

Religious slaughter and the conflict between secular and religious interests: dispelling the myth

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Abstract: *La macellazione rituale e il conflitto tra interessi secolari e religiosi: sfatando il mito* – It is commonly assumed that religious slaughter without previous stunning raises a conflict between secular and religious interests, identified in animal welfare and religious slaughter, and regarded to be opposed and irreconcilable. This contribution argues that this view is narrow-minded and has three main flaws: firstly, it adopts a sort of Manichean approach by stressing the differences between religious and conventional slaughter and ignoring the common features shared by these two methods; secondly, it assumes the existence of a dichotomy between a merely religious interest that, as such, is exclusively promoted by religious actors and, vice versa, an intrinsically secular interest advanced by secular parties; thirdly, it denies or at least neglects the role played by such factors as anti-Semitism and Islamophobia in the antipathy towards religious slaughter.

Keywords: Religious slaughter; Animal welfare; Religious freedom; Anti-Semitism; Islamophobia

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1. A conflict between religious and secular interests?

Conventional wisdom has it that animal welfare is a secular interest (pursued by conventional slaughter, which does not harm animals); this would be opposed to a ‘religious’ interest (the protection of the right to religious freedom, which would include the right to harm non-human sentient beings). One example is offered by Curnutt: “Various religions around the world prescribe certain methods of killing animals before it is proper for humans to eat them. In America, such prescriptions from two of the great religious traditions have clashed with the aims of those concerned about animal welfare [...]. Although these practices are required by religious law, are they consistent with secular laws directing that food animals be killed humanely?”¹.

This contribution aims to address the issue of the alleged irreconcilability between religious and secular interests, by discussing the three main flaws of this view. The first one is the assumption of an ‘ontological’ difference between religious and secular slaughter due not only to the reliance on distinct methods of killing animals, but also to the pursuance of opposite aims (religious freedom in one case, and animal

¹ J. Curnutt, *Animal and the Law: A Sourcebook*, Santa Barbara, 2001, 176.

welfare in the other). The second limit of the examined view is the idea that religious freedom is a mere religious interest and, as such, promoted by religious actors, whereas animal welfare is an entirely secular interest pursued by secular actors. The last, but not least, flaw is the role played by anti-Semitism and Islamophobia in spreading the myth of the clash between religious slaughter and secular-oriented Western societies. For present purposes, this analysis will be confined to the European space.

2. Religious and conventional methods of slaughter

This contribution relies on the definition of religious slaughter provided for by the Council Regulation 1099/2009 on the protection of animals at the time of killing, where slaughtering “means the killing of animals intended for human consumption” (Art. 2 (j)), according to a religious rite, that is “a series of acts related to the slaughter of animals and prescribed by a religion” (Art. 2 (g))². This definition applies to all religious denominations having rules on the ritual killing of animals for the production of food for human consumption (and not of sacrificial animals offered to a deity³). In practice only Judaism and Islam are concerned in the European territory.

Jewish and Islamic rules on the killing of animals and preparation of their meat for human consumption are very detailed, and many of them are irrelevant from a secular perspective. Lawmakers and the public opinion focus on two specific precepts, where religious slaughter differs from conventional one.

The first, and most important, difference revolves around the stunning of animals before their slaughter, which secular legal regulations regard as the technique causing less pain and suffering, according to the current state of scientific knowledge and technological progress. By contrast, religious slaughter is commonly understood as the mere slaughter without previous stunning. However, this is a narrow, and one-sided, definition that ignores the complexity of the rules prescribed – especially by shechita (the Jewish

² The text of the Council Regulation (EC) No. 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (Text with EEA relevance) is published in the Official Journal of the European Union L 303 of 18 November 2009. At State level, few European countries have provided for a legal definition of religious slaughter. Among them are the United Kingdom and Ireland, which specify that religious slaughter is not only characterized by a specific method (that is religious, in this case Jewish and Muslim), but also by a specific purpose (the production of food for Jews and Muslims). See for the United Kingdom: Schedule 12(2) of the Welfare of Animals (Slaughter or Killing) Regulations No. 731 of 1995, and Schedule 12(2) of the Welfare of Animals (Slaughter or Killing) Regulations (Northern Ireland) No. 558 of 1996; for Ireland: Article 15(2) of the Slaughter of Animals Act No. 45 of 1935. See S. Ferrari, R. Bottoni, *Legislation regarding religious slaughter in the EU member, candidate and associated countries*, 2010, <https://www.dialrel.net/dialrel/images/report-legislation.pdf>.

