomy? This paper analyzes the legal cases in which those types of conflicts are involved. Particularly, we study the sentences in which the Constitutional Court of Colombia has ruled in cases where students (or applicants) have expressed that some educational establishments violated their right to freedom of religion and worship.

II. METHODOLOGY

A qualitative and hermeneutical approach was implemented in order to understand the arguments expressed in the sentences[2] issued by the Constitutional Court of Colombia from its foundation in 1991, up to the year 2020. The sentences that were analyzed in detail are part of a "jurisprudential line" in which students (or applicants) ask the judges for the protection of their right to religious freedom.

In order to elaborate this jurisprudential line, we used the methodology proposed by López (2006, pp. 141-168). According to this author, a jurisprudential line is "a question or a well-defined legal problem, under which a range of possible answers is opened. This open range [...] is a convenient strategy to schematize the solutions provided by the jurisprudence to that problem" (López, 2006, p. 141). It is important to note that a jurisprudential line is not necessarily homogenous; it can be composed by sentences which examine the legal problem from different perspectives, arriving at distinct –and sometimes opposite– conclusions.

But before presenting the aforementioned analysis of the jurisprudential line, the paper presents a summarized revision of the norms (laws, decrees, constitutional articles, etc.) that contain key elements related to the right to religious freedom in Colombia, as well as the norms on education in this country, insofar as they are relevant to understand the problem addressed in this investigation.

III. RESULTS

Regulations on religious freedom and education

The Political Constitution of 1991 represents a fundamental change with respect to the previous Constitution of 1886; indeed, it shows a transition from a State with a confessional orientation, to a State that declares itself to be a secular one. Unlike what happened in the 19th century, the current Constitution is the product of a long debate carried out by a Constituent Assembly, which was made up of leaders and intellectuals coming from varied cultural and political backgrounds. Furthermore, article 19 of the national constitution stipulates that nobody will be compelled to reveal his/her own convictions or religious beliefs.

As already mentioned, in 1991, Colombia is declared a pluralist nation without an official religion, which means that the State is supposed to be neutral *vis-à-vis* the different churches and religious confessions existing in the country. Besides, the State guarantees freedom of religion and worship as a fundamental right (article 19 of the Constitution), a statement that implies that anyone if free to practice a religion in the public sphere. This right has been defined and guaranteed by the constitutional norms, the Statutory Law

2 When the Constitutional Court deals with a complex case, it issues a "sentence" ("sentencia"): a usually long text with all the considerations, reasonings and arguments that led to the Court's final decision. Sentences are the jurisprudence that will guide future legal cases and political decisions taken by the State in similar situations.

on Religious Beliefs –Law 133 1994–, and the Decree 354 of 1998, as well as by other norms, like the International Covenant on Civil and Political Rights, and the American Convention on Human Rights.

Statutory Law 133 of 1994 is particularly relevant here. It develops the fundamental right to the freedom of religion and worship[3], and it is made up of 19 articles that address the rights of individuals, churches and religious confessions. In article 6, this law reaffirms the right of a person to "profess the religious beliefs of his/her choice, or not to profess any religious belief; to change his/her confession or to abandon it; to freely express his/her religion or religious beliefs; to express his/her disbeliefs, and to refrain from making statements about his/her personal convictions". It should be noted that this law, in its fifth article, specifies that it does not apply to "activities related with the study and experimentation of psychic or parapsychological phenomena; Satanism, magical or superstitious practices, spiritism or other analogous, non-religious practices".

Statutory Law 133 of 1994 also refers to the people's right to impart, receive or reject religious education at schools and universities. Likewise, it sets forth the right of individuals or parents of minor children to opt for a religious education in accordance with their beliefs, or the right not to receive any religious education. In addition, it should be noted that the Political Constitution stipulates that public schools cannot force their students to receive religious education.

Decree 354 of 1998 approves the Internal Public Law Agreement number 1 of 1997, negotiated between some non-Catholic, Christian religious entities and the Colombian State. In this agreement, it was decided that the educational establishments run by religious organizations (such as evangelical churches) can impart a course on non-Catholic Christian religious education according to their beliefs. In addition, it was agreed that, in public institutions, from pre-school to primary school, students who are members of non-Catholic, Christian churches can receive religious education in accordance with their doctrine. This Decree also includes a special article for the Seventh-day Adventist Church related to its religious mandate to respect the Sabbath.[4] This article enables the members of that church to have a normal job or receive standard education without neglecting their religious commitments during the Sabbath.

