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Religious freedom and education: A modern dilemma expressed in the jurisprudence of Colombia

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Abstract

Objective: To study the different ways the Constitutional Court of Colombia (1991–2020) has ruled in cases where students (or applicants) demand respect for 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 the Court issued in each sentence composing the line. Results: The Court's arguments are divided into two categories: pluralist, which privileges the individuals' right to religious freedom, and uniformist, which prioritizes institutional norms regardless of individuals' particular religiosity. Conclusion: Religious diversity in educational establishments reveals some of the dilemmas and tensions existing in liberal modernity, particularly concerning the debate on managing different worldviews and value systems in communities and institutions claiming to be pluralistic.

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

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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 widely acknowledged (Bidegain and Demera, 2005). Following decades of adhering to secularist theses that modernization meant the progressive disappearance of religion, renowned authors like Berger (1999) have affirmed that those theses were simply wrong and that "the world today is as furiously religious as it has always been" (p. 2). Furthermore, many religions worldwide, far from being extinct, play an important role in developing societies (Casanova, 1994). Likewise, Habermas (2009) asserts 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, a process of de-privatization of religion has existed in politics, the media, and civil society (Furseth et al, 2019).

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

Modern States recognize the religious diversity within their societies by declaring themselves as pluralist. This is the case in Colombia, particularly since the declaration of the 1991 Political Constitution, 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 is observed within the framework of a secular State that endeavors to safeguard the nation's cultural diversity (Sarrazin and Redondo, 2018). Indeed, since 1991, the Colombian State has not recognized any particular religion as its official faith, thereby reducing the prejudices previously imposed by the former monopoly of Catholicism (Beltrán, 2013).

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

An increasing number of individuals from diverse religious backgrounds are present in academic institutions, including colleges and universities, and are vocal in their demands to protect their freedom of religion and worship. Institutions and teachers must adapt to these realities. Méndez (2016) specified the necessity to acknowledge "a diversity of possibilities in the classroom, a diversity which must be diagnosed each year" (p. 12). Schools are places where several religious identities can be combined; following the constitutional mandate, educators must recognize all of them (Méndez, 2016, p. 12). Notwithstanding, religious discrimination in educational settings can still occur in practice, for example, when a person's right to education is not respected because of his/her religious affiliation (Méndez, 2016, p. 37). Indeed, some situations of intolerance for religious reasons occur 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) observed, favors pluralism within the institutions, such a framework is not always fully implemented. The first aspect to consider is that religions are more than just a set 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). Hence, the relationship between religious diversity and modern institutions, such as educational institutions, is complex and often problematic. The challenge is considerable because, as Mardones (2006) affirmed, modern societies do not know how to manage the relationship between religion and public or semi-public scenarios. As the present paper demonstrates, educational establishments must cope with diverse beliefs, values, and practices that are not necessarily compatible with institutional norms and values. The debate about religious freedom and secularization has gained momentum in recent years.

There are numerous ideological confrontations regarding the legitimate place of religion in public spaces and within the framework of constitutional democracies (Iranzo and Manrique, 2015). Some post-secularist views, like the one held by Habermas (2009), call into question the secularist principle that relegates religion to the private sphere, also known as the "privatization of religion" (Luckmann, 1973). Meanwhile, as noted by Casanova (2009), secularists disregard the growing demands from individuals who believe that the State or public institutions (e.g., schools and universities) should grant special rights and privileges to various religious communities.

Religious believers do not necessarily demand participation in the construction of State policies and legislation; they demand the freedom to think and act in ways that differ from those prescribed by dominant institutions. Indeed, as we will see, many conflicts arise between religious believers and educational establishments because the latter's norms and policies are sometimes at odds with the ideals of the former. How much should institutions tolerate the particularities of different religions? To what extent can these institutions truly be pluralistic and inclusive? What are the limits of institutional autonomy? This paper analyzes the legal cases involving these types of conflict. In particular, 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 used to understand the arguments expressed in the sentences [1] issued by Colombia's Constitutional Court from its inception in 1991 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.