³ See M.-Z. Petropoulou, *Animal Sacrifice in Ancient Greek Religion, Judaism, and Christianity, 100 BC-AD 200*, Oxford, 2008; A.M. Porter, G.M. Schwartz (eds.), *Sacred Killing. The Archeology of Sacrifice in the Ancient Near East*, Winona Lake, 2012; W. Haun, *Power in the Blood: Animal Sacrifice in West Africa*, 7 May 2018, <https://www.imb.org/2018/05/07/animal-sacrifice>.

method)⁴. Furthermore, previous stunning is accepted by some Muslim communities if it only induces unconsciousness, and if death is actually the result of exsanguination⁵. For this reason a number of countries allow for a modification of the stunning parameters in the case of animals to be slaughtered according to the Islamic rite, in order to perform reversible stunning and to render animals unconscious, but not dead⁶. This accommodation is consistent with the European regulation, where the prohibition of slaughtering without previous stunning is the norm in conventional slaughter and – where an exception is made – this only applies to animals subject to methods of slaughter prescribed by a religious rite. This derogation is regarded as justified by the need to protect the right to religious freedom, as specified by Council Regulation 1099/2009⁷. Likewise, according to the European Court of Human Rights, “ritual slaughter must be considered to be covered by a right guaranteed by the Convention, namely the right to manifest one’s religion in observance, within the meaning of Article 9”⁸.

The second difference with conventional slaughter is the 180°

⁴ J. Źurek, M. Rudy, M. Kachel, S. Rudy, *Conventional versus Ritual Slaughter—Ethical Aspects and Meat Quality*, in *Processes*, 9/8, 2021, <https://www.mdpi.com/2227-9717/9/8/1381>.

⁵ H. Anil H., M. Miele, K. von Holleben, f. Bergeaud-Blackler, A. Velarde, *Religious Rules and Requirements – Halal Slaughter*, 2010, 17, https://www.dialrel.net/dialrel/images/dialrel_report_halal.pdf. See also F.S. Dalba, *Intorno agli aspetti giuridici della macellazione compiuta secondo i precetti religiosi*, in *Il Diritto Ecclesiastico*, 2003, 1395-1470; A. Roccella, *Macellazione e alimentazione*, in S. Ferrari (ed.), *Musulmani in Italia*, Bologna, 2000, 206-212; F. Roggero, *Note in tema di macellazione religiosa secondo il rito islamico*, in *Rivista di diritto islamico*, 10/2, 2016, 33-46.

⁶ This is the case of Germany. See S. Ferrari, R. Bottoni, cit., 84-92.

⁷ Recital 18: “Derogation from stunning in case of religious slaughter taking place in slaughterhouses was granted by Directive 93/119/EC. Since Community provisions applicable to religious slaughter have been transposed differently depending on national contexts and considering that national rules take into account dimensions that go beyond the purpose of this Regulation, it is important that derogation from stunning animals prior to slaughter should be maintained, leaving, however, a certain level of subsidiarity to each Member State. As a consequence, this Regulation respects the freedom of religion and the right to manifest religion or belief in worship, teaching, practice and observance, as enshrined in Article 10 of the Charter of Fundamental Rights of the European Union”.

