

The Legal and Theological Concepts of Christian Liberty

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I Introduction

In this paper, I attempt to define the legal and theological concept of Christian liberty. I do this by offering a stable, traditional model of Christian liberty incorporating both law and theology, as well as a more dynamic, and in our view more useful and complete working concept of it. The reader may wonder why it is not enough to select only one of these concepts; that is, what additional knowledge can be derived from a dual approach? One certain part of the answer to that is to state that, although there will never be a so-called super conception of Christian liberty, that is, an academic construct combining the results of several disciplines, the conceptual elements of each field – as we will see – still have a great influence on each other, shaping and influencing each other's definitions. This is why the first section of this paper is going to immediately catalogue the fields of academic study that are most relevant to the topic, highlighting their starting points, popular sub-topics and even the aspects of them which come into contact with *other* areas. Thus, in addition to legal and theological approaches, I will also present key expressions of the image of political freedom drawn from political science, social psychology and religious studies in the narrow sense – although the analysis in the detailed and separate sections will only be made for the first two approaches.

This work is intended as basic research; in addition to the Bible and the various relevant sources of law, it relies primarily on the sources of the scholarly literature, focusing on the possibilities of grouping, and on finding grouping criteria, drawing conclusions from them and developing a conceptual network. The legal examples are mainly Hungarian, but where the broader context was also justified, the products of the legislation and application of the law of other entities and the results of the international literature also appear.

II Fields that also examine the phenomena of Christian liberty

This section will not analyse the theological and legal aspects of Christian liberty but will consider the question of what Christian liberty is. The representatives of

two fields, law and theology, are most qualified to answer this question. On the one hand, as with all other social phenomena, the facts relating to Christianity are most easily assimilated through the legal route (that is, a legal type of answer to a practical Christian question will produce a widely applicable *preliminary* definition). On the other hand, it is indisputable that the basic document of a given religion, in this case, the entire Scripture (the Bible), and its explanations constitute the other important – indeed, unavoidable – and most accurate starting point when asking religious questions.

A The attraction of Christian liberty for politics and political science

It is no coincidence that the first substantive element of our analysis is the examination of political contexts: The key Christian liberty-related question of the twentieth century was the dilemma of the *liberation movement*, namely the extent to which the Christian message can be realised or transformed into a political action. The partial autonomy and mixing of political approaches with theology is particularly evident through the processes that have taken place within the Catholic Church. For centuries, the Christian tradition has dealt with the freedom of the human will, including the choice between good and evil, sin and its consequences, and the relationship between grace and free will.¹ However, in the wake of the Enlightenment, which prioritised freedoms, the Catholic Church began to open itself, as a result of a longer process, to a secular, social interpretation of freedom, an interpretation that does not accept existing social relations as systemically immutable endowments.

The decisive breakthrough was brought about by the Second Vatican Council (1962–1965) by redefining the mission of the Church. It has been made clear that the evangelising task of the Church is not merely to proclaim and present otherworldly salvation in history. It must also care for man's worldly prosperity, as Pope John XXIII had already stated emphatically when the Council was proclaimed.

The Pope drew attention to another new aspect in this regard: The Church must study the 'signs of the times'! (Matthew 16:3). The Church lives in history, not by preaching the gospel in a vacuum. Theology must know the age in which it lives so that it can address the people of its age and share destiny with them. In this way, the concept of the 'signs of the times' was given a significant role in twentieth century theology.²

The Extraordinary Synod convened on the occasion of the twentieth anniversary of the conclusion of the Council later mentions advocacy for the poor as one of the most important topics of the Synod: 'In the wake of the Second Vatican Council,

¹ László Lukács, 'A keresztény szabadság politikai dimenziói a felszabadítási teológia tükrében', *Sapientiana* 7, no 2 (2014), 1–31, 1.

² Ibid. 2.

the Church has become more aware of its mission to serve the poor, the oppressed and the marginalised. . . . The Church must prophetically condemn all forms of poverty and oppression and protect and promote the fundamental and inalienable rights of the human person everywhere.’³ Advocating for the poor became a movement, and its teachings, which developed rapidly and then confronted issues even faster, became known as ‘liberation theology’.

The second ordinary episcopal Synod in 1971, in addition to priestly ministry, dealt specifically with the subject of ‘justice in the world’. The document published following the Synod of Bishops, entitled *Justice in the World*, emphasised: ‘In order for the Church to make the case for justice credibly, it must also appear within the Church. We therefore need to review our actions, our possessions, our lifestyles, and our human rights within the Church.’⁴ However, some of the approaches already went beyond this position, for example, the preliminary draft submitted to the Synod by the Peruvian Episcopal Faculty stated:

The commitment of many Christians is encouraged by a theology that regards this reality as a sinful state that hinders the realisation of God’s plans; this situation sparks a commitment to liberation, simply in response to the call of the Lord, who called us to shape our history ourselves. The Church discovers that by its presence it is inevitably entangled in politics and that in this situation of oppression it cannot preach the gospel without shaking consciences with the message of Christ the Saviour.⁵

However, the Franciscan theologian Leonardo Boff (who was banned from teaching theology in 1985) surpassed the radicalism of the Peruvian position in the evolution of opinions in this field, when he and his brother Clodovis Boff addressed an open letter to Cardinal Joseph Ratzinger (the future Pope), arguing that: ‘There are situations in which the Christian conscience is forced to expose the oppressive socio-economic system and, seeing no other way out, will ultimately take up arms to overthrow the illegitimate power.’⁶ Ratzinger responded to this issue as follows: ‘As I have already commented on the crisis of morality, “liberation” is also the major theme in the rich societies of North America and Western Europe: This is how they want to get rid of religious morality, and with it the boundaries of man. . . . Finally, “liberation” is also sought in South America, primarily in social, economic and political terms.’⁷ He added that, in parallel with this change, ‘the word soteriology; that is, the question of salvation, or as they prefer to say today, “*liberation*”, has become the focus of theological thinking’.⁸ In his view:

³ Walter Kasper (ed.), *Zukunft aus der Kraft des Konzils. Die ausserordentliche Synode ‘85* (Freiburg: Herder, 1986), 43, cited by Lukács, ‘A keresztény szabadság’, 3.

⁴ Cited by Lukács, *ibid.* 7.

⁵ *Ibid.*

⁶ Cited by Lukács, *ibid.* 18–19.

⁷ Joseph Ratzinger, *Beszélgetés a hitről Vittorio Messori-val* (Budapest: Vigilia, 1990), 150.

⁸ *Ibid.*

This came from the fact that theology wants to respond to the most burning problems of the world today, namely that man, despite all his efforts, is not saved *en bloc*, is not free *en bloc*, and he is even part of some growing alienation. . . . However, some theology came under the influence of the secularist program of liberation; they influence these theologies with their own immanent and exclusively earthly aspects. However, these programmes do not and cannot see that, from a Christian point of view, 'liberation' mainly and above all means liberation from the fundamental bondage of sin, which the 'world' does not even understand, and even goes so far as to deny it.⁹

Ratzinger specifically points out that this approach is often accompanied by an arbitrary treatment of biblical texts.¹⁰ For the sake of completeness, we should also note that, over the past two decades, the novelty and desirability of *liberation theology* has been considerably eroded within the Catholic Church also¹¹ – while other means of caring for the poor have come to the fore. Summarising the above, it is clear that a significant proportion of the liberation approaches have one *possible result* (greater respect for human rights and their guaranteed enforcement) and that ultimately their achievement becomes an *end in itself* – detached from the basic, directly *biblical* spiritual goals, related to *salvation*. This was the dangerous direction in which Jesus' disciples also began to envision Jesus as the ruler of a worldly, mundane state: Seeing his miracles and aspirations as tools in the process of seizing power. However, ignoring the figurative speech, Jesus made it abundantly clear that his struggle was not to gain secular power, to fight battles of a political or purely military nature, but to have a spiritual, donation-focused, entirely self-surrendering lifestyle and mission.¹²

Although the theological and ecclesiastical aspects of liberation movements have been highlighted above, to illustrate this very peculiar connection between politics and theology, all of these phenomena have naturally gained a library of literature in political science in particular, especially in the South American

⁹ Ibid. 151.

¹⁰ Ibid. 164.

¹¹ Réka Lánszki, 'A felszabadítási teológia ideje lejárt?', *Credo* 5, no 3–4 (1999), 69–75.