To elaborate this jurisprudential line, we used the methodology proposed by López (2006, pp. 141–168), who stated that a jurisprudential line is "a question or a well-defined legal problem that opens up 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" (p. 141). It is important to note that a jurisprudential line is not necessarily homogeneous; it can be composed of sentences that examine the legal problem from different perspectives, arriving at distinct – and sometimes contradictory – conclusions.

However, before presenting the aforementioned jurisprudential line analysis, 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, to the extent that they are relevant to understanding the problem addressed in this investigation.

III. Results

Regulations on religious freedom and education

The Political Constitution of 1991 represents a fundamental change concerning 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 result of a long debate conducted by a Constituent Assembly comprised of leaders and intellectuals from various cultural and political backgrounds. Furthermore, Article 19 of the National Constitution stipulates that no one will be forced to reveal his or her own convictions or religious beliefs.

As previously stated, Colombia was declared a pluralist nation without an official religion in 1991, which means that the State is supposed to be neutral toward the various churches and religious confessions that exist in the country. The State also guarantees freedom of religion and worship as a fundamental right (Article 19 of the Constitution), implying that anyone is free to practice a religion in the public sphere. This right has been defined and guaranteed by the constitutional norms, the Statutory Law 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.

1 When the Constitutional Court deals with a complex case, it issues a "sentence" ("sentencia"): a usually long text with all the con-siderations, 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

Statutory Law 133 of 1994 is particularly relevant in this context, as it develops the fundamental right to freedom of religion and worship [2]. Moreover, it is made up of 19 articles that address the rights of individuals, churches, and religious confessions. In Article 6, this law reaffirms a person's right to "profess the religious beliefs of his/her choice, or not to profess any religious belief; 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 is important to acknowledge that the fifth article of this legislation explicitly prohibits its application to activities about the investigation and experimentation of parapsychological or psychic phenomena, Satanism, magical or superstitious practices, spiritism, or similar non-religious activities.

Statutory Law 133 of 1994 also refers to the people's right to impart, receive, or reject religious education at schools and universities. Similarly, it establishes the right of individuals or parents of minor children to choose religious education following their beliefs, or the right not to receive any religious education. Moreover, note 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 No. 1 of 1997, negotiated between some non-Catholic Christian religious entities, and the Colombian State. In this agreement, it was decided that educational establishments run by religious organizations (e.g., evangelical churches) can impart a course on non-Catholic Christian religious education according to their beliefs. In addition, it was agreed that students who are members of non-Catholic Christian churches can receive religious education following their doctrine in public institutions ranging from preschool to primary school. This Decree also includes a special article for the Seventh-day Adventist Church related to its religious mandate to respect the Sabbath. [3]This article enables church members to have a normal job or receive standard education without neglecting their religious commitments during the Sabbath.

Decree 1075 of 2015 declares that religious education is mandatory at the preschool, primary, and secondary levels, as long as it is consistent with the norms outlined in Law 133 of 1994 and the General Law of Education (Law 115 of 1994). This decree also specifies that students have the right to choose whether or not to receive religious education provided by institutions. Students who choose not to receive the religious education normally provided by their school must be offered alternative educational activities related to religion in general. [4]

Decree 437 of 2018 establishes a comprehensive public policy on religious freedom, aiming to ensure the exercise of the right to freedom of religion and worship in Colombia. As detailed in 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 aimed at ensuring citizen participation of religious entities and their organizations and facilitating understanding of the relationship between the right to religious freedom and the right of students to receive education following their religious beliefs.

Education in general has been established as a right in Article 67 of the National Constitution. Moreover, 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 states that nobody will be forced to take religious education in official educational establishments. National Law 1098 of 2006 also addresses the right to education and the right to religious freedom, emphasizing the importance of defending the right to education and religious freedom for children and adolescents.

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2 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

3 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)

4 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.