⁸ European Court of Human Rights, *Cha'are Shalom ve Tsedek v. France*, application no. 27417/95, judgment of 27 June 2000, para. 74. See also M. Parisi, *Il caso Cha'Are Shalom Ve Tsedek: un nuovo intervento della Corte Europea dei Diritti dell'Uomo in tema di libertà religiosa*, in *Il Diritto Ecclesiastico*, 3, 2005, 176-204; A. Gianfreda, *La libertà religiosa alimentare nella giurisprudenza della Corte europea dei diritti dell'uomo*, in A. G. Chizzoniti (ed.), *Cibo, religione e diritto. Nutrimento per il corpo e per l'anima*, Tricase, 2015, 453-478; J.F. Flauss, *Abattage rituel et liberté de religion: le défi de la protection des minorités au sein des communautés religieuses*, in *Revue trimestrielle des droits de l'homme*, 12, 2001, 203-204; J. Cohen, *Kosher Slaughter, State Regulations of Religious Organizations, and the European Court of Human Rights*, in 4 *Intercultural Human Rights Law Review* 355, 368-375 (2008). Nevertheless, this acknowledgment has not led to the recognition of the Contracting Parties' positive obligation to allow the carrying out of religious slaughter without previous stunning. According to the European Court of Human Rights, the respondent State must only guarantee the right to the respect of religious dietary rules (which

inversion of the animal to be slaughtered (in particular according to shechita)⁹. This is far less debated than stunning¹⁰, and it is prohibited only by a handful of European countries¹¹.

On the other hand, both religious and conventional methods require

includes the right to have access to kosher or halal meat), and not also to perform religious slaughter: “In the Court's opinion, there would be interference with the freedom to manifest one's religion only if the illegality of performing ritual slaughter made it impossible for ultra-orthodox Jews to eat meat from animals slaughtered in accordance with the religious prescriptions, they considered applicable. But that is not the case. It is not contested that the applicant association can easily obtain supplies of “glatt” meat in Belgium. [...] [T]he Court takes the view that the right to freedom of religion guaranteed by Article 9 of the Convention cannot extend to the right to take part in person in the performance of ritual slaughter and the subsequent certification process, given that, as pointed out above, the applicant association and its members are not in practice deprived of the possibility of obtaining and eating meat considered by them to be more compatible with religious prescriptions. Since it has not been established that Jews belonging to the applicant association cannot obtain “glatt” meat [...] the Court considers that the refusal of approval complained of did not constitute an interference with the applicant association's right to the freedom to manifest its religion” (European Court of Human Rights, *Cha'are Shalom ve Tsedek v. France*, cit., paras. 80-83).

On the respect for religious and belief dietary rules, see the special issue of *Quaderni di diritto e politica ecclesiastica*, 2014; A. Ceserani, *Cibo 'religioso' e diritto: a margine di quattro recenti pubblicazioni*, in *Quaderni di diritto e politica ecclesiastica*, 2, 2016, 369-384; A.G. Chizzoniti (ed.), *Cibo, religione e diritto. Nutrimento per il corpo e per l'anima*, Tricase, 2015; G. Colombo (ed.), *A tavola con Dio e con gli uomini. Il cibo tra antropologia e religione*, Milano, 2016; A. Ferrari, *Cibo, diritto, religione. Problemi di libertà religiosa in una società plurale*, in *Stato, Chiese e pluralismo confessionale. Rivista telematica (www.statoe_chiese.it)*, 15, 2016, 1-13; A. Fuccillo, F. Sorvillo, L. Decimo, *Diritto e religioni nelle scelte alimentari*, in *Stato, Chiese e pluralismo confessionale. Rivista telematica (www.statoe_chiese.it)*, 18, 2016, 1-34; D. Milani, *L'osservanza dei precetti alimentari nelle società multireligiose: pratiche rituali e libertà di culto*, in M. D'Arienza (ed.), *Il diritto come 'scienza di mezzo'. Studi in onore di Mario Tedeschi*, Cosenza, 2017, Vol. III, 1697-1716; N. Marchei, *Cibo e religione*, in B. Biscotti, E. Lamarque (eds.), *Cibo e acqua, sfide per il diritto contemporaneo. Verso e oltre expo 2015*, Torino, 2015, 105-112; C. Piciocchi, *Le scelte alimentari come manifestazioni d'identità, nel rapporto con gli ordinamenti giuridici: una riflessione in prospettiva comparata*, in L. Scaffardi, V. Zeno-Zencovich (eds.), *Cibo e diritto: una prospettiva comparata*, Roma, 2020, Vol. 1, 113-132; C. Ventrella, *Alimentazione e diritto canonico: impurità, contagi e tecniche di tutela*, Bari, 2015; C. Ventrella, *Il rispetto delle regole del cibo in una società multiculturale*, in 1 *Euro-Balkan Law and Economics Review* 38-58 (2020).