¹² See Ephesians 6:12: 'For our struggle is not against flesh and blood, but against the rulers, against the authorities, against the powers of this dark world and against the spiritual forces of evil in the heavenly realms'; furthermore, as the clearest example: 'Then the mother of Zebedee's sons came to Jesus with her sons and, kneeling down, asked a favour of him. "What is it you want?", he asked. She said, "Grant that one of these two sons of mine may sit at your right and the other at your left in your kingdom". "You do not know what you are asking", Jesus said to them. "Can you drink the cup I am going to drink?" "We can", they answered. Jesus said to them, "You will indeed drink from my cup, but to sit at my right or left is not for me to grant. These places belong to those for whom they have been prepared by my Father". When the ten heard about this, they were indignant with the two brothers; Jesus called them together and said, "You know that the rulers of the Gentiles lord it over them, and their high officials exercise authority over them. Not so with you. Instead, whoever wants to become great among you must be your servant, and whoever wants to be first must be your slave – just as the Son of Man did not come to be served, but to serve, and to give his life as a ransom for many"' (Matthew 20:20–28).

continent.¹³ Incidentally, it is also exciting to witness how intensely theological writings and documents partly intended for specialists and partly for the general public become suited for the analysis of political, legal and sometimes specifically *democracy theory* context, addressing them to an increasing degree, while also reducing the gap between theology and political science. However, even without a detailed assessment of the biblical validity or other appropriateness of these positions, it is clear that the logic of liberation, that is, the political dimension of Christian liberty, has become an increasingly important, independent direction of public policy-making. Moreover, as we will see below, new elements of the political dimensions of Christian liberty have also appeared in Hungarian public policy, separate from the liberation movements.

In his speech in Tusnádfürdő in 2019, Prime Minister Viktor Orbán first used the term ‘Christian liberty’, specifically in the following context: ‘No matter how I turn and think, I cannot give a better definition because the sense of illiberal politics is nothing more than Christian liberty. Christian liberty and defending Christian liberty. The policy of working for illiberal, Christian liberty seeks to preserve everything that liberals neglect, forget and despise.’¹⁴ The emergence of the concept of Christian liberty can be logically linked to what Orbán said for the first time in his radio interview on 4 May 2018, after winning a third election victory with a two-thirds majority, that his political goal is now to build an ‘old-fashioned Christian democracy’.¹⁵

In addition to statements of a political nature, one of the tangible signs of these efforts is the new Paragraph 4 of Article R), following the Seventh Amendment to the Fundamental Law (Hungary’s constitution): ‘The protection of the constitutional identity and Christian culture of Hungary shall be an obligation of every organ of the State’, of which Balázs Schanda notes that ‘[t]he Fundamental Law does not tie the Hungarian state to the Christian religion, nor to Christian culture in general, but expressly orders the protection of Hungary’s culture as a Christian culture. The constitutional goal was undoubtedly to give a stronger emphasis and protection to the country’s cultural identity; that is, to add to the Christian heritage called for in the National Creed.’¹⁶ He also adds that ‘[t]he Fundamental Law does not institutionalise the state religion; it emphasises the obligation to

¹³ Arturo Escobar highlights the dual process that is taking place in South America which is also relevant to our topic, consisting of a modernisation crisis that has lasted for five hundred years and a crisis of the neoliberal model of modernisation. Arturo Escobar, ‘Latin America at a Crossroads: Alternative Modernisations, Post-Liberalism, or Post-Development?’, *Cultural Studies* 24, no 1 (2010), 1–65, 7.

¹⁴ Barna Borbás, “‘Trón és oltár’: míg a keresztény szabadságon rágódunk, kiürülnek a templomaink”, *Válasz Online*, 24 October 2019.

¹⁵ Ibid.

¹⁶ Balázs Schanda, ‘Magyarország keresztény kultúrájáról’, *Pázmány Law Working Papers* no 8 (2018), 1–4, 1.

value it while maintaining the religious and ideological neutrality of the state. The Seventh Amendment to the Fundamental Law brings a change in this regard, with the obligation to protect Christian culture (but still not the Christian faith or religion).¹⁷ He later clarified his position by explaining that the protection of Hungary's Christian culture is not a command to create a Christian culture but rather an obligation to protect an existing culture with Christian roots, especially given the fact that many institutions are assumed to be subject to this wide concept of Christian culture, in connection to which it is clearly visible that 'there is a gap between the Christian ideal and social practice'.¹⁸

The main instrument of this policy – elevated to the rank of official practice and thus establishing a *neoconservative ideology* – is to strengthen the foundations of Christian morality, both indirectly in education and directly with the support of some of the established churches. According to its critics, the proclamation of Christian values and Christian liberty is merely a slogan for government actors – without proclaiming the biblical limits of Christian liberty and making them part of public morality or political morality and without ultimately eliminating a 'society without consequences'.¹⁹ However, regardless of the approach or political sympathy behind it, it is a fact that an important element of this political construction is 'a conscious *construction of the past*, which also includes the creation and continuous amendment of the Fundamental Law of Hungary'.²⁰

B Socio-psychological, religious psychological and other religious science approaches

In exploring the concept of Christian liberty, sociological, social psychological and specifically religious psychological approaches form an additional, independent group, with their results often appearing as the results of a kind of religious science detached from theology. What they have in common is that they aim to realise the concept of Christianity and Christian liberty primarily by mapping *gaps* and *defects* and *deviations* from the healthy, getting closer to the subject matter of the study by creating negative concepts. Topics such as conformism, deviance and extremism appear as subjects for examination in this literature. The issue of the most common *religious extremes* in both domestic and international literature is

¹⁷ Ibid. 2.

¹⁸ Ibid. 3.

¹⁹ Ádám Rixer, 'A civil társadalom helyzete Magyarországon, különös tekintettel a populizmus térnyerésére', *Glossa Iuridica* 6, nos 3–4 (2019), 43–72, 67.

²⁰ Ádám Rixer, 'A történeti alkotmány vívmányai: Utazás a múltba vagy út a jövőbe?', in Judit Balogh et al. (eds), *65 Studia in honorem István Stipta* (Budapest: KGRE ÁJK, 2017), 365–375, 366.

mainly present in the form of religious fanaticism,²¹ various forms of terrorism²² and various readings of the 'traditional' issue of sects. However, little work has attempted to devise a sophisticated set of criteria and, in the wake of the latter, an exhaustive typology beyond the definition of extremism and its main practical implementations. In a previous paper of mine,²³ I showed that, with regard to the concept of religious extremism, both a *negative* and a *positive* definition are possible: The negative definition indicates the phenomena that, although they may come into contact with religion or even institutional religion, are or may be linked to it but which are not considered to be 'extremism' of a religious origin or nature, while the positive definition attempts to list the possible main types of extremism in the framework of an exhaustive list.

Within the scope of the *negative* definition of religious extremism must fall, for example, those offences that do not result from the teachings of a particular religion but which, where appropriate, presuppose a human omission in the form of an annex that has not been attached during a registration procedure. In the same way, a theft committed at a religious event, for example, cannot be regarded as religious extremism, for example, insofar as this is not generally considered to be a phenomenon that can be generalised, or to arise from the essence of a given community. It is also problematic when we infer from the greater or lesser weaknesses of the functioning or teaching of the leaders of a particular (Christian) congregation or a larger religious community consisting of several local congregations that it is of a *generally* extreme nature, that is, no 'bad' or 'guilty' leader or faulty leadership practice may result *by itself* in 'religious extremism'. In this context, it should also be emphasised that the mere fact that a narrow group norm, based on religion and acknowledged by society but not followed by the majority, may be logically linked to specific violations, (for example, sexual offences) does not necessarily mean that the religious community itself is considered 'extreme', especially if, as the example above shows, the group norm is not an element belonging to the essence of the set of religious beliefs, and the religious community in question takes significant action against the harmful implications of the given institution or the specific abusive phenomenon.²⁴

²¹ Sam Cherribi, 'Bad Faith: The Danger of Religious Extremism by Neil J Kressel', *Political Psychology* 30, no 2 (2009), 319–323; Laurence R Iannaccone, 'Religious Extremism: Origins and Consequences', *Contemporary Jewry* 20, no 1 (1999), 8–29.

²² Julia V Tuskhova, 'ISIS and Al-Qaeda as the Determinants of Religious Extremism in the UK', *Society: Politics, Economics, Law* 14, no 8 (2017), 1–4.

²³ Ádám Rixer, 'A vallási szélsőségek tipológiája Magyarországon', *Vallástudományi Szemle* 14, no 4 (2018), 15–30.

²⁴ In the Catholic Church, there have been several waves of confrontation with and facing this phenomenon. An international meeting was held in Rome from 6 to 9 February 2012 with the participation of bishops and monastic leaders from various dioceses around the world, on action to combat child sexual abuse by church officials and assistance to victims. For this,

With regard to the positive definition, it follows from the above that it is worth noting that *extensive, generalisable practices* and *phenomena* can be considered to be the most *extreme*; it is generally not worth classifying isolated, sporadic and individual-related practices that cannot be inferred from the teachings of a particular religion (religious trend within a religion) in this circle. Aspects that can facilitate the grouping of extreme phenomena may be:

- the *type of norm*, accepted and professed by the majority society that has been affected by extremism (whether it is a violation of a legal or other social norm type)
- whether the ‘extreme’ behaviour has effects *outside the given religious environment, outside the community* or, indeed, it *decisively* remains harmful within it, or
- whether, in the criminal law sense, it is *violent* in nature.

These criteria are also relevant to our narrower topic, insofar as they can be a useful starting point as limitations and threats to Christian liberty in the broadest sense.