Concerning legislation related to the autonomy of educational establishments, Article 77 of Law 115 of 1994 stipulates 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 freedoms of the institutions must, nevertheless, comply with the guidelines of the National Ministry of Education. In 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." [5]

Universities are also considered autonomous institutions. In this regard, Article 69 of the Political Constitution states that "universities may orient themselves and be governed by their own determinations, in accordance with the law." The Constitutional Court's sentence T-933 of 2005 explains that academic autonomy implies academic self-regulation (which unfolds in the spectrum of freedom of thought and ideological pluralism). It also implies 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 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 the sentences in chronological order 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 is sentence T-421 of 1992, and the last is sentence T-778 of 2014.

Sentence T-421 of 1992, the first in the jurisprudential line, sets an important precedent for subsequent decisions and was issued shortly after the Political Constitution was promulgated. The sentence presents a detailed account of the international treaties ratified by Colombia.

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

A year later, sentence T-539A of 1993 presents the moment in which the Constitutional Court analyzes, for the first time, the demands of the Seventh-day Adventist Church members to preserve the Sabbath as a holy day. Here, a university student, and member of that church, asks to protect his right to religious freedom after the institution of higher education denied his request to be exempted from taking lessons on Saturdays. Furthermore, the student proposed to perform other academic activities to compensate for absences. In this case, the Court dismissed the student's claim and determined that those who are faithful to various religions cannot demand to be treated differently by the institutions where they have chosen to study, taking into account the autonomy of the university, the general interest, and the value of general rules for coexistence.

Meanwhile, sentence T-075 of 1995 examines the case of a secondary school student, a minor, and a member of the religious community called Jehovah's Witnesses who requests that her right to religious freedom be protected, because her educational institution disciplined her for her failure to attend the civic ceremony commemorating national independence on July 20.The student had previously requested to be exempted from this obligation, because for the Jehovah's Witnesses, patriotic activities are considered acts of "worship" and thus contradict their belief that the faithful should only worship God. In this case, some fundamental rights for the student were protected, such as the right to equality and due process, since the school sanctioned only the plaintiff, although other students were in the same situation. Furthermore, the student was not allowed to defend herself. However, the Constitutional Court considers that there is no violation of the Constitution.

5 Corte Constitucional, Sentencia T-832 de 2011.

[6] The 2011 sentence T-832 of Corte Constitucional exemplifies the right to freedom of religion and worship by the educational establishment. According to the Court, the demand to fulfill a patriotic duty does not constitute a violation or an attack on religious freedom. Likewise, the Court does not consider a patriotic ceremony to be an act of "worship." On these grounds, the plaintiff's request is rejected.

In sentence T-588 of 1998, we find a case similar to the one presented above. In this case, a group of students from the United Pentecostal Church of Colombia refused to perform certain dances because they believe they are contrary to their religious beliefs. However, the Court decides to protect the students' right to religious freedom. Not performing such dances causes the failure of an academic achievement, and due to this failure, students cannot enroll in the following academic year. This case shows how students' fundamental rights collide with the teacher's right to autonomy and academic freedom, who had decided that every student should participate in the dancing activities. The Court ultimately decides to protect students' fundamental rights, 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, who were members of the Jehovah's Witnesses. Their school denied their enrollment in the subsequent academic year due to their noncompliance with nationalistic civic duties. Comparable to the argument presented in sentence T-075 of 1995, the students' primary contention is that these civic actions constitute "worship." That argument is again invalidated by the Constitutional Court, indicating that the students must follow the school's mandates. The sentence even affirms that the believers' arguments "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?"

Meanwhile, 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 they attended. The plaintiff states that, despite having made known that they profess the evangelical religion, their 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 educational establishment did not coerce the children to participate in Catholic activities. The case is complicated by the fact that, during its analysis, the students' father died, and the mother stated that she accepted her children's participation in the school's Catholic activities. Although the ruling does not support the plaintiff, the Court reminds educational establishments that students' religious beliefs must be respected, as long as other people's rights are not violated and the established laws are followed.