⁹ “[A]n inverted shechita has always been the preferred method. The upright methods for large animals that have been approved by some rabbis in recent years are those in which the weight of the head is supported with a slight upward pressure by a mechanical system. While this method is approved by some rabbis and used in many countries, the preferred method is still an animal on its back, and upright shechita of cows is not accepted in Israel”. A. Z. Zivotofsky, *Religious rules and requirements – Judaism*, 2010, 14, <https://www.dialrel.net/dialrel/images/dialrel-wp1-final.pdf>.

¹⁰ See for example P.S. Pozzi, T. Waner, *Shechita (Kosher slaughtering) and European legislation*, in *Veterinaria Italiana*, 53/1, 2017, 5-19.

¹¹ For example, Greece (C. Vinci, M. Pasikowska-Schnass, B. Rojek, *Religious slaughter. Reconciling animal welfare with freedom of religion or belief*, European Parliamentary Research Service, July 2023, 28, [https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/751418/EPRS_IDA\(2023\)751418_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/751418/EPRS_IDA(2023)751418_EN.pdf)) and the United Kingdom (*Restraining systems for bovine animals slaughtered without stunning. Welfare and socio-economic implications. Executive summary*

the cut of the throat of the animals to be slaughtered, despite the widespread misperception that this is exclusive to Judaism and Islam. There is indeed a large part of the public opinion and media that associates religious slaughter to this practice, and its symbolic image has become the flowing of rivers of blood. A remarkable example of misinformation is the debate that took place in the European Parliament in the context of the approval of Council Regulation 1099/2009, which repealed and replaced the Council Directive 93/119/EC of 22 December 1993. When it was decided to maintain the possibility for the Member States to grant a derogation from the compulsory requirement of prior stunning in the case of religious slaughter, Member of the European Parliament (MEP) Ewa Tomaszewska said that this decision revealed “the true, bloodthirsty face of this Parliament”¹². MEP Cristiana Muscardini went as far as stating that “it really is schizophrenic [...] to plunge back into the past in order to return to tribal rites and to placate those who need to see blood spilt and more pointless suffering in the eyes of the victim”¹³. But red meat animals, pigs and birds are cut their throat also in conventional slaughter. States and other secular authorities prescribe it as a compulsory requirement. The Food and Agriculture Organization has detailed the bleeding techniques and has included them in the hygiene practices of slaughtering and meat handling¹⁴. Scholars have also stressed that “a quick and sufficient bleeding [...] ensures greater durability of the meat by creating conditions for the proper course of various post-slaughter processes, improving the taste and technological values of meat. Correct bleeding of carcasses is the main requirement for raw meat in order to maintain its quality. Meat from improperly bled animals is an excellent medium for microbial growth, and it can also have an unpleasant appearance”¹⁵.

The received opinion is that conventional slaughter poses no challenge to – or even protects – animal welfare, whereas religious methods of slaughter conflict with it. In the European space, States’ legal regulation is generally regarded as giving prevalence to one of the two principles, at the expenses of the other. Animal welfare is alleged to prevail where religious slaughter without previous stunning is prohibited; by contrast, the former is believed to be sacrificed where the latter is permitted.

However, in my view, the pursuit of animal welfare at the time of killing is a contradiction in terms, because the aim to protect animals is radically negated by the act of depriving them of their life. In this perspective, the quasi-Manichean opposition between conventional slaughter – regarded as pursuing animal welfare – and religious slaughter – conceived of as irreconcilable with animal protection – should be received

and key messages, June 2015, 1, https://food.ec.europa.eu/system/files/2016-10/aw_practice_slaughter_com_borest_sum_en.pdf).

¹² Verbatim report of proceedings, 6 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-06-ITM-016_EN.html?redirect#3-521.