The other concept that also often appears in this discourse is *deviance*. This becomes a practical and at the same time academic topic when a religious community (a Christian community) comes into confrontation with its religious environment or its wider social environment and becomes ‘deviant’. The birth of different religions and the emergence of new Christian communities are often linked to such crises. This is how the Reformation came into being, and this is how new Christian churches have been born ever since. This is also why Wolfgang Lipp was able to state that the problem of conformism is a problem in the history of religion, from which it became independent due to sociology and social psychology.²⁵

According to Lajos Pressing, the tension outlined above can be resolved in three ways. On the one hand, religion adapts to the institutional and value system of society, and resolves contradictions through cognitive aversion, especially ideological training and rationalisation. On the other hand, a given religion may also choose to create individual opportunities in some socially institutionalised form by partially isolating itself from the rest of society, thus minimising its ‘harmful’ impact. Finally, as a third option, religion may also seek to transform society as a whole in such a way that social institutions promote a way of life in

see Stephen J Rosetti, ‘Bátor szembenézés: hatékony fellépés a gyermekek szexuális kihalmozódásával szemben’, *Korunk* 23, no 4 (2012), 99–106, transl. into Hungarian by Zsuzsa Szigeti-Cseke. For the practice of each country (member churches), see furthermore Jo R Formicola, ‘Recalibrating US Catholic Church – State Relations: The effects of Clerical Sexual Abuse’, *Journal of Church and State* 58, no 2 (2016), 307–330; Kathleen McPhillips, ‘The Church, The Commission and the Truth: Inside the NSW Special Inquiry into Child Sexual Abuse’, *Journal for the Academic Study of Religion* 29, no 1 (2016), 30–51. The starting point of these writings is – in almost all cases – that in addition to church leaders, the state authorities also played a key role in covering up the affairs for decades.

²⁵ Enikő Tajti, *Otthon a világban. A konformizmus és non-konformizmus teológiai értelmezése Róma 12:1–2 és János 4. rész értelmében* [PhD dissertation] (Budapest: Baptista Teológiai Akadémia, 2018), 37.

accordance with its religious values and norms. An example of the latter is Islamic fundamentalism, while Christian churches usually follow one of the first two paths.²⁶ In addition to deviance, the most widespread religious studies use the principle of unprincipled adaptation to the existing ruling system as a concept of *conformism*, even if these forms of ‘innovative deviance’ prevail against conformism, when an incorrect practice is built on a practical interpretation of a rule of religion and it is actually deviant behaviour that restores (or attempts to restore) the original meaning of the rule.²⁷

III The legal concept of Christian liberty

This section will attempt to define the legal concept of Christian liberty on classical grounds, based on today’s fashionable legal positivism, and to raise the possibility of introducing an alternative concept using a sociological approach, while arguing for the inadequacy of the former concept. The ‘traditional’ approach, not only for defining the specific phenomenon of Christian freedom but also for all other issues, is one that draws on the international practices of the period within a particular group of states (for example, the European Union or South America) or within a given country by means of an analysis of the norm text and the contours produced by ‘scanning’ the decisions of internal judicial or constitutional courts or international fora. The professional and scholarly tools of this method are the lists and analyses of the main contemporary topics and problematic provisions that need to be interpreted, as well as the description of the current conceptual and interpretive network of individual decisions, indicating where this network began to break down and which are the delicate, uncertain or ‘dangerous’ points. In order to gain an accurate picture of these, in practice it is enough to study the decisions of state and international bodies thoroughly, if we want to make predictions about the legal scope of freedom.

At this point, it is necessary to provide an explanation as to why all this is not enough when looking for the special domains and content of the legal concept of Christian liberty in Hungary. As will be demonstrated below by a few examples, there is a correlation in the field under consideration that if we consider law as the rules actually followed and used as such, we may be surprised that, in some situations, some of the legislation does not apply, but because it also benefits the stakeholders (in our case, religious entities) – at least in part – the implications of which will not appear in official decisions or in the various public forums. If the law is not applied, there is no ‘case’ either, and it may seem that there is no problem

²⁶ Lajos Pressing, ‘A deviancia és a vallás kapcsolata’, in Iván Münnich and Ferenc Moksony (eds), *Devianciák Magyarországon* (Budapest: Közélet, 1994), 201–222, cited by Tajti, *Ottthon a világban*, 37.

²⁷ Tajti, *Ottthon a világban*, 37.

either – while the law is not enforced in the pre-determined, assumed way. I will therefore show, in a nutshell, the elements, domestic practices and so on, that partly expand (may expand) and partly narrow (may narrow) the concept of Christian liberty in Hungary – in the hope that the proposed model will be able to reflect the actual conditions better.

A The traditional concept

(i) General preliminary questions

I am free, in a traditional, legal approach, to do everything that the law in force explicitly allows, protects, and in many respects that which it does not explicitly prohibit. In order to grasp the legal concept of Christian liberty, we must also take into account the fact that the law created by the state already precedes certain religious beliefs or peculiarities in some respects, even by allowing religious believers to deviate from the general rule (for example, by allowing unarmed military service in some states), or by imposing prohibitions (for example, in some states by prohibiting dressing habits or the wearing of items of clothing closely associated with religion, or placing explicit religious symbols). For most of the area in question, with the exception of a few prohibitions, the rules are merely options offered by the legislator, which do not necessarily have to be exercised, and the latter ('negative' freedom of demarcation) is also protected. An important starting point is also that, within the *rule of law*, the state does not even seek to regulate all the possible aspects of religious behaviour or 'rule' with the application of the law – usually it is not necessary to have, for example, a legal form (registration) as a precondition for the operation of a religious community, only for a few activities that go beyond the practice of elementary religion, and to enjoy certain discounts and benefits. It should also be borne in mind that the role of the neutral state in guaranteeing the freedom of religion, in addition to the provisions directly governing freedom of conscience and religion, includes promoting a socio-cultural environment that 'facilitates free choice and provides adequate space for the practice of religion'.²⁸ It is the case that today it is not enough to analyse the decisions made by the domestic judicial forums of a state in order to perceive the content of freedom, as we must also take into account the case law of international fora. Among the narrower subjects of conflicts related to religious freedom and transforming into legal proceedings, recently European fora have dealt with cases on wearing religious symbols and displaying them in public places, as well as on dressing habits closely related to the given religion

²⁸ Balázs Schanda, *Állami egyházjog. Vallásszabadság és vallási közösségek a mai magyar jogban* (Budapest: Szent István Társulat, 2012), 28.

(*hijab*, *burqa* and so on), elements of education related to certain sexuality-related and ethical issues, certain decisions made by a church-maintained employer, and religious beliefs resulting in the rejection of active behaviours.

Judicial practices related to these also naturally change, and one of the tasks of legal science is precisely to show what subtle or even significant shifts have taken place in the practice of particular fora. One example is highlighting the fact that while the European Court of Human Rights (ECtHR) is increasingly focusing on protecting the rights of religious communities and employers, since 2017 the case law of the Court of Justice of the European Union (CJEU)²⁹ has prioritised the enforcement of individual rights through the courts.³⁰ This is particularly exciting in the light of the fact that, otherwise, the CJEU not only respects the decisions of the ECtHR but also generally follows its practice (despite the fact that it does not apply the European Convention on Human Rights directly).³¹ However, the practice of law enforcement in this area is not only an example of a novel legal approach to traditional problems, as new and rapidly growing issues are emerging in the European area. The latter include, for example, '*sharia* councils, which use *sharia* in the manner of arbitration in family law and personal matters. The real question, then, is: Can a European state not only allow but also support *sharia* in cases where state law is not only available but is likely to settle the outcome of a dispute under different rules.'³² The decisions made in these cases also shed light on the contours of Christian liberty; more precisely, they function as legal predictions of its nature, limitations and extent, which can be of help to all those for whom these issues are important.

These are the main starting points, through the examination of which we may *traditionally* devise a prognosis as to what can be protected in a particular state; that is, from the perspective of our topic, what the elements of Christian liberty that can be defined by rights will be, and where the approximate limits of those rights are. However, a forecast based on normative and individual legal sources (legislation and official decisions) in many respects *will not be able* to paint a really accurate picture; it is necessary to provide instead an in-depth analysis of what the *actual, practical extent* of freedom is. This is why, using the example of Hungary, I will attempt to apply a more useful and more reflexive approach.

²⁹ In the vast majority of specifically religious conflicts, the Grand Chamber of the CJEU has applied the prohibition of religious discrimination as set out in Directive 2000/78/EC and the exceptions for employers with a religious (ecclesiastical) spirit.

³⁰ Renáta Uitz, 'Lelkiismereti és vallásszabadság a multikulturális Európában. Hogyan tovább? Hova tovább?', *Jogtudományi Közlöny* 74, no 5 (2019), 213–228, 223.

³¹ Ibid. 222.

³² Ibid. 216.

(ii) The situation in Hungary

The objective here is not to analyse the situation of freedom of conscience and religion in Hungary, or to present in detail the legal developments of recent decades. The focus will be on those legislative nodes, and in particular law enforcement practices, that have had and continue to have an extraordinary impact on the group of phenomena that we have defined as the legal framework for Christian liberty. In this context, of course, priority should be given to the facts that already clearly raise the need for change; those that result in serious shifts in this dynamic, new notion of Christian liberty, compared to the prognosis outlined in subsection IIIA(i).