Decree 1075 of 2015 proclaims that religious education is compulsory at preschool, primary and secondary levels, as long as it is compatible with the norms contained in the Law 133 of 1994 and in the General Law of Education (Law 115 of 1994). This decree also specifies that students may decide whether or not they receive the religious education provided by institutions. The students who choose not to receive the religious education normally provided by the school they attend, must be offered alternative educational activities related to religion in general.[5]

Decree 437 of 2018 establishes a comprehensive public policy on religious freedom. Its general objective is to provide the conditions that guarantee the exercise of the right to freedom of religion and worship in Colombia. As detailed in its article 2.4.2.4.1.3., this policy seeks to promote non-discrimination, tolerance and non-stigmatization for religious reasons. It should also generate actions whose aim will be to guarantee citizen participation of religious entities and their organizations, and to facilitate the understanding of the connection between the right to religious freedom and the right to receive education in accordance with the religious beliefs of the students.

Education in general has been established as a right in the article 67 of the National Constitution, and it has been promulgated in international laws –some of which are contained in the International Covenant on Economic, Social and Cultural Rights, and in the Convention on the Rights of the Child–. Article 68 of the National Constitution affirms that, in official educational establishments, nobody will be forced to take religious education. The right to education and the right to religious freedom are also addressed by National Law 1098 of 2006, which highlights the importance of defending the right to education and religious freedom for children and adolescents.

3 Depending on the ontological and deontological constructions of each human group, the people living in those groups may consider as valid certain arguments in favor or against the legal conditions imposed by the government. However, the recognition of such cultural diversity implies that the government must spare no efforts in order to clarify in a very precise way what are the people's rights and obligations as members of a nation (Sarrazin and Redondo, 2017, p. 224-225).

4 According to the doctrine of this Church, the Sabbath is a time when believers must only worship God, and it runs from sunset on Friday until sunset on Saturday (Constitutional Court, Sentence T-044 of 2008).

5 As Beltrán (2020, p. 22) has noticed, there is a contradiction in the Colombian legislation regarding religious education. The course is meant to be compulsory, but at the same time students may choose not to take it. The Ministry of Education has not been clear on that point and has not specified what can be the alternative contents to the course. In reality, very few schools offer an alternative to their course on religion.

As for the laws related to the autonomy of educational institutions, Law 115 of 1994, in its article 77, affirms that "educational institutions have the autonomy to organize the fundamental areas of education [...], introduce optional subjects [...], organize some areas of education [...], adopt teaching methods [...], and plan cultural activities". The aforementioned liberties of the institutions must, nevertheless, comply with the guidelines of the National Ministry of Education. In the article 87, Law 115 of 1994 also declares that "Educational establishments will have a coexistence manual in which the rights and obligations of the students are defined". However, the faculty to define those manuals "finds its inspiration and its limits in the Political Constitution".[6]

Universities are also considered as autonomous institutions. In this regard, the Political Constitution, in its article 69, stipulates that "universities may orient themselves and be governed by their own determinations, in accordance with the law". The sentence T-933 of 2005 issued by the Constitutional Court explains that the autonomy of the universities implies academic self-regulation (which unfolds in the spectrum of freedom of thought and ideological pluralism), and administrative or functional self-regulation (whose main objective is to allow the educational institutions to organize themselves internally in order to function properly). However, the autonomy of the universities has certain limits and they must be constantly supervised by the State, particularly by the Ministry of Education.

Jurisprudential Line

In what follows, this paper presents, in their chronological order, the sentences that have examined the cases where students (or applicants), directly or through their representatives, request or invoke the protection of their right to religious freedom. From 1991 to 2020, 16 sentences were issued. The first one of them is sentence T-421 of 1992, and the last one is sentence T-778 of 2014.

Sentence T-421 of 1992, being the first one in the jurisprudential line, marks an important precedent for subsequent decisions and was pronounced just after the Political Constitution had been promulgated. The sentence presents a thorough account of the international treaties ratified by Colombia.