In sentence T-345 of 2002, a student of legal age enrolled in a university challenges the university's imposition of a seminar on religious ethics that directly opposes his religious convictions. The student asks for the protection of his right to religious freedom. The Constitutional Court rejects this request, arguing that the university's imposition of the seminar does not violate the student's right. This ruling indicates that aspects, such as age and educational level, must be considered when considering the protection of the students' rights. The Constitutional Court affirms that university students are obligated to develop the ability to coexist with perspectives that differ from their own. However, the Constitutional Court decides to protect the student's freedom of conscience, as 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.

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 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 claims that she belongs to the Seventh-day Adventist Church and must keep the Sabbath for religious activities. This is the first ruling that analyzes this type of case since the publication of Decree 354 in 1998, which states 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.

In sentence T-448 of 2007, a father, speaking on behalf of his minor daughter and a Seventh-Day Adventist Church member, requests that the rights to education and freedom of religion and worship be pro-

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

tected because the National University of Colombia (a public institution) refused to allow the child to take the admission exam on a day other than Saturday. The sentence insists that educational establishments, especially public universities, must try to agree with 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 forced to respect the right of the applicant to keep the Sabbath for religious activities.

Another case is brought against the National University of Colombia in sentence T-044 of 2008. The plaintiffs, who are also members of the Seventh-Day Adventist Church, ask to protect their religious freedom and worship because 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 already resolved in sentence T-448 of 2007, and rules in the same way. Furthermore, the Court warns that the National University must no longer reject such requests from the Seventh-day Adventist Church members in the future.

Moreover, sentence T-839 of 2009 describes 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, a Seventh-Day Adventist Church member, who refused to attend classes on Saturday. The Court insists that educational establishments must respect the right to keep the Sabbath only for religious purposes, and, therefore, it rules in favor of the student.

In sentence T-493 of 2010, an individual affiliated with an evangelical church petition for the protection of her rights to freedom of religion and worship subsequent to the Colombian Institute for the Promotion of Higher Education's (ICFES) denial of an alternative date besides Sunday for the evangelical follower to take the State examination, which is a prerequisite for admission to higher education. In accordance with the reasoning presented in sentences T-448 of 2007 and T-044 of 2008 (as previously mentioned), the Constitutional Court revisits cases pertaining to the Seventh-day Adventist Church and affirms the need to safeguard the religious freedom of members of the Evangelical Free Church of Quibdó. This is because, according to this religious organization, Sundays must be kept only for spiritual activities.

In sentence T-782 of 2011, the Constitutional Court is looking into the case of a nursing student, a minor, represented by her father, who is requesting that her daughter's right to religious freedom be protected after the university where she studies denied her request not to participate in 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, under the Constitution and the Law, no one will be forced to act against his or her conscience, and that educational institutions must respect students who, due to religious beliefs, are not allowed to engage in academic activities at certain times.

In sentence T-832 of 2011, the Constitutional Court decides to protect young women's right to religious freedom from 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 continue their studies. The Court responds by recalling that the rules adopted by an educational establishment must be in accordance with constitutional principles. Following the logic used in sentence T-588 on 1998, the Court reminds that religious people's practices (the way they dress, in this case) must 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 for church members who announce in advance that they cannot attend classes on Saturday.

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

Sentence T-778 of 2014, the last sentence of this jurisprudential line, examines the case presented by a mother, representing her minor daughter, who claims that the Catholic-oriented school where her daughter studied did not grant her a place for the following academic year. The mother expresses that teachers and students have discriminated against her daughter because of her religion: Judaism. The sentence emphasizes that educational institutions' autonomy must have some limits. Consequently, it is emphasized that the obligations imposed on students should never violate the constitutional and legal order. Furthermore,

the sentence presents some rulings that studied similar cases, concluding that educational institutions cannot harass people and make the student's enrollment contingent on 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 insufficient evidence to believe that the institution rejected the minor because of her religious affiliation. Nonetheless, in its decision, the Court urges the educational establishment to allow the student to enroll, as requested by the mother.

The following table provides a schematic representation of some of the main facts that appear in each of the sentences that comprise the jurisprudential line (some sentences reveal more details than others).