Under Sections 9(1) and 12(1) of the former law governing the religious sphere, Act IV of 1990 on freedom of conscience and religion and churches, the registration of a church was decided by a regional court competent for its seat or by the Metropolitan Court in a non-contentious procedure. For over twenty years before 2012, the process of registering churches was completely *formal* (although it was excluded that this had been the original intention of the legislator), mainly because the courts did not carry out any substantive examination beyond the applicants' declarations or the existence of the documents they were required to submit, neither in terms of the truth of these documents' content (statement of facts) nor the actual reasons and goals for the formation of the organisations. That is, if, on the basis of the documents submitted with the appropriate formality, a purpose emerged which sets out lawful and at least elementary religious content, the registration took place – in the vast majority of cases – automatically. Gaining ecclesiastical status after 1990, as opposed to continuing a still existing form of association, meant serious tax-related and other additional rights. Given that, at that time, it was possible to establish a church with one hundred people, compared to the ten people generally applicable to associations – it is obvious why almost all religious communities chose church status. In fact, consciously making it extremely easy to set up an organisation at the time of the regime change also opened the door to abuses and activities that used religious activity only as a disguise.

Legislation on religious communities most often enters the spotlight when, in response to certain (seemingly) extremist religious practices, the person entitled to do so takes it upon himself to change.³³ In Hungary, after the change of regime, problems arose in several waves, as a result of abusive practices, such as exemptions related to relics (before 2010),³⁴ in the context of more lenient rules for establishment

³³ Krystyna Daniel and W Cole Durham, 'A vallási azonosságtudat mint a nemzeti identitás összetevője', *Fundamentum* 1, no 2 (1997), 5–21, 6.

³⁴ The production and sale of a publication or a commemorative object necessary for a religious life does not qualify as an economic-entrepreneurial activity, the significance of which lies in the fact that the given church is thus released from its tax and contribution obligations in relation to this activity. In the past, there have been several attempts to market non-religious objects as a sacred object by

and visa facilitation for church ministers from abroad, in connection with tax exemption for ‘collection money’ and in the context of church establishments aimed at avoiding conscription (compulsory military service), among other issues. However, in connection with these phenomena, it can also be said that the authorities *did not act or only acted* in the most glaring cases, such as in the famous case of József Gyurcsok,³⁵ in which the prosecutor also undertook open action. In most cases, it was more the case that the legislation (in almost all cases parliamentary acts) was *changed*, rather than availing of the law enforcement tools otherwise available.

The first comprehensive regulatory attempt, which at the same time moved towards a meaningful tightening of regulation, was Act C of 2011 on the right to freedom of conscience and religion and the status of churches, religious faiths and religious communities, which was later declared unconstitutional by the Constitutional Court and therefore annulled.³⁶ The decision of the Constitutional Court³⁷ was based, among other things, on the fact that the law with regard to parliamentary recognition also lacked procedural deadlines and an explicit decision-making obligation for the National Assembly, as well as the possibility of appeal on the part of the applicant organisations. Add to this the fact that the legislation was extremely unprepared, with no prior impact assessment having been made whatsoever.³⁸ It is significant that the state here also followed the previous

founding a new church, for example, the experiment of the Győrújbarát motorcycle association, which would have organised a church around a shop selling motorcycles, deserves attention, so that all the items available in the shop could be considered relics, and thus a serious financial advantage could (have) be(en) realised. Goods imported as relics (duty-free) would then have been sold tax-free, also as relics. On their website one could read for a long time: ‘Every year the members of our association give thanks to the Holy Carburetor God and his child, the Holy Injector.’ Ádám Rixer, ‘A vallás fogalmáról’, *Jogelméleti Szemle* 12, no 4 (2011), 1–8, 5. It should be noted here that an infringement committed with the intention of circumventing the law does not fall within the scope of Christian liberty – or in the hope of gaining some benefit and so on. In this dissertation, the concept of Christian liberty has a value content, it does not include the ‘opportunities’ created by intentionally abusive individual, community or social practices, even explicitly state practices – to this extent it is aligned with the theological meaning and content of the concept.

³⁵ The telemedicine performed by the named person was not included in the founding document of the church (Egyetemes Szeretet Egyháza) – this was the subject of proceedings before the Pest county regional court.

³⁶ The apparent reason for the adoption of the law, as communicated in the media, was the practice that increasingly took place from the end of the 2000s, in which the privately maintained homes for the elderly were transformed into churches, mainly with the involvement of those cared for, but without any actual religious activity, thus obtaining the so-called supplementary church normative subsidy.

³⁷ For details see Decision 164/2011 (XII. 20.) AB.

³⁸ The substantive (and preliminary) impact assessments in line with the final versions of Act C of 2011 and Act CCVI of 2011 would have been important because they could have demonstrated the fears, gaining headway already in the parliamentary debates one and a half decades earlier, that wanted to protect the Hungarian society from the rise of destructive sects, taking children, destroying

logic: When a problem arose (for example, the creation of pseudo-churches hunting for supplementary church norms), the law enforcement agency did not choose the appropriate solution, that is, to act, which was made possible, indeed mandatory, by the law (to change the court registration procedures into substantive procedures, and a series of prosecutorial actions), but – presumably for political reasons – legislation was enacted that radically intervened in the life of the whole sphere.

Although Act CCVI of 2011 on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities eliminated several procedural problems, some substantive problems remained, which resulted in serious disputes, mainly by maintaining the recognition of churches by the National Assembly, considering that, although Section 14 of Act CCVI of 2011 specified nine exhaustive criteria for recognition, and the Minister's decision (more or less) bound the National Assembly with regard to the first six of them, the National Assembly was completely free to consider the existence ('proof') of the last three. Completely free discretion on the *merits* was not affected by the fact that the National Assembly had to justify its negative decision when making its resolution. Similarly, it did not mean the implementation of *content control* so that, although an organisation seeking religious recognition and carrying out religious activities could have asked the Constitutional Court to reconsider the National Assembly's decision, the Constitutional Court would have reviewed the lawfulness of the Parliament's procedure on recognition as a church rather than whether the relevant organisation could indeed prove the entity's 'willingness to cooperate and its ability to sustain it in the long term'.³⁹

Not wishing to overlook all the legislative developments of the last ten years, it is clear that, after 2010, the legislative efforts to 'position' the larger, historical and 'established' churches have been corrected several times by the Constitutional Court's activities,⁴⁰ for example, Resolution 7/2017 (VII. 18.) AB, on the establishment of unconstitutionality manifested in the omission related to Act CXXVI of 1996 on the use of a certain part of personal income tax in accordance with the provisions of the taxpayer, and on the rejection of a constitutional

families, taking away their assets, encouraging their members to commit group suicide and ritual human sacrifice. It is feared that one of the main reasons for the lack of preliminary (substantive) impact assessments may be the fact that these fears have not proved to be real. Moreover, a truly objective survey would presumably support the fact that the vast majority of small churches, which were transformed from compulsion into a religious association in 2012, have a significant impact in Hungary today, for example, in strengthening social cohesion and solidarity, in renewing the fabric of society, which is less spectacular, but real in scale. Ádám Rixer, 'A hatásvizsgálatok jelentősége és egyes szempontjai a vallási szervezetek szabályozása körében', *Kodifikáció* 2, no 1 (2013), 91–102, 95.

³⁹ Act CCVI of 2011, s 14(i).

⁴⁰ See in more detail Szilvia Köbel, 'Az Alkotmánybíróság vallásszabadsággal és vallási közösségekkel kapcsolatos gyakorlata', in Szilvia Köbel (ed.), *Az állami és a felekezeti egyházjog alapjai* (Budapest: Patrocinium, 2016), 207–234.

complaint. In addition to other Constitutional Court resolutions, Resolution 23/2015 (VII. 7.) AB also resulted in a substantive amendment of the law: In the last seven or eight years, a continuous and intense struggle has developed between the legislator wishing to re-regulate the religious sphere, certain religious entities and the Constitutional Court. In some cases, international fora have also been involved in the struggle,⁴¹ and during this period there was also an amendment to the Fundamental Law of Hungary related to the subject under review. As we will see, the case law of ordinary courts is also permissive in terms of pressing legal constraints, which is exactly one of the reasons that an alternative definition of Christian liberty (description of the phenomenon) is needed.