In this sentence, the parents of a minor student (in primary school) request the protection of their child's right to religious freedom, for the student was obliged to attend catholic ceremonies and to take a course on religious education with catholic contents. The violation of the right to religious freedom is thus evidenced, since the person has the right not to be taught into a particular religion. In this case, the Constitutional Court indicates that the autonomy of educational establishments finds its limits in the safeguarding of other rights. This first case allows us to identify that those who request the protection of their fundamental rights to religious freedom are not necessarily the believers of one particular religion; on the contrary, in this case, the plaintiffs do not practice any religion and, because of this, they request the protection of their right *not* to participate in a religious activity.

A year later, the sentence T-539A of 1993 presents the moment in which the Constitutional Court analyzes, for the first time, the demands to preserve the Sabbath as a holy day by members of the Seventh-day Adventist Church. Here, a university student, and member of that church, asks for the protection of his right to religious freedom, since the institution of higher education had rejected his request to be exempted from taking lessons on Saturdays. Besides, the student proposed to carry out other academic activities in order to make up for absences. In this case, the Court dismissed the student's claim and, considering the autonomy of the university, the general interest, and the value of general rules for coexistence, the Court determined that those who are faithful to various religions cannot demand to be treated in a special manner by the institutions where they decided to study.

The sentence T-075 of 1995 examines the case of a student in secondary education, a minor, and a member of the religious community called Jehovah's Witnesses, who requests the protection of her right to religious freedom, considering the fact that the school she attended sanctioned her for not participating in the civic ceremony related to the commemoration of the national independence (on the 20th of July). The student had previously asked to be exempted from this obligation, because, for the Jehovah's Witnesses, those patriotic activities are considered as acts of "worship", and therefore, in contradiction with their belief that the faithful should only worship god. In this case, some fundamental rights were protected for the student, such as the right to equality and due process, since the school sanctioned only the plaintiff, despite the fact that other students were in the same situation. Furthermore, the student was not given the opportunity to defend herself. However, the Constitutional Court considers that there is no violation of the

6 Corte Constitucional, Sentencia T-832 de 2011.

right to freedom of religion and worship by the educational establishment. For the Court, the demand to fulfill a patriotic duty does not entail a violation or an attack on religious freedom. Likewise, the Court considers that a patriotic ceremony cannot be identified as an act of "worship". On those grounds, the request of the plaintiff is rejected.

In the sentence T-588 of 1998 we find a somewhat similar case as the one presented above. Here, a group of students who belong to the United Pentecostal Church of Colombia refuse to perform certain dances, because they consider them contrary to their religious beliefs. However, in this case, the Court decides to protect the right to religious freedom of the students. Not performing such dances causes the failure of an academic achievement, and due to this failure, the students cannot enroll in the following academic year. This case shows that the fundamental rights of the students collide with the right to autonomy and academic freedom of the teacher, who had decided that every student should participate in the dancing activities. The Court finally decides to protect the fundamental rights of the students, allowing them not to carry out such activities and granting them a special treatment because of their religion.

Sentence T-877 of 1999 was filed by a group of minors, members of the Jehovah's Witnesses organization; the school they attended would not allow them to enroll in the following academic year, because they refused to participate in civic acts that pay homage to the nation. The students' main argument is similar to the one presented in the sentence T-075 of 1995: they consider those civic acts as "worship". That argument is, once again, invalidated by the Constitutional Court, indicating that the students must follow the school's mandates. The sentence even affirms that the arguments provided by the believers "are not reasonable and show, without a doubt, a wrong conception of the love and veneration for the home country and the symbols that represent national identity and unity".[7]

Sentence T-662 of 1999 analyzes the case of a father of two minors (in preschool and primary school), who considers that his children's right to freedom of worship was not respected by the private school which they attended. The plaintiff states that, despite having made known that they profess the evangelical religion, his children were compelled to participate in Catholic practices. In this case, the Constitutional Court considers that there is no violation of the right to freedom of religion, because it was clear that the children were not coerced by the educational establishment to take part in the catholic activities. The case is complexified by the fact that, during its analysis, the father of the students died, and the mother expressed that she accepted the participation of her children in the catholic activities of the school. Although the ruling does not support the plaintiff, the Court reminds that educational establishments must respect the students' religious beliefs, as long as the rights of other people are not violated, and the established laws are respected.