¹³ Verbatim report of proceedings, 6 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-06-ITM-006-13_EN.html?redirect.

¹⁴ See <https://www.fao.org/3/t0279e/T0279E04.htm>.

¹⁵ J. Żurek, M. Rudy, M. Kachel, S. Rudy, cit.

with caution. The draft text of the UN Convention on Animal Health and Protection (UNCAHP) does not mention expressly slaughter¹⁶, thus avoiding the ambiguities that have characterized the legal and political language in the European space. The expressions ‘protection of animals’ or ‘animal welfare’ are recurrent in the public and political debate and in the legislation and case law concerned. This is the case of the abovementioned Council Regulation 1099/2009 on the protection of animals at the time of killing. The case law of the Court of Justice of the European Union has further contributed to the common misperception, according to which the application of *high* animal welfare standards is consistent with conventional but not with religious slaughter¹⁷. Even the recent judgement by the European Court of Human Rights, which has included animal welfare in the notion of public morals¹⁸, has not contributed to making this debate less ambiguous. The understanding of animal welfare as a legal good seems to

¹⁶ Text at <https://www.uncahp.org>.

¹⁷ Court of Justice of the European Union, Case C-497/17, Judgment of 26 February 2019: considering that “it is important to ensure that consumers are reassured that products bearing the Organic logo of the EU have actually been obtained in observance of the highest standards, in particular in the area of animal welfare” (para. 49), the Court concludes that the legislation referred to “must be interpreted as not authorising the placing of the organic production logo of the European Union [...] on products derived from animals which have been slaughtered in accordance with religious rites without first being stunned” (para. 53). Text at <http://curia.europa.eu>. See also R. Bottoni, *La Corte di giustizia dell’Unione europea e l’incompatibilità tra la produzione biologica e la macellazione rituale senza stordimento*, in *Quaderni di diritto e politica ecclesiastica*, 3, 2020, 859-883. On the case law of the Court of Justice of the European Union on religious slaughter, see F. Cranmer, *Religious slaughter, pre-stunning and the CJEU: Centraal Israëlitisch Consistorie van België*, 17 December 2020, <https://lawandreligionuk.com/2020/12/17/religious-slaughter-pre-stunning-and-the-cjeu-centraal-israelitisch-consistorie-van-belgie/>; L. Fabiano, *Benessere degli animali, libertà religiosa e mercato: la macellazione rituale nella giurisprudenza europea e comparata*, in *BioLaw Journal-Rivista di BioDiritto*, 2, 2021, 113-136; F. Guella, *I margini di intervento statale in materia di macellazione rituale e l’attenzione della Corte di giustizia per i “contesti in evoluzione”*, in *DPCE online*, 1, 2021, 1375-1386.

¹⁸ For a commentary of this decision, see G. Fattori, *Diritto religioso alla macellazione rituale vs tutela del benessere animale secondo la Corte europea dei diritti dell’uomo*, in *Quaderni costituzionali*, 2, 2024, 472-474; H. Ní Chinnéide, C. Van de Graaf, *Prohibition of Religious Slaughter In Executief van de Moslims van België and Others v. Belgium: Process-Based Review and a New Legitimate Aim*, 26 Aprile 2024, <https://strasbourgobservers.com/2024/04/26/prohibition-of-religious-slaughter-in-executief-van-de-moslims-van-belgie-and-others-v-belgium-process-based-review-and-a-new-legitimate-aim/>; E. Verniers, *Executief van de Moslims van België and Others v. Belgium: the ECtHR’s Perspective on Balancing Animal Welfare with Religious Freedom*, 8 May 2024, <https://strasbourgobservers.com/2024/05/08/executief-van-de-moslims-van-belgie-and-others-v-belgium-the-ecthrs-perspective-on-balancing-animal-welfare-with-religious-freedom/>; A. Cupri, *La scienza come strumento per coniugare la libertà religiosa e il benessere animale: riflessioni su una recente sentenza della Corte europea dei diritti dell’uomo*, in *Quaderni di diritto e politica ecclesiastica*, 3, 2024, in press. On the broader context of the development of animal law, see C. Piciocchi, *Diritti della natura e diritti degli animali*, in *DPCE Online*, Sp-2, 2023, 251-274; C. Piciocchi, *Literature Review: The Language of the Juridification Process of Animal Law*, in *Comparative Law and Language*, 3/1, 2024, 92-94.