B The newer proposed concept and some of its elements

The focus here is on a legal concept that is up-to-date and conceptualised, which may also be suitable for clarifying, deepening or modifying the image that can be obtained through an examination of the concept of Christian liberty based on

⁴¹ The best-known example is the seven-member Chamber of the European Court of Human Rights (ECtHR) on 8 April 2014, deciding in 5 to 2 against Hungary on the subject of the joint complaints of 17 religious denominations that lost their ecclesiastical status on 1 January 2012 and 1 March 2012, respectively, under Act CCVI of 2011 on the right to freedom of conscience and religion and the status of churches, religious faiths and religious communities. The Court concluded that the Hungarian State had violated the applicants' right to associate (art 11) in relation to the right to freedom of religion (art 9), considering that the law recognised the church status of churches listed in the Annex as 'established churches', and other organisations that previously had church status were given an association rating, while the National Assembly also transferred the power of classification as a church from the jurisdiction of the courts to itself. In examining the case and the arguments, the ECtHR explained that the guarantee of freedom of religion and conscience means that the state remains independent and develops impartial regulations for religious communities. In the Court's view, by placing which religious communities are to be declared as churches in the jurisdiction of the Parliament, it had violated Article 9 of the Convention (the court cited the *Metropolitan v Bessarabia* case). The ECtHR further examined the existence of the conditions set out in Article 9(2), that is, whether the restriction was provided for by law or was made in order to protect public security, public order and public health or morals, or the rights and freedoms of others. The court established the restrictive nature of Act CCVI of 2011. Furthermore, in its view, the prevention of the misuse of public funds as a public interest objective is appropriate, but the Court concluded that the restriction was disproportionate to the objective pursued, given that the Hungarian State's measure was excessive and extremely strict. However, the public interest itself was not called into question by Strasbourg; it only considered justified to have lighter regulation that was more cooperative towards religious communities and more independent of the National Assembly. Subsequently, on 28 June 2016, the ECtHR awarded pecuniary and non-pecuniary damages to several complainants for previously identified violations. The damages awarded ranged from 40 thousand to 140 thousand euros. See Ádám Rixer, 'Az állam és a vallási közösségek kapcsolata a mai Magyarországon. A vallási közösségek nyilvántartása és pénzügyei a jogi szabályozás tükrében', *Államtudományi Műhelytanulmányok* 2, no 1 (2017), 1–45, 17.

legislation and judicial decisions. Our starting point, as we have indicated before, is that some aspects have been lost from the scope of the notion of freedom that can be gained as a result of the legal-positive approach, and other which may add, expand and broaden it. A broader concept of law may include infringing customary law, infringing legal custom and the unlawful conduct of law enforcement bodies, which is never brought before a judicial or other body, given that it has a positive effect on the persons (legal entities) concerned. This is a sociological approach that paints a more complete picture of the various aspects of Christian liberties, focusing on those phenomena of a legal nature, (most notably omissions) which cannot be read from the letter of the law and/or from 'official' law enforcement practice. What, then, are the areas (state practices) that modify the scope of freedom without, however, leaving a trace in the normative or individual sources of law?

(i) Law enforcement practices

Previous examples have shown that in the area examined, the state is often reluctant to act in cases where it could intervene and may even be obliged to intervene. This is not to incriminate the actors in the sphere, individual actors (religious entities), communities or individuals, but suggests that the *legal* approach to Christian liberty in practice (and religious freedom in general) might be broader than what we would experience in the event of full compliance by public authorities (that is what we could *assume* upon the first reading of the legislation). This typically involves not taking action against violations of certain rules, failure to comply with the obligations of the state to intervene, and 'reserved' fulfilment of this practice. On the whole, such laxity serves to expand and broaden Christian liberty; that is, the *actual* range of legal options enjoyed by Christians (of course, only if the lack of compliance with the law is interpreted as an extension of their opportunities, and not solely as a symptom of a broader malaise in the legal order or the entire legal system).

In addition to the old practice of registration and the 'timidity' of prosecutors' offices on religious matters, other examples may be given of such lenient behaviour by public bodies, for example, in recent decades it has been observed that since the late nineteenth century, the authorities do not act against various minor violations by Churches. To take a recent example, while state bodies have enforced the restrictions imposed to counter the Covid-19 coronavirus epidemic and checked compliance with the rules for a number of market entities (for example, social distancing, wearing masks and so on), in the case of churches (also subject to these rules) this has been waived. Of course, if the scope of 'freedom' may be increased through the conduct of law enforcement agencies (either within or outside the scope of legislation), then practices that result in narrowing are also possible. In Hungary, however, as we have already mentioned in subsection IIIA(ii) a tendency toward leniency can be observed when applying legislation.

(ii) Ecclesiastical internal law

The second aspect which expands the scope of Christian liberty that can be read from state sources, is the *ecclesiastical* domestic law recognised (allowed) by the state. The broadening (meaning the possibility of a greater room to manoeuvre) is clear: Even if the internal rules of the church cannot override state law, in parallel with it, or by settling areas and issues not affected by state law, such ecclesiastical regulations can provide a substantial, independent set of rules.⁴² Thus, the development, stratification and independent viability of this legal segment – one which is not directly influenced by the state – greatly influences Christian liberty, insofar as it contributes to the fuller life of a given religion or by formulating religious views or regulations, or to better understand the content of certain (public service or employment related) legal relationships. It should be noted here that the ‘breadth’ of legal-type frameworks also stems in part from the fact that the legislator allows deviations from the general rule for religious entities in many respects (mostly in terms of organisation, internal structure and operation)⁴³ and, in case of certain types of organisation, it provides additional rights of a financial and economic nature, which in themselves result in an increase in opportunities.⁴⁴ At this point, of course, there is no question of unlawfulness, only noting the existence of a parallel legal order.

Many of the problems in this regard do not emerge in relation to the *existence* of internal rules but to the *content* and *interpretation* of specific (internal and religion-based at the same time) additional rules to be taken into account in the context of ‘public purpose’ activities of a service nature, accessible to the wider layers of the society. For example, in Western legal systems precise regulations and case law often protect the specific nature of the ecclesiastical employer as opposed to employees, taking concrete form in those norms, while protecting the privacy of employees is also becoming an increasingly important factor in these debates.⁴⁵ The requirements of Christian morality cannot be considered beyond the level of expectations, but it is important that they be applied uniformly and consistently by

⁴² Pursuant to Section 8(2) of Act CCVI of 2011: ‘State coercion may not be applied to enforce a state decision made on the basis of credits, internal law, statutes, organisational and operational regulations, or other corresponding regulations (hereinafter: internal rules) of a religious community, a public authority may not examine it. A decision of a religious community based on an internal rule may not be amended or reviewed by a state body, and a state body has no competence to adjudicate disputes arising from internal legal relations not regulated by law.’

⁴³ See, for example, Act CCVI of 2011, ss 9/B and 11/A.

⁴⁴ See in more detail Zoltán Ormóshegyi and Ádám Rixer, ‘Magyarországi vallási közösségek pénzügyi forrásai és gazdálkodása a jogi szabályozás tükrében’, in Köbel, *Az egyházjog alapjai*, 176–207.

⁴⁵ Schanda, *Allami egyházjog*, 115.

each church,⁴⁶ and, on the other hand, there are limits to the enforcement of loyalty that can be ensured by the state: In addition to certain reasonable expectations, the employee's private sphere must also be respected to some extent.⁴⁷

In Hungary as well, the most interesting and in this situation the most common question is where the line is between 'internal affairs' (that is the decision-making situation that can be freely settled by a given religious entity) and the need to formulate state rules; this issue is especially pertinent in the field of the legal relations of the internal operation, application and users⁴⁸ of *church-run institutions*.⁴⁹ The starting point is obviously to state that there is no (and cannot be) total legal separation (autonomy): In the *Reynolds v United States* case,⁵⁰ the US Supreme Court distinguished between belief and action and concluded that the government has broad powers to regulate religious actions:

Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. . . . Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and, in effect, to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.⁵¹

Another new and fascinating sub-issue in the literature is the use of biblical texts in the internal documents of church-maintained institutions and their incorporation with them, which also shows a close connection with employment, disciplinary and so on issues.⁵²

(iii) Christian self-restraint

There are also occasions that *apparently* narrow the legal contours of Christian liberty; 'apparently', because the narrowing approach (conception) does not appear on the side of *law enforcement agencies* but on the side of potential subjects (users). These are the cases in which, in our case, on the basis of Christian conviction(s), an individual or a larger group abstains from the institutional solutions actually

⁴⁶ Ibid. 117.

⁴⁷ Ibid. 116.

⁴⁸ As a well-known and instructive case law, see Fővárosi Ítéltábla 2Pf.21.318/2004/3.

⁴⁹ In these cases, the state must not only ensure the freedom to secede from religious communities but must also enforce aspects beyond this.

⁵⁰ *Reynolds v United States* 8 US 145, 166–167 (1878).

⁵¹ Ibid.

⁵² Cf. Ádám Rixer, 'A Biblia szövegeinek felhasználhatósága az egyházi fenntartású intézmények belső dokumentumaiban', in Nándor Birher and Árpád O Homicskó (eds), *Az egyházi intézmények működtetésének etikai alapjai* (Budapest: KGRE ÁJK, 2019), 25–36, 26.

permitted by formal law by their own voluntary decision; This is a *negative freedom*, that is, one can voluntarily waive certain rights (freedoms), either by agreeing on these rights (for example, the right to marry), but enforcing the Pauline gift for myself (that is, opting not to marry) or by not agreeing to the law by refusing for anyone to use it specifically on religious grounds (for example, same-sex marriage, if the law permits – this is not currently possible in Hungary). There are also relationships in which, as noted earlier, the state, recognising the interpretation of religious norms as a sustainable position and the moral conflict between state norms, maintains an alternative regulation (for example, by allowing both armed and unarmed military service). Of course, in the case of self-restriction based on religious considerations, we can argue that it is not really a restriction of freedom, but precisely the realisation of freedom, if one does not want to use one of the possibilities offered by the law to make a free and responsible decision. They become a legal constraint to the extent that they become established as a custom among the members of a given community.