Sentence T-345 of 2002 examines the case of a university student (of legal age), who asks for the protection of his right to religious freedom when the university forces him to take a seminar on religious ethics whose content contradicts his religious beliefs. The Constitutional Court does not support this request, arguing that the university does not violate the student's right by imposing the seminar on students. This ruling indicates that aspects such as age and educational level must be taken into account when considering the protection of the students' rights. In this regard, the Constitutional Court affirms that university students must learn to live with points of view different from their own. However, the Constitutional Court decides to protect the student's freedom of conscience, for he was forced to declare publicly his beliefs in the class, a fact that contravenes the constitutional norm expressed in article 18. The lack of purpose is also determined in this case, since the plaintiff finally agreed to carry out the seminar before the ruling of the Constitutional Court was delivered.

The sentence T-026 of 2005 examines the request filed by a student attending a public institution called the National Learning Service –SENA–. The student requests the protection of the rights to freedom of religion and education, since the institution expelled her when she refused to take a course scheduled on Fridays and Saturdays. The student argues that she must keep the Sabbath for religious activities because she belongs to the Seventh-day Adventist Church. This is the first ruling that analyzes this type of cases after the publication of Decree 354 of 1998, which declares that "[t]he students who are faithful to the Seventh-day Adventist Church, and who attend public and private schools, will be exempt from attending classes and taking exams from sunset on Friday to sunset on Saturday, at their own request". Correspondingly, the Constitutional Court rules in favor of the plaintiff.

7 This is a "controversial judgment", according to the sentence T-832 of 2011.

In Sentence T-448 of 2007, a father, in representation of his minor daughter and a member of the Seventh-day Adventist Church, requests the protection of the rights to education and freedom of religion and worship, since the National University of Colombia (a public institution) did not allow the child to take the admission exam on a date other than Saturday. The sentence insists that educational establishments, especially if they are public universities, must try to reach an agreement with the students who refuse to follow certain rules because of their religious beliefs. The Court notes that, in this case, the university refused to reach an agreement with the applicant. Consequently, the university is compelled to respect the right of the applicant to keep the Sabbath for religious activities.

Yet another case is presented against the National University of Colombia in the sentence T-044 of 2008. The plaintiffs –also members of the Seventh-day Adventist Church– request the protection of the right to freedom of religion and worship, due to the fact that the University refused to carry out the admission exam on a day other than Saturday. The Constitutional Court considers that this case presents a legal problem that had already been resolved in sentence T-448 of 2007, and rules in the same way. Furthermore, the Court warns that, in the future, the National University must no longer reject this type of requests expressed by members of the Seventh-day Adventist Church.

The sentence T-839 of 2009 presents a case in which the administrators of the Rodrigo Lara Bonilla Judicial School (training for future magistrates and judges) refused to reach an agreement with a student, member of the Seventh-day Adventist Church, who would not take lessons on Saturday. The Court insists that the educational establishments must respect the right to keep the Sabbath only for religious purposes and, therefore, it rules in favor of the student.

Sentence T-493 of 2010 presents a case in which a member of an evangelical church requests the protection of her rights to freedom of religion and worship, after the Colombian Institute for the Promotion of Higher Education –ICFES– refused to allow the evangelical follower to take the State examination (necessary to enroll in higher education), on a date other than Sunday. Following the logic of sentences T-448 of 2007 and T-044 of 2008 (referred to above), the Constitutional Court recalls the cases related to the Seventh-day Adventist Church, and insists that the right to religious freedom of the members of the Evangelical Free Church of Quibdó must also be protected, since, according to this religious organization, Sundays must be kept only for spiritual activities.

In the sentence T-782 of 2011, the Constitutional Court studies the case of a nursing student, a minor, represented by her father, who requests the protection of her daughter's right to religious freedom, since the University where she studies denied her request *not* to carry out academic activities on Saturdays. As a member of the Seventh-day Adventist church, it is her duty to respect the Sabbath. The Court recalls that, according to the Constitution and the Law, no one will be forced to act against his/her conscience, and, consequently, educational establishments must respect students who, according to their religious beliefs, are not allowed to carry out academic activities at certain times.

In sentence T-832 of 2011, the Constitutional Court decides to protect the right to religious freedom of a group of young women belonging to the United Pentecostal Church of Colombia. In this case, the school had established the mandatory use of trousers for all students, but according to the Pentecostal church, women must not wear trousers. The students' refusal to wear trousers is sanctioned by the school's directives, who would not allow the students to pursue their studies. The Court responds by remembering that the rules adopted by an educational establishment must be in harmony with the constitutional principles. Following the logic used in sentence T-588 on 1998, the Court reminds that, for religious people, it is of vital importance that their practices (the way they dress, in this case) correspond with their beliefs.