SENTENCE	Plaintiff(s)	Educational grade of Plaintiff(s)	Religious confession of the Plain tiff(s)
T-421/92	Parents acting on behalf of their minor child	First year of primary school	No religious confession
T-539 A/93	Adult student	First year of primary school	Seventh-day Adventist Church
T-075/95	Minor student	Ninth semester of Modern Languages (University)	Jehovah's Witnesses
T-588/98	Parents representing their children	Eighth grade of secondary education	United Pentecostal Church of Colombia
T-877/99	Minor students	Several grades in second ary education	Jehovah's Witnesses
T-662/99	Minor children represent- ed by their father	Denied access to the next academic year	Evangelicalism
T-345/02	Adult student	Fourth grade of primary school,and kindergarten	Not Catholic
T-026/05	Adult student	Last semester of Business Administration (University)	Seventh-day Adventist Church
T-448/07	Father representing his minor daughter	Pharmacy and drugstore assistant	Seventh-day Adventist Church
T-044/08	Mother representing her minor daughter	Entry exam for the Nation al University of Colombia	Seventh-day Adventist Church
T-839/09	Person of legal age	Denied access to a training course for future magis trates 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 complemen tary 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 edu cation	Judaism

IV. Discussion

The Constitutional Court's decisions can be divided into two broad categories. On the one hand, the first group is those in which the Court takes into account the particularities of the students (or applicants) and protects their rights as individuals with diverse religious affiliations; for example, 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.

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

The demands for religious freedom examined in this paper reveal a complex problem and 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. 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. However, as we have seen, the privatization of religion is a highly disputed principle (Furseth et al., 2019; Habermas, 2009), and it is hardly sustainable in actual communities: adherents of a religion would not have an experiential connection to it if it were merely an intellectual exercise devoid of behavioral manifestations in public or semi-public spheres. Not being merely intellectual concepts, profound beliefs have a significant impact on behaviors and subjectivities (Beckford, 2003). They are "lived" and embodied (McGuire, 2008; Orsi, 2005). Consequently, religious associations become evident in social settings where believers come into contact with individuals from other sectors of society. Educational institutions serve as significant illustrations of these types of social environments.

As we can see, the Constitutional Court appears to have considered the previous arguments, as it recognized the diversity of beliefs among the students (or applicants) and promoted respect for different religious practices. However, by giving priority to religious believers in most sentences, the Court recognizes that religious beliefs and rules are sometimes incompatible with the norms of educational institutions. In these cases, the Court has determined that, to protect religious diversity, institutions must 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 expressed in these sentences, can be problematic when it comes to establishing communities and institutions that would need some general rules of coexistence. Thus, schools would be just an example of an institution that needs some minimum standards to function properly and sustain itself in the long term. If too many actors demand special treatment, the institution itself would risk losing its structure or original purpose. This is one of the arguments presented in the sentences that advocated protecting institutional autonomy and/or respecting civic duties. Where, then, are the limits of liberal pluralism? We are confronted with one of modernity's most difficult dilemma. Although Rawls (1996) assumed 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, such as 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. Contradictory and antagonistic arguments are observed in the jurisprudential line; thus, supporting one over the other would constitute a political stance that must be debated in democratic spaces. As Mouffe (2013) proposed, the inevitability of conflicts in pluralistic settings cannot be denied.

Religious diversity exemplifies 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) specifies, an increasing number of religious groups are demanding to be included in contexts that were supposed to be exclusively secular. All of this has resulted in the political project of cultural homogenization, which was in place in Colombia until the middle of the 20th century (Sarrazin, 2015), being frequently questioned today.

Certainties about constructing a totally secular public sphere gave way to the politics of recognition. However, the pluralist ideal has not clearly resolved how to reconcile modern institutional norms with the idea of including diverging worldviews, values, and norms within those institutions. The two types of rulings identified in the jurisprudential line examined in this article show precisely the contemporary institutions' challenges when confronted with culturally diverse populations. From a practical standpoint, the optimal way to structure an institution while simultaneously permitting its members to deviate from certain norms and principles is unknown. Therefore, although the Constitutional Court unequivocally endorses inclusion and tolerance of the diverse beliefs and practices of students and aspiring students, it must also acknowledge the difficulties that this creates for academic institutions such as schools and universities. These difficulties can even impact the budgets of academic institutions, as the requests of certain students to be treated differently can incur considerable expenses for the establishments.