be still deeply influenced by national and local histories and cultural traditions – rather than standards of protection shared at least at European level. Practices perceived of as traditional by the majority as well as commercial uses of animals in conventional markets tend to be more accepted. Minorities are typically regarded as treating animals in a crueler way. For example, Western societies at large know little about industrialized egg production, where male chickens are considered redundant and killed in very painful ways, like maceration or suffocation, without previous loss of consciousness. Selective indignation is a widespread attitude. In order to promote animal welfare, the Belgian region of Wallonia¹⁹, Norway and Iceland have prohibited religious slaughter without previous stunning. However, in Wallonia, a major producer of foie gras, force-feeding of geese and ducks is still legal, whereas Iceland and Norway (together with Japan) are held to have killed 38,539 whales between 1986 and 2018²⁰. In Denmark, where religious slaughter without previous stunning is also prohibited, whale hunting for commercial purposes is forbidden, but *grindadráp* – traditional communities' whaling in the Faroe Islands – is not²¹.

Lastly, it should be noted that the almost obsessive concern about the issue of stunning often leads to neglect a number of fundamental aspects in protection of animals. The improvement of the standards of animal welfare should be pursued in all stages of life, and not only in the moments immediately before death. There is an urgent need for the 'humanization' of the procedures related to animals' farming, loading, transport, unloading, lairaging and immobilization, as stressed inter alia by MEP Friedrich-Wilhelm Graefe zu Baringdorf during the discussions on the approval of Council Regulation 1099/2009²².

3. The orientation of the interests at stake and of the actors

¹⁹ R. Bottoni, *I recenti decreti delle Regioni vallona e fiamminga sulla macellazione rituale nel contesto dei dibattiti belga ed europeo in materia*, in *Quaderni di diritto e politica ecclesiastica*, 2, 2017, 545-580.

²⁰ See <https://www.theguardian.com/environment/2018/sep/04/japan-killed-50-whales-in-antarctic-protected-area-data-shows>.

²¹ H.M. Mamzer, *Ritual Slaughter: The Tradition of Pilot Whale Hunting on the Faroe Islands*, in *Frontiers in Veterinary Science*, 8, 2021, <https://www.frontiersin.org/articles/10.3389/fvets.2021.552465/full>.

²² He stated: "in this debate I think the issue of animal welfare has been narrowed down too much to the question of whether or not we should use stunning. It is not that I am against stunning, it is just that we must realise that stunning was originally introduced, not out of concern for animal welfare, but for economic reasons, to be able to slaughter animals in factory farming, which involves mass killing in slaughterhouses, without affecting and lessening the quality of the meat through the anxiety caused by slaughter. Thus with religious slaughter it is about the high art of slaughtering without the animals experiencing additional suffering, and with the issue of stunning in slaughterhouses, it is not only about whether or not stunning should be used, but also about the handling of animals during transportation and during the waiting time in the slaughterhouses". Verbatim report of proceedings, 5 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-05-ITM-015_EN.html?redirect.

concerned

This contribution argues that animal welfare is not a merely secular interest, just like the right to religious freedom (which, as mentioned, includes the possibility to slaughter animals according to a religious rite) is not exclusively a religious interest. In fact, each of them can be promoted by both religious and secular actors.

Animal welfare is not an alien concept in Judaism and Islam. Jews and Muslims dealt with this issue well before the enactment of the first secular legal measures to protect animals. One of the 7 Noahide laws is “Do not eat a limb of a living animal”²³. Today this may sound like an odd rule, but it should be placed in a historical context where butchering could start while the animal was alive and even alert. Clubbing, stabbing and hanging animals upside down were widespread practices in Christian communities, which had no rules on animal welfare. Therefore, religious slaughter should be seen first and foremost as an ancient practice to kill animals in a humane way according to the knowledge and techniques of the times. Conventional slaughter originated instead in the context of the industrial revolution and of “the rationalization, scientification and nationalization of breeding, trade, butchering, selling meat and utilization of dead animal bodies”²⁴, with an increase of the differences among countries in cultural appreciation of animals²⁵.