Sentence T-915 of 2011 is another case in which a university student who is also a member of the Seventh-day Adventist Church, is obliged to carry out academic activities on Saturdays. The Court rules in favor of the students and adds that the institution of higher education must find alternatives adapted to the members of the church, in so far as they announce in advance that they would not be able to attend their classes on Saturday.

As we have noticed, there is a set of sentences that address the issue of the Sabbath concerning the members of the Adventist Church. Most of these rulings, following what was expressed in the sentence T-026 2005, manifest that the protection of this right, granted to the members of the Adventist Church, depends on the fact that they announce in advance their situation to the educational institutions.

Sentence T-778 of 2014 –the last of this jurisprudential line– examines the case presented by a mother, representing her minor daughter, who asserts that the Catholic-oriented school where her daughter studied, did not grant her a place for the following academic year. The mother expresses that her daughter has been discriminated by teachers and students because of her religion: Judaism. The sentence points out that the autonomy of educational institutions must have some limits. Consequently, it is recalled that the obligations required of students should never transgress the constitutional and legal order. In addition, the sentence presents some rulings that studied similar cases, concluding that educational institutions are not allowed to harass people and make the student's enrollment contingent on account of their religious convictions. Despite its position on the matter, the Constitutional Court decides not to protect the right to religious freedom and worship of the minor student, considering that, in this particular case, there is not sufficient evidence to believe that the minor was rejected by the institution because of her religious affiliation. Notwithstanding, in its decision, the Court urges the educational establishment to allow the student to be enrolled, as the mother had requested.

The following table provides a schematic view with some of the main facts that appear in each of the sentences that make up the jurisprudential line (some sentences reveal more details than others):

SENTENCE	Plaintiff(s)	Educational grade of the Plaintiff(s)	Religious confession of the Plaintiff(s)
T-421/92	Parents acting on behalf of their minor child	First year of primary school	No religious confession
T-539A/93	Adult student	Ninth semester of Modern Languages (University)	Seventh-day Adventist Church
T-075/95	Minor student	Eighth grade of secondary education	Jehovah's Witnesses
T-588/98	Parents representing their children	Several grades in secondary education	United Pentecostal Church of Colombia
T-877/99	Minor students	Denied access to the next academic year	Jehovah's Witnesses
T-662/99	Minor children represented by their father	Fourth grade of primary school, and kindergarten	Evangelicalism
T-345/02	Adult student	Last semestre of Business Administration (University)	Not Catholic
T-026/05	Adult student	Pharmacy and drugstore assistant	Seventh-day Adventist Church
T-448/07	Father representing his minor daughter	Entry exam for the National University of Colombia	Seventh-day Adventist Church
T-044/08	Mother representing her minor daughter	Entry exam for the National University of Colombia	Seventh-day Adventist Church
T-839/09	Person of legal age	Denied access to a training course for future magistrates and judges	Seventh-day Adventist Church
T-493/10	Parents representing their minor child	Entry exam for higher education	Central Evangelical Church of Quibdó
T-782/11	Father representing his minor daughter	Nursing (University)	Seventh-day Adventist Church
T-832/11	Students	Denied access to enroll in a program for complementary education	United Pentecostal Church of Colombia
T-915/11	Student	Fourth semester of Nursing (University)	Seventh-day Adventist Church
T-778/14	Mother representing her minor daughter	Sixth grade of basic education	Judaism

IV. DISCUSSION

The rulings of the Constitutional Court can be grouped into two broad categories. In one of those categories, the Court takes into account the particularities of the students (or the applicants), and protects their rights as individuals with varied religious affiliations; such is the case of sentences T-421/92, T-588/98, T-662/99, T-345/02, T-026/05, T-448/07, T-044/08, T -839/09, T-493/10, T-782/11, T-832/11, T-915/11 and T-778/14. On the other hand, we observe a second group of sentences which protect the rights of educational institutions, particularly their autonomy to establish general rules that are applied to every student; besides, in these cases, the Court calls for the respect of civic duties by every student. This category is composed of sentences T-539A/93, T-075/95 and T-877/99.