These examples aimed to illustrate the factors that have substantially expanded or narrowed the scope of Christian liberty in Hungary in recent decades. Although not highlighted above, it is also interesting to note that law enforcement agencies certainly had to adapt to the logic of the rule of law: In the initial period, the ‘leniency’ of law enforcement practices outlined above was partly due to the uncertainty of some judges in the new legal institutions. In some cases, quite amusing decisions were made, for example in the context of what the provision that no coercion by the state may be exercised in matters within the church should mean in practice.⁵³

⁵³ In one case, the focus was on whether a claim for vacating a property owned by the church may be enforced *in court*. The property in the lawsuit, on which a building of the local Roman Catholic parish stands, was owned by the plaintiff. The property was inhabited by the defendant, who had been released from priestly service due to his retirement. The plaintiff’s action sought that the property be vacated on the ground that it was used by the defendant without title and had not been vacated despite an earlier written agreement. The defendant requested the rejection of the action. He disputed that any authority of the Hungarian State could act in this case. He referred to being a sick, elderly man, who could not be compelled to move under church law.

In the judgment of the first instance, upholding the action, the court ordered the defendant to vacate the property subject to the action within fifteen days. On the other hand, on appeal by the defendant, the court of second instance set aside the first instance judgment and terminated the proceedings. In its reasoning, the court of second instance explained that the defendant was entitled to use the property on the basis of a special ecclesiastical legal relationship, so the title of use is not a lease relationship regulated by the Civil Code or in Act LXXVIII of 1993 on certain rules concerning the lease and alienation of flats and premises. In the event of termination of the parish relationship, the rights and obligations of the parties are governed by ecclesiastical law. In his application for review against the order, the plaintiff explained that the right of ownership of the ecclesiastical legal person is protected by the Constitution and that the right of ownership

IV The theological concept of Christian liberty

Christian liberty, as an important issue for theology too, has, according to the literature, condensed into a few nodes of thought: All the work that discusses this covers man's most general freedom of choice,⁵⁴ the freedom of the sons of God, the deliverance of Israel beyond its own accord,⁵⁵ Jesus' mission of salvation⁵⁶

may be enforced on the basis of the rules of the Civil Code and Sections 23(2) and 75(1)(b) of Act LXXVIII of 1993.

The Supreme Court found the request for review to be well-founded, as far as it is true that, under Section 15(2) of (then effective) Act LXXVIII of 1993, no state coercion may be applied to enforce the internal laws and rules of the church, but this provision does not preclude the application of Hungarian laws existing in addition to the internal laws and rules of the church and, on the other hand, according to the correct interpretation, state coercion cannot be used in matters within the church, because the protected, internal autonomy of the church must prevail in this area. However, the part of the given legal relationship enforced in the action, that is, the owner's claim for the return of the real estate, does not fall within the scope of that provision; therefore, the Civil Code and the relevant legal provisions of Act LXXVIII of 1993 shall apply. In view of all this, the court of second instance erred in concluding that the plaintiff's claim could not be enforced in a court of law, said the Supreme Court (Legfelsőbb Bíróság Pfv. III. 23. 115/2000).

⁵⁴ The authors of some biblical texts emphasise the sovereignty of God's will so much (Isaiah 6:9; Romans 8:28, 9:10–21, 11:33–36) that it may seem that the texts do not recognise man's freedom of choice as real. In reality, however, the whole biblical tradition presupposes that man is capable of free choice: From the narration of the first sin (Genesis 2–3; cf. 4:7), it constantly refers to his decision-making ability, but at the same time underlines his responsibility. It is a man's duty to choose between blessing and curse, between life and death (cf. Deuteronomy 11:26, 30:15–20), to convert and endure to the end of his life (Ezekiel 18:21–28; Romans 11:22; 1 Corinthians 9:27; Matthew 7:13). The contradiction straining between divine sovereignty and human freedom is merely apparent, for both the grace of God and the free obedience of man are necessary for salvation. 'Paul sees this truth as applying to his own life (Acts 22:6–10; 1 Corinthians 15:10) and to that of every Christian (Philippians 2:12f). The mystery remains; but God knows how to move our hearts without violence and how to draw us to Himself without constraint (cf. Psalm 119:36; Ezekiel 36:26f; Hosea 2:16j; John 6:44).' Léon Roy, 'Liberation–Liberty', in Xavier Léon-Dufour (ed.), *Dictionary of Biblical Theology*. Transl. by P Joseph Cahill (New York: Desclée, 1967), 270–273, 273.

⁵⁵ God delivered the people from the bondage of Egypt (Exodus 1–15), and this deliverance is always referred to in the Scripture. '*On the social level*, biblical legislation itself reflects the remembrance of Israel's first deliverance, especially in the Deuteronomist tradition, when it sets down that the Hebrew slave should be set free after seven years in honour of Yahweh's deliverance of His people (Deuteronomy 15:12–15; cf. Jeremiah 34:8–22). The Law was not always observed, however; and even after the return from exile Nehemiah would have to rise up against certain of his compatriots who did not hesitate to lead their "ransomed" brethren back into slavery (Nehemiah 5:1–8). Nevertheless, "setting the oppressed free, breaking every yoke" is one of the forms of "fast which is pleasing to Yahweh" (Isaiah 58:6).' Ibid. 271.

⁵⁶ Christ is our Saviour. The deliverance of Israel was merely a forerunner of Christian salvation. For the reign of perfect and finite freedom is created by Christ for those Jews and Gentiles who join him in faith and love; 'if the Son set you free you will indeed be free (John 8:36).' Ibid. 271.

and the nature of that freedom,⁵⁷ the rules for its exercise and its⁵⁸ limitations.⁵⁹ The basic premise of Christian theology in this regard is that: 'It is for freedom that Christ has set us free.' In his letter to the Galatians, the Apostle Paul recorded this sentence (Galatians 5:1), as the basic tenet of Christian liberty, the good news of Christ's salvation for all men, which goes beyond the miracles and signs He performed during Jesus's earthly presence, as long as sinners are forgiven of their sins, the hope of resurrection for those who are destined to die and the final restoration of the communion with God. However, according to Jesus, freedom is not an end in itself; it is always connected to God's truth and/or love (grace), which is to grow in them. This freedom cannot be divided. If we try to highlight and analyse some of its facets on their own, we soon come to an apparent contradiction: Some aspects paint a distinctly radical, powerful picture of the nature of Christian liberty, in line with current conventions, while others emphasise mild and restrained, or downright self-sacrificing elements. The two are not mutually exclusive: In fact, *only together* can the two result in a healthy concept of freedom and its corresponding practical application. Hermann Pitters puts it this way:

Luther, in his work written *On the Freedom of a Christian*, published in 1520, . . . stated: 'The Christian man is free from all things and is not subject to anything.' This freedom is experienced in faith. He whom God has seized in faith through His giving grace possesses

⁵⁷ 'Although it has repercussions on the social plane, to which the letter to Philemon bears excellent witness, Christian liberty is located beyond social structures. Available to slaves as well as free men, it presupposes no change in one's state (1 Corinthians 7:21). In the Graeco-Roman world, where civil liberty formed the very basis of personal integrity, this fact of Christian liberty was a paradox; but in this way the profound value of the deliverance which Christ offered was made clear.' Ibid. 271. The believer is free in the sense that, in Christ, he can now live in an intimate relationship with the Father without being shackled by the bonds of Sin, Death or the Law. Baptism provided the death and resurrection of Christ, thus ending our bondage (Romans 6:6). 'God rescued us from the domain of darkness and brought us into the kingdom of His beloved Son, in whom we have redemption and the forgiveness of sins (Colossians 1:13f). . . . We have died mystically with Christ, we are henceforward redeemed from the Law (Romans 7:1-6), and we cannot find the principle of our salvation in the fulfillment of an exterior law (Galatians 3:2-13; 4:3ff).' Ibid. 272. We live in a new system with a different degree of cord (Jeremiah 31:33; Ezekiel 36:27; Romans 5:5, 8:9-14; 2 Corinthians 3:3-6).

⁵⁸ The Christian behaves as a son before God (Ephesians 3:12; Hebrews 3:6, 4:16), because in baptism the Spirit you received does not make you slaves, the Spirit you received brought about your 'adoption to sonship' (Romans 8:14-17).