Even though the pluralist State can no longer aspire to the homogenization of the population, it tends to build institutions with certain regulations. The imposition of those institutional norms can be viewed as a form of "homogenization," but it is important to recognize that norms cannot be indefinitely malleable. One must rationally analyze the practical implications of giving differential treatment to a potentially infinite number of religiosities. [7]

V. Conclusions

In the world, in general, and specifically in Colombia, the vitality and diversity of religious expressions is an empirical fact. Furthermore, it should be noted that religions are linked to fundamental aspects of social life, such as values, ontologies, and motivations that lead people to behave in certain ways and express themselves in public scenarios. As a result, authors such as Berger (1999), Habermas (2009), and Mardones (2006) believe 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 (e.g., environmental destruction, profound inequalities, crisis of meaning, and individualism), and to building a more democratic and inclusive society. In contrast to the secularist paradigm that predominated in the social sciences during the last century, which predicted the extinction of religions with the advancement of modernity, contemporary politics and social sciences now embrace the religious pluralism paradigm.

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

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

The Constitutional Court has decided to protect individuals' right to religious freedom in the majority of the sentences that comprise the jurisprudential line, 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 ruling has been consolidated partly by applying some regulations established in the country, notably after the Political Constitution of 1991. Consequently, the Court has decided that educational institutions must be inclusive and adapt their norms to the plurality of religious forms in the country. Thus, we can consider this type of sentence to be pluralistic.

Our investigation also shows another type of rulings that opposes the one indicated earlier. In such sentences, the Constitutional Court has privileged the autonomy of educational establishments and respect for institutional norms, stating that students must adapt to those norms, regardless of their religious beliefs and practices. In these cases, the diversity of behaviors that is protected in pluralistic sentences

7 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.

was not accepted. According to this logic, all students (or applicants) should be treated uniformly. We can therefore consider this type of sentence as uniformist.

The two types of arguments, namely, pluralist and uniformist, are antagonistic in Mouffe's (2013) sense: they are opposing views with the same right to express their particular rationality. The jurisprudential line exhibits a conspicuous preference for pluralistic arguments; this inclination undoubtedly stems from the pluralist and liberal foundations of the Political Constitution. Moreover, it signifies a political and moral stance that warrants public discourse, as counterarguments against it should be acknowledged within a truly democratic context. According to Mouffe (2007), the liberal rhetoric of globalization and human rights, which seeks to establish itself as a universal and peaceful agreement, should not cloud our awareness of the fact that conflicts and disagreements continue to be a notable social phenomenon today. The jurisprudential line lacks consensus, mirroring contemporary societies' ongoing challenges in effectively addressing 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 – for example, Article 19 of the Political Constitution, Law 133 of 1994, Decree 354 of 1998 – but also on the arguments expressed in the international legislation. Therefore, the investigation presented in this article also contributes to a wider discussion about a transnational trend whose relevance in the future of modern societies should not be ignored.

VI. References

Bastian, J. P. (2004). La modernidad religiosa: Europa latina y América Latina en perspectiva comparada. México: Fondo de Cultura Económica.

Beltrán, W. (2013). Pluralización religiosa y cambio social en Colombia. Theologica Xaveriana. Bogotá. Julio, 2013, 63, 175.57–175.85.

Beltrán, W. M. (2020). La clase de religión en los colegios públicos de Bogotá: Estado de la investigación. Theologica Xaveriana, 70, 1-29. https://doi.org/10.11144/javeriana.tx70.crcpb.

Beckford, J. (2003). Social theory and religion. Cambridge: Cambridge University Press.

Berger, P. (1999). The desecularization of the world: Resurgent religion and world politics. Washington: Ethics and Public Policy Center.