Most of the cases studied within the jurisprudential line refer to believers of the Seventh-day Adventist Church, who have had to seek the protection of their right to religious freedom in educational settings, since their religious mandate to respect the Sabbath does not allow them to perform academic activities at certain moments of the week. Regarding these cases, apart from sentence T-539A of 1993, the Constitutional Court decided to protect the right of the religious believers.

The demands of religious freedom analyzed in this paper show a complex problem and reveal some of the paradoxes of modernity and its liberal democracies. Liberalism is supposed to be based on secularization (Casanova, 2009), but it also defends the freedom of individuals to choose and practice a religion. The main question is: to what extent are religious believers free to practice their religion in social contexts such as educational establishments? This question would apparently be solved by affirming that believers are free to believe as long as they keep their beliefs to themselves, and practice their religions in private spheres. But, as we saw, the privatization of religion is a strongly contested principle (Furseth *et al,* 2019; Habermas, 2009), and one that is hardly sustainable in real communities: those who adhere to a religion do not experience it if it were a purely intellectual exercise, without any outward expression or behavioral manifestation in public or semi-public spaces. Deep beliefs have a considerable effect on behaviors and subjectivities (Beckford, 2003), they are "lived" and embodied (McGuire, 2008; Orsi, 2005), not just intellectual concepts. As a consequence, religious affiliations manifest themselves in social settings where believers come into contact with other members of society. Educational establishments are important examples of such social settings.

As we have seen, the Constitutional Court seems to have taken into account the previous arguments, for it has not only recognized the diversity of beliefs among the students (or the applicants), but it has also promoted the respect of different religious practices. However, by giving priority to the religious believers in most of the sentences, the Court acknowledges the fact that religious beliefs and rules are sometimes incompatible with the norms of educational institutions. In these cases, the Court has considered that, in order to protect the religious diversity, institutions had to make some adaptations and be flexible enough, so that believers can enjoy the right to education.

However, the jurisprudential line also shows the complexity of this situation. The acceptance of religious diversity, as it is expressed in these sentences, can be problematic when it comes to establish communities and institutions which would need some *general* rules of coexistence. Thus, schools would be just an example of a kind of institution that needs some minimum standards in order to function properly and sustain itself in the long term. If too many actors demand special treatments, the institution itself would be at risk of losing its structure or its original purpose. This is one of the arguments presented in the sentences which advocated for the protection of institutional autonomy and/or the respect of civic duties. Where are then the limits of liberal pluralism? We are facing one of modernity's deepest dilemma. Although Rawls (1996) presumed that the question could be answered by appealing to an abstract "reasonable pluralism", in which a supposedly universal reason would dictate universal rules, other authors like Mouffe (2007, p. 129) insist that the effort to find the limits of pluralism is a deeply political question, and must thus be debated in public arenas where the participants can express antagonistic views. The two types of arguments observed in the jurisprudential line are contradictory, antagonistic; therefore, to advocate in favor of one or the other implies a political stance that would have to be debated in democratic spaces. As Mouffe (2013) proposes, one cannot deny the inevitability of conflicts in pluralist settings.

Religious diversity constitutes an example of the diversity of opinions, values, and worldviews. Currently, this problem is becoming more complex, since pluralist policies and the increasing flows of people, objects and ideas under globalization, have increased the religious diversity of modern countries. Furthermore, as Casanova (1994) points out, more and more religious groups demand to be included in contexts

that were supposed to be exclusively secular. All of the above has meant that the political project of cultural homogenization, in force until the middle of the 20th century in Colombia (Sarrazin, 2015), is frequently questioned nowadays.

The certainties about the construction of a totally secular public sphere gave way to the politics of recognition. However, the pluralist ideal has not clearly resolved the question of how to reconcile modern institutional norms, with the idea of including diverging worldviews, values, and norms *within* those institutions. The two types of decisions observed in the jurisprudential line analyzed in this article show precisely the difficulties that a modern institution faces when it has to deal with culturally diverse populations. In practical terms, it is not known how to structure an institution and, at the same time, allow its members to disregard some of its norms and principles. Thus, the Constitutional Court easily proclaims inclusion and tolerance towards the different beliefs and practices of students or aspiring students, but it must also recognize the difficulties that this implies for establishments like schools and universities. These difficulties even affect the institutional budgets, because the demands of some students to be treated differentially can represent considerable expenses for the establishments.