⁵⁹ 'I have the right to do anything, you say – but not everything is beneficial', states the Apostle (1 Corinthians 10:23). This statement refers to restraint, self-denial, responsibility to others and the waiver of our rights (1 Corinthians 8-10; Romans 14), the need for wise insight, thinking according to the divine plan of salvation and ultimately the necessity of love. We are not mistaken too much when we see common sense in avoiding tempting situations in that sentence. All of these are not restrictions on freedom, but forms of exercising them to a higher degree. Christians, raised from their slavery to serve God, (Romans 6) value the gift they receive, serving one another with love (Galatians 5:13) and others as the Spirit guides them (Galatians 5:16-26).

a majestic, wide area of freedom. However, his second statement is just as true: 'The Christian man is a servant ready to serve in all things and is subject to all' through love. The love of a neighbour is respectful of other people and is ready to serve all that is good.⁶⁰

Ignoring this dual nature of Christian liberty and emphasising one of the endpoints (also) led to misunderstandings in Martin Luther's time: Concentrating on the radical conception of freedom alone may easily lead one to neglect the need to care about love and the weak, and becomes a revolutionary programme to eliminate self-denial and the skills that prevail against self-interest in general.⁶¹ From here, it is only one step to hide political goals in religious trappings. Even in Jesus's time, many Jews 'were looking especially for freedom from the yoke which the nations had imposed upon the holy land. This was probably the concept which the disciples travelling to Emmaus had of the task of "him who was to deliver Israel" (Luke 24:21).'⁶² It is important to realise, however, that Jesus's programme is not a political programme embodied in physical resistance but a no less radical, spiritual type of struggle or 'deliverance', as expressed in Psalm 130:8: 'He Himself will redeem Israel from all their sins.' In fact, true salvation is the cleansing of those who have been called and their share in the sacrament of God, both back then (Isaiah 1:27; 44:22; 59:20) and also ever since.⁶³

In relation to the duality of *selfishness – earthly goals* and *self-denial – spiritual goals*, as can be seen clearly from the above, Pierre Teilhard de Chardin notes that:

Union with Christ presupposes essentially that we transpose the ultimate centre of our existence into him – which implies the radical sacrifice of egoism. . . . If Christ is to take possession of all my life – of all life – then it is essential that I should grow in him not only by means of the ascetic constraints and the supremely unifying severances of suffering, but also by means of everything that my existence brings with it of positive effort, and the perfecting of my nature.⁶⁴

Teilhard de Chardin's idea also encourages us to define Christian liberty as not merely a juxtaposition of static elements, much less as a concept honed to a single aspect, but as the development of freedom *in the process*, thus (dis)solving the tension created by the static statements and by their apparent contradiction. We should realise that this issue or concept can be more easily grasped and presented in a process-like system consisting of elements that reflect on each other and build on each other. I assume that our relationship with freedom, especially as a Christian,

⁶⁰ Hermann Pitters, 'Luther Márton – a keresztény szabadság hirdetője. Gondolatok a reformátor születésének 500. évfordulóján', *Keresztény Magvető* 89, no 4 (1983), 239–245, 241.

⁶¹ Ibid. As a concrete negative example, Pitters cites an external ecclesiastical reform initiative in 1522 by Karlstadt, a professor at the Faculty of Theology in Wittenberg, that led to the release of tempers.

⁶² Roy, *Dictionary of Biblical Theology*, 271.

⁶³ Ibid.

⁶⁴ Pierre Teilhard de Chardin, *The Divine Milieu* (New York: Harper & Row, 1960), 93.

is also a fully-fledged, expanding knowledge and actual practice, and in this paper I will also attempt to briefly review this process by proposing a six-dimensional, dynamic model.

This approach *opportunity* is strongly supported by the fact that it is only in the New Testament that numerous examples of this approach can be found; that is, a process-like description of the development of a relationship with God. For example, 2 Peter 1:5–7 describe this process as follows: ‘For this very reason, make every effort to add to your faith goodness; and to goodness, knowledge; and to knowledge, self-control; and to self-control, perseverance; and to perseverance, godliness; and to godliness, mutual affection; and to mutual affection, love.’ It is therefore about development, overlapping steps, growth phases and a clear maturation process. In the same way, in one of the best-known parts of the Bible, in Matthew 5:3–12, a fulfilling character can be witnessed in the succession of sayings on happiness; that is, it is not just a collection of ‘wise sayings’ placed randomly next to each other.⁶⁵ The perception of an overwhelming spiritual need is followed by its emotional experience (assumption) and then, instead of anger and frustration, a humble encounter follows it. Through spiritual openness developed in this way, we can become receptive to the truth (about what needs to be done), and then by practicing the right action, one will be fit for the hardest thing: forgiving others as well. If, at this point in our development, we are not overwhelmed by religious pride (‘how great I am’), then the temper of the pure heart will swell in gratitude and wish to tell everyone about it, thereby also trying to restore God–man and man–man relationships (this is the service of building peace). In the end, this life, rooted and fulfilled in Christ, and standing up for God, almost necessarily leads to persecution.

Let us now attempt to represent the concept of Christian liberty in a process-like way through the stations of a spiritual progress. This argument in favour of dynamic conceptualisation is, on the one hand, based on the fact that the individual’s subjective perception of freedom is necessarily process-like if it is shaped by cognitions, conscious needs, external–internal struggles and evolving beliefs; and on the other hand, all change has a clear concept of freedom for one’s own use; that is, the individual’s own, unequivocal concept of liberty can only develop over a longer period of time. In addition to all these aspects, I also assume that the individual stations build on each other to some extent, and even their order is – at least in part – fixed. In this paper, I distinguish six such steps or elements of freedom that

⁶⁵ ‘Blessed are the poor in spirit, for theirs is the kingdom of heaven. Blessed are those who mourn, for they will be comforted. Blessed are the meek, for they will inherit the earth. Blessed are those who hunger and thirst for righteousness, for they will be filled. Blessed are the merciful, for they will be shown mercy. Blessed are the pure in heart, for they shall see God. Blessed are the peacemakers, for they will be called children of God. Blessed are those who are persecuted because of righteousness, for theirs is the kingdom of heaven. Blessed are you when people insult you, persecute you and falsely say all kinds of evil against you because of me. Rejoice and be glad, because great is your reward in heaven, for in the same way they persecuted the prophets who were before you’ (Matthew 5:3–12).

can be inserted into a system with respect to each other, considering it necessary to clarify and supplement them later, to expand them in a more nuanced way, and even to unify the individual elements further.

Phase 1: *Freedom to know God*. In addition to grasping the essence of the plan of salvation, this also includes the possibility and freedom of access to the knowledge of God, revealed by Him. The *basis* or *starting point* of Christian liberty is the freedom for one to know the person and will (intentions) of God on the basis of the appropriate knowledge. God makes Himself free to be known,⁶⁶ predisposing us to commune with Him without coercion, while caring diligently for those who, for some reason, cannot be taught about Him.⁶⁷

Phase 2: *Freedom of God's choice by man*. An initial intellectual decision is needed, which is then followed by many more practical ones, even in specific, more difficult situations. It is a triviality, but essential: Love is not primarily a feeling, but rather – especially in the long run – a decision based on conviction, in any type of relationship. Our relationship with God is also like this: It is good and helpful to have feelings for a person, to be passionate and grateful, and so on, such as in the form of the gratifying feelings that follow a successful ‘search’,⁶⁸ but the right beliefs are also absolutely necessary for the permanence of the relationship. This phase – looking beyond the moment or moments of the first commitment – can also be seen as the behaviour of a young Christian with their ‘first love’. It is definitely a phase of freshness, a lived joy of liberation through communion with God. In this period individual decisions and behaviour are emphatic and dominant in the whole situation, and in each of the situations that arise. The circumstances at this time seem secondary: Through the momentum of first love, the Christian soars freely against natural laws, religious tradition and even against the rules he has previously followed. He does not mind doing something that apparently has no worldly benefit, which makes no sense and which, by the logic of the world, is downright meaningless. He is driven from within by the joy that deepens his relationship with Jesus, and in the meantime becomes ‘foolish’: ‘For the message of the cross is foolishness to those who are perishing, but to us who are being saved it is the power of God’ (1 Corinthians 1:18). This is also the stage of unlimited trust; that is, the time of determination trumping visible and physically experienced things: ‘Simon answered so; Master, we have worked hard all night and have not caught a thing.

⁶⁶ The Bible is suitable for understanding the essence of true freedom and the nature of God (Romans 1:19–20; 2 Timothy 3:16: ‘All Scripture is given by the inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness’, consequently, faith comes from hearing the message, and the message is heard through the word about Christ (Romans 10:17).

⁶⁷ For this see Romans 2:11–16.

⁶⁸ ‘From one man he made all the nations, that they should inhabit the whole earth; and he marked out their appointed times in history and the boundaries of their lands. God did this so that they would seek him and perhaps reach out for him and find him, though he is not far from any one of us. For in him we live and move and have our being’ (Acts 17:26–28).

But because you say so, I will let down the nets' (Luke 5:5). This how it all sounded in the Old Testament: '[A]nd will cry out to You in our distress, and You will hear us and save us' (2 Chronicles 20:9b). Moreover, in the same place, verse 12b also shows what a *complete* conversion entails, what perfect trust, even in the midst of uncertainties, means: 'We do not know what to do, but our eyes are on You.' This, then, is freedom of commitment.