Bidegain, A. and Demera, J. (2005). Globalización y diversidad religiosa en Colombia. Bogotá: Universidad Nacional de Colombia.

Casanova, J. (1994). Public religions in the modern world. Chicago: University of Chicago.

Casanova, J. (2009). The secular and secularisms. Social Research, 76 (4), 1049-1066.

Congreso de Colombia, Ley 133 (1994). Ley estatutaria que desarrolla el derecho de libertad religiosa y de cultos. Retrieved from http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Leyes/1648436 133.

Congreso de Colombia, Ley 115 (1994). Ley General De educación. Retrieved from https://www.mineducacion.gov.co/1621/articles-85906_archivo_pdf.pdf.

Congreso de Colombia, Ley 1098 (2006). Código de la infancia y la adolescencia. Retrieved from https://www.icbf.gov.co/cargues/avance/docs/ley_1098_2006.htm.

Corte Constitucional de Colombia. (19 de junio de 1992) Sentencia T-421/92. [MP: Alejandro Martínez Caballero].

Corte Constitucional de Colombia. (22 de noviembre de 1993) Sentencia T-539a/93. [MP: Carlos Gaviria Díaz].

Corte Constitucional de Colombia. (24 de febrero de 1995) Sentencia T-075/95. [MP: Carlos Gaviria Díaz].

Corte Constitucional de Colombia. (20 de octubre de 1998) Sentencia T-588/98. [MP: Eduardo Cifuentes Muñoz].

Corte Constitucional de Colombia. (8 de noviembre de 1999) Sentencia T-877/99. [MP: Antonio Barrera Carbonell].

Corte Constitucional de Colombia. (7 de septiembre de 1999) Sentencia T-662/99. [MP: Alejandro Martínez Caballero]. Corte Constitucional de Colombia. (9 de mayo de 2002) Sentencia T-345/02. [MP: Manuel José Cepeda Espinosa].

Corte Constitucional de Colombia. (20 de enero de 2005) Sentencia T-026/05. [MP: Humberto Antonio Sierra Porto].

Corte Constitucional de Colombia. (31 de mayo de 2007) Sentencia T-448/07. [MP: Nilson Pinilla Pinilla].

Corte Constitucional de Colombia. (24 de enero de 2008) Sentencia T-044/08. [MP: Manuel José Cepeda Espinosa].

Corte Constitucional de Colombia. (20 de noviembre de 2009) Sentencia T-839/09. [MP: María Victoria Calle Correa].

Corte Constitucional de Colombia. (16 de junio de 2010) Sentencia T-493/10. [MP: Jorge Ignacio Pretelt Chaljub].

Corte Constitucional de Colombia. (20 de octubre de 2011) Sentencia T-782/11. [MP: Nilson Pinilla Pinilla].

Corte Constitucional de Colombia. (3 de noviembre de 2011) Sentencia T-832/11. [MP: Juan Carlos Henao Pérez].

Corte Constitucional de Colombia. (28 de abril de 2011) Sentencia T-915/11. [MP: Mauricio González Cuervo].

Corte Constitucional de Colombia. (17 de octubre de 2014) Sentencia T-778/14. [MP: Jorge Ignacio Pretelt Chaljub].

De La Torre, R. y Semán, P. (2021). Religiones y espacios públicos en América Latina. Ciudad autónoma de Buenos Aires: CLACSO.

Furseth, I., Kühle, L., Lundby, K. y Lövheim, M. (2019). Religious complexity in Nordic public spheres. Nordic Journal of Religion and Society, 32 (1), 71-90. https://doi.org/10.18261/issn.1890-7008-2019-01-05.

Habermas, J. (2009). ¿Qué significa una sociedad 'postsecular'? Una discusión sobre el Islam en Europa. En ¡Ay, Europa!. Madrid: Trotta.

Iranzo, Á. y Manrique, C. (2015). Religiones, post-secularidad y democracia en América Latina: Reconfiguraciones del discurso y la acción política. Revista de Estudios Sociales, 51, 9-22.