Even though the pluralist State can no longer aspire to the homogenization of the population, it is also true that it tends to build institutions with certain regulations. The imposition of those institutional norms can be considered as a form of "homogenization", but, on the other hand, it is important to recognize that norms cannot be indefinitely malleable, and it is necessary to rationally analyze what are the practical possibilities of giving differential treatments to a potentially limitless number of religiosities.[8]

V. CONCLUSIONS

In the world in general, and specifically in Colombia, the vitality and diversity of religious expressions is an empirical fact. Moreover, it must be noted that religions are linked to fundamental aspects of social life, such as values, ontologies, and motivations that lead individuals to behave in certain ways and express themselves in public scenarios. For this reason, authors like Berger, Habermas or Mardones consider that religions not only have the right to exist in our modern societies, but they can also make an important contribution to solving many of the problems that modernity has created (destruction of the environment, profound inequalities, crisis of meaning, individualism, etc.), and to build a more democratic and inclusive society. While the secularist theories that prevailed in the social sciences in the last century led to think that religions would become extinct as modernity advanced, contemporary politics and social sciences embrace the paradigm of religious pluralism.

Freedom of religion and worship is a fundamental right within that pluralistic and democratic scheme. Education is also considered as a fundamental right, and a public service that pursues a social mission. Despite the fact that education in the Political Constitution is regarded as a tool to strengthen the respect of human rights, the sentences analyzed in this paper show that educational settings are not free from disputes and conflicts where different groups and individuals consider that their rights are being violated. As we have seen, those disputes are expressed through the demands of students (or applicants) who ask for the respect of their right to religious freedom.

The reactions of the Constitutional Court regarding these cases throughout the time can be divided in two categories. On one hand, there are the rulings that have privileged the protection of the students' right to profess and practice freely their religion; on the other hand, there are the rulings that have privileged the protection of the norms and regulations dictated by educational institutions, thus favoring the homogenization of behaviors.

In most of the sentences that make up the jurisprudential line, the Constitutional Court has decided to protect the right to religious freedom of individuals, arguing that institutional autonomy, coexistence manuals or the criteria of the teachers, cannot restrict the religious diversity of the students, nor their right to education. This type of rulings has been consolidated partly through the application of some regulations that were established in the country notably after the Political Constitution of 1991. Accordingly, the Court has decided that educational institutions must be inclusive and have to adapt their norms to the plurality of religious forms that exist in the country. Thus, we can consider this type of sentences as *pluralistic*.

8 Indeed, it is necessary to remember that diversity goes beyond a limited set of predefined cultures or religions established a priori by governments (Sarrazin, 2019). Likewise, religious diversity includes not only a set of conventional denominations, but a diversity that is always open to new and unexpected forms.

Our investigation also shows that there is another type of rulings which opposes the one indicated above. In that type of sentences, the Constitutional Court has privileged the autonomy of educational establishments and the respect for their institutional norms, stating that students –regardless of their religious beliefs and practices– must adapt to those norms. The diversity of behaviors that is protected in the pluralistic sentences was not admitted in these cases. According to this logic, all students (or applicants) should be treated in a uniform manner. We can therefore consider this type of sentences as *uniformists*.

The two types of arguments –pluralist and uniformist– are, in Mouffe's (2013) sense, antagonistic: they are opposing views with the same right to express their particular rationality. The jurisprudential line shows a clear inclination toward the pluralist type of arguments; this inclination is surely related to the pluralist and liberal foundations of the Political Constitution, and it implies a political and moral stance that should be debated publicly, for the arguments against such a stance should also be recognized in a truly democratic setting. As Mouffe (2007) pointed out, the liberal rhetoric of globalization and human rights, aspiring to impose itself as a universal and peaceful agreement, should not make us forget that disagreements and confrontations remain a notable social fact today. There is no consensus in the jurisprudential line, just as modern societies still do not know how to manage religious diversity in public or semi-public scenarios.

Finally, it is important to note that the Court, in the sentences that make up the jurisprudential line, based its decisions not only on its own previous rulings and on national regulations –Article 19 of the Political Constitution, Law 133 of 1994, Decree 354 of 1998, etc.–, but also on the arguments expressed in the international legislation. For this reason, the investigation presented in this article is also a contribution to a wider discussion about a transnational trend whose relevance in the future of modern societies should not be ignored.

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