Phase 3: The phase of *mature Christianity*, the cyclical phenomenon of regaining that first love. This is the stage of deepening beliefs and consciously regaining attitudes characteristic of first love (Christian stage of life). In terms of the emphases of the third phase (or component, aspect and so on), it is the logic or freedom of Christianity within an agreed, mature, stable community. It is accompanied by the recognition of the voluntary ('free') exercise of increased responsibility within the community as a necessity. It is the assessment and practical realisation that perseverance, renewal as a Christian, and recovery in spite of temptations and failures can only be made in a living community rooted in Christ. Most vividly, the 'each other' quotation from the New Testament shows what all this means in the tide of everyday life, in a time of a growing need for strengthening.⁶⁹ Decisions, while they still must be made by the individual, take on a community dimension, if only because the 'suction effect' of the world is enormous:

So I tell you this, and insist on it in the Lord, that you must no longer live as the Gentiles do, in the futility of their thinking. They are darkened in their understanding and separated from the life of God because of the ignorance that is in them due to the hardening of their hearts. Having lost all sensitivity, they have given themselves over to sensuality so as to indulge in every kind of impurity, and they are full of greed. (Ephesians 4:17–19)

It is no accident that this is uttered in various forms over and over again: 'It is for freedom that Christ has set us free. Stand firm, then, and do not let yourselves be burdened again by a yoke of slavery' (Galatians 5:1).⁷⁰ The need for restraint, wise (mature) self-restraint, also arises where otherwise no 'border crossing' or obvious failure has taken place, only where a process of spiritual drift has begun, and it is worth recoiling in time.⁷¹ However, part of this clearer concept of freedom is the

⁶⁹ 'Love one another deeply, from the heart' (1 Peter 1:22); 'Be devoted to one another in love. Honour one another above yourselves' (Romans 12:10); 'Accept one another, then, just as Christ accepted you, in order to bring praise to God' (Romans 15:7); 'Carry each other's burdens, and in this way you will fulfil the law of Christ. If anyone thinks they are something when they are not, they deceive themselves' (Galatians 6:2–3); 'Therefore confess your sins to each other and pray for each other so that you may be healed. The prayer of a righteous person is powerful and effective' (James 5:16); 'Bear with each other and forgive one another if any of you has a grievance against someone. Forgive as the Lord forgave you' (Colossians 3:13).

⁷⁰ See also Galatians 4:26–31; 1 Corinthians 7:22; 2 Corinthians 3:17.

⁷¹ Jesus answered him, "It is also written: Do not put the Lord your God to the test" (Matthew 4:7); 'So, if you think you are standing firm, be careful that you don't fall!' (1 Corinthians 10:12);

freedom of opinion on all issues that make a difference in everyday questions (what food I like, who my favourite writer is and so on) and on religious (theological) issues that are not fundamental to the faith (non-redemption issues) and as such, as the case may be, tolerance for those with a sensitive conscience may be classified here. While the Christian grows in knowledge and true love, he never becomes perfect in the human body, even if he grows in terms of paying attention to others and so on; he will necessarily make mistakes, and so the next phase, another round of freedom, is necessary.

Phase 4: *Freedom to err*. The most miserable form of Christianity is that which focuses *only* on obeying the rules, living a life of truth, and which, while verbally acknowledging its own imperfections, disguises most of its weaknesses in practice: this attitude, when it becomes an individual and communal way of life, necessarily results in hypocrisy and religious superficiality, and ultimately in cold-blooded compliance and constant dissatisfaction. Ultimately, this is about the nature of grace, about understanding that without it the joy of life that overcomes death, the power of love with truth, and everything else that can bring one's faith to life, is lost.

A good example of what has been said so far is the suggestion that we instruct a lawyer to elaborate a biblical concept of repentance. There is a good chance that any lawyer who can read and interpret a text would soon compile a three-pronged concept, according to which repentance (already as a Christian) is caused by heart-break, by emotional and mental distancing from the act committed, 'indignity' and, on the other hand, the creed of sin (of bringing it before God or men) and, thirdly, of dealing with the material consequences (reparation). If we accepted this kind of 'working concept' the most perfect conversion would be that of Judas, who, as the Scripture records, repented of his deeds, confessed to the leaders, and 'returned' the blood reward he had received.⁷² Yet we do not see him with the other Apostles later; in fact, we read that he committed suicide. Why not, if he did everything human to correct his mistake? It is at this point that the question of grace enters the picture – or in our case, the answer: Judas could not understand, comprehend or accept one thing, that there was forgiveness for him; that either Jesus, if he followed Him, in time, or the other disciples, would forgive him. He did not understand the essence of grace, the nature of love that transcends earthly logics and goes beyond truth, the divine logic of forgiveness. Forgiveness for oneself and for other people, in other words, understanding and exercising grace, is thus the next degree of freedom. The apparent paradox is that, in our own decisions too, the fact that we can dare to add grace *freely* to the truth may only be the consequence of a more accurate understanding of 'truth' (note 69 shows the need for forgiveness in the community as a conduct without which there is no way forward – in a spiritual sense).

'You, my brothers and sisters, were called to be free. But do not use your freedom to indulge the flesh; rather, serve one another humbly in love' (Galatians 5:13).

⁷² Matthew 27:3–5.

Phase 5: *God's freedom of choice*. By God's freedom of choice (as an indisputable element of Christian liberty), we mean that although there are certain truths in the most important things in life (unavoidable physical and/or religious facts), we do not anticipate a significant part of the things that await us: We cannot estimate and predict them in advance. This 'vulnerability' is the most exciting and at the same time the most humbling aspect of Christian liberty. It involves accepting the unexpected, the unwanted, our feelings, our sense of justice, tension, offence or other kinds of difficulty. It is, similarly, difficult to accept disease, such as the Covid-19 coronavirus epidemic that is still raging, and its consequences. Teilhard de Chardin expressed this constraint on our existence: 'The passivities of our life, as we said at the beginning of this study, form half of human existence. The term means, quite simply, that that which is not done by us, is, by definition, undergone. . . . In the first place the passivities ceaselessly accompany our conscious deeds, in the form of reactions which direct, sustain or oppose our efforts.'⁷³ However, in the midst of these 'passivities', it is not easy to trust in promises by faith: for example, that God does not tempt us to do evil,⁷⁴ that He does not overload us,⁷⁵ and that He will use everything – indeed everything – to my advantage if I seek Him, His will, in my life.⁷⁶ But at the same time, this trust opens up a perspective; it further clarifies the big picture and its contours in me, and it can help me to see heaven, which is also the next 'station', even more clearly. In summary, a correct interpretation of God's freedom of choice means assessing and accepting that although one may have no or only limited influence on the events themselves, one's attitude towards events is one's own decision (one does have freedom in this regard). In a broader spiritual perspective, this also means that not only do I have the opportunity to take note of all of this, but I am free to enjoy, and even live joyfully in a situation that I can plant and water, as it were, even if the seed was not planted by me.⁷⁷ I am only a co-worker, but now I can be a part of God's work, not as a servant but as a son or a friend.

Phase 6: *The freedom of Heaven – spending most of life in the direct presence of God*. Experiencing and 'interiorising' the previous stages (phases); that is, accepting God's person and His plan for my life in action, will necessarily *also* turn my attention to the promise of the future. It thus turns towards heaven, which is the decisive part of the future (the part of my being beyond physical and bodily form), which is a wonderful place. The Bible says: 'What no eye has seen, what no ear has heard, and what no human heart has conceived, God prepared for those who love him' (1 Corinthians 2:9b). God has a perfect plan for us, of which heaven is

⁷³ Teilhard de Chardin, *The Divine Milieu*, 75.

⁷⁴ James 1:13.

⁷⁵ 1 Corinthians 10:13.

⁷⁶ 'And we know that in all things God works for the good of those who love him, who have been called according to his purpose' (Romans 8:28).

⁷⁷ 1 Corinthians 3:6.

a part – it is also designed for us. Very specifically, we read the following about heaven: ‘Since, then, you have been raised with Christ, set your hearts on things above, where Christ is, seated at the right hand of God’ (Colossians 3:1). Not only is Christ sitting there, but He is actively waiting for us: ‘My Father’s house has many rooms; if that were not so, would I have told you that I am going there to prepare a place for you? So I will go and prepare a place for you’ (John 14:2–3). This is also indicated in 2 Corinthians 5:1: ‘For we know that if the earthly tent we live in is destroyed, we have a building from God, an eternal house in heaven, not built by human hands.’ This, then, is the last stage or step, of the fulfilment of Christian liberty, by which the last element of our notion of a theological but dynamic nature has taken its place.

V Summary

We have tried to present the most exciting contexts of Christian liberty from the perspectives of several (academic) fields. The novel element was the dynamic, process-like approaches to both legal and theological research. In the former case, this proved to be expedient for formulating a more accurate concept of legal life in connection with our narrower topic through a (sociological) analysis that goes beyond the content of normative and individual sources of law and presents reality more accurately. For the latter case, we indicated that the emerging human character, which can be grasped in its development, is the natural medium of the paper – also resulting in a more precise concept. Of course, I have to admit that due to the rudimentary and experimental nature of the conceptual foundation, further research and more thorough analyses of it are required, while we hope that the findings of this paper will stimulate the research of others, either further research into Christian liberty or on other topics where dynamic, process-like approaches also seem justified.

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