These considerations have been well developed by Italy’s National Bioethics Committee. Its opinion on religious slaughter and animal pain has highlighted that Jewish and Muslim rules address the problem of the legitimacy of killing animals to produce food for human consumption. The killing of an animal is not something ordinary and it may not be carried out without reflecting on the fact that it causes the death of a living being. The gravity of this act is emphasized by the sacralization of the related procedure, which reminds that other living beings are not freely available to human beings but may be used only in a context whose horizon is defined by God. This meaning has been affected by modern, industrial methods of slaughter. Contemporary societies (in countries like Italy) “have lost the direct relationship between men and farm animals, which characterised the past and somehow ‘humanized’ the moment when an animal was killed. Slaughter aiming at the production of food has been depersonalized and organized according to economy- and industry-related needs”²⁶.

According to Italy’s National Bioethics Committee, the ethical value

²³ S. Last Stone, *Jewish law. Dynamics of belonging and status*, in R. Bottoni, S. Ferrari (eds.), *Routledge Handbook of Religious Laws*, London, 2019, 161.

²⁴ A. Leiderer, *History of Animal Slaughter*, in M. Roscher, A. Krebber, B. Mizelle (eds.), *Handbook of Historical Animal Studies*, Berlin, 2021, 542.

²⁵ *Ibi*, 543.

²⁶ Italy’s National Bioethics Committee, *Opinion concerning religious slaughter and animal pain*, 19 September 2003, 9, https://bioetica.governo.it/media/1870/p57_2003_macellazioni-rituali_it.pdf. The translation into English is mine. For a non-academic treatment of this issue, see A. Giracca, *The Art of Butchery*, 2015, <https://aeon.co/essays/what-happens-when-carnivores-lose-their-taste-for-butchery>. The subtitle of the article aptly reads: “How we lost touch with animals, life and death, and learned to find butchery repulsive while

of religious slaughter should not be neglected. Detailed rules inter alia on the sharpness of the blade or the way to perform the cut pursue the aim to reduce animal pain, according to the knowledge and the techniques that were available when religious slaughter was codified. One may as well legitimately ask whether the progress of such knowledge and techniques allows room for revising some of those rules. Nonetheless, it should be reiterated that religious slaughter was codified to prevent any avoidable suffering and, as such, it lacks any intention to be cruel against animals²⁷.

Scientific debate does take place in religious communities. As noted, a few Muslim communities accept previous stunning, if it is reversible. Some exceptions to the no-stunning rule have been reported also within Judaism. The Jewish community of Stockholm reportedly accepted electrical stunning of cattle between the 1950s and the 1970s, before Sweden prohibited this method of stunning²⁸. Dr. Hanna Rheinze, a German Jewish scholar, maintains that shechita is the least painful method to slaughter animals according to the evolution of scientific knowledge over time. Thus, nowadays, religious slaughter with previous stunning should be understood as compliant with Jewish law²⁹.

On the other hand, religious freedom and religious slaughter may not be qualified as mere religious interests. Contemporary democratic States are bound by international and national legal provisions to the respect for fundamental freedoms and human rights, including the right to religious freedom. Thus, the protection of this right should be considered as an interest expressed by religious communities as much as by democratic States.

As regards specifically the promotion of the right to perform religious slaughter without previous stunning, one may not neglect the role played by such secular actors as business operators. Kosher and halal markets have become increasingly attractive for non-Muslim and non-Jewish companies – and even more so in times of economic crisis³⁰. In Poland the debate on the carrying out of religious slaughter without previous stunning has been monopolized by the representatives of the meat industry³¹.

There have been also cases of promotion of halal products on the part of State bodies. On 30 June 2010 four Italian ministries (foreign affairs;

eating more meat than ever”.

²⁷ Italy’s National Bioethics Committee, cit., 10.