Jiménez De Madariaga, C. (2011). Pluralismo religioso y educación. Arbor, 187 (749), 617-626.

López, D. (2006). El Derecho de los jueces. Bogotá: Legis.

Luckmann, T. (1973). La religión invisible. Salamanca: Sígueme.

Mardones, J. (2006). Religión y democracia. Cuestiones Teológicas, 33 (79), 9-26.

Mcguire, M. (2008). Lived religion: Faith and practice in everyday life. Oxford: Oxford University Press.

Méndez, J. (2016). La Figura. Jurídica de la enseñanza religiosa Escolar. Revista Latinoamericana de Derecho y Religión, 2 (1), 1-22.

Mouffe, C. (2007). En Torno a lo político. Buenos Aires: Fondo de Cultura Económica.

Mouffe, C. (2013). Agonistics: Thinking the world politically. London: Verso.

Orsi, R. (2005). Between heaven and earth: The religious worlds people make and the scholars who study them. Princeton: Princeton University Press.

Organización de Los Estados Americanos, Convención Americana Sobre Derechos Humanos (1969). Retrieved from https://www.oas.org/dil/esp/tratados_b-32_convencion_americana_sobre_derechos_humanos.htm.

Organización de las Naciones Unidas, Convención Sobre los Derechos del Niño (1989). Retrieved from https://www.ohchr.org/sp/professionalinterest/pages/crc.aspx.

Organización de las Naciones Unidas, Pacto Internacional de Derechos Económicos, Sociales y Culturales (1966). Retrieved from https://www.ohchr.org/sp/professionalinterest/pages/cescr.aspx.

Organización de las Naciones Unidas, Pacto Internacional Sobre Derechos Civiles y Políticos (1966). Retrieved from https://www.ohchr.org/sp/professionalinterest/pages/ccpr.aspx.

Rawls, J. (1996). Political liberalism. New York: Columbia University Press.

Parker, C. (2005). ¿América Latina ya no es católica? Pluralismo cultural y religioso creciente. América Latina Hoy, 41, 35-56.

Presidencia de la República de Colombia. Decreto 354 (1998). Convenio de Derecho Público Interno número 1 de 1997, entre el Estado colombiano y algunas Entidades Religiosas Cristianas no Católicas. Retrieved from https://www.mininterior.gov.co/sites/default/files/decreto_354_de_1998.pdf Presidencia de la República de Colombia. Decreto, 1075 (2015). Decreto Único Reglamentario del Sector Educación. Retrieved from http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019930.

Sarrazin, J. P. (2015). The protection of cultural diversity: Reflections on its origins and implications. Justicia, 27, 99-117.

Sarrazin, J. P. (2017). ¿Guiados por Dios o por Sí Mismos? Estudio comparativo entre adeptos a las espiritu-

alidades alternativas y adeptos a las iglesias evangélicas. Cuestiones Teológicas, 44 (102), 373-396. https://doi.org/10.18566/cueteo.v44n102.a07.

Sarrazin, J. P. (2019). Elementos para una crítica de las políticas dirigidas a la protección de la diversidad cultural en Colombia. Estudios Políticos, (54), 127-148. http://doi.org/10.17533/udea.espo.n54a08.

Sarrazin, J. P. and Redondo, S. P. (2017). La incertidumbre conceptual en el estado. Controversias alrededor de la edad para acceder a ciertos cargos y corporaciones de elección popular. Opinión Jurídica, 16 (32), 211-227.

Sarrazin, J. P. and Redondo, S. P. (2018). Indígenas evangélicos y diversidad cultural. Análisis de una problemática multiculturalista. Revista de Derecho, 49, 203-228.

Stokes, P., Baker, C. y Lichy, J. (2016). The role of embedded individual values, belief and attitudes and spiritual Capital in shaping everyday postsecular organizational culture. European Management Review, 13 (1), 37-51.

Taylor, C. (2007). A secular age. Cambridge: Harvard University Press.

Touraine, A. (2000). Can we live together?: Equality and difference. Palo Alto: Stanford University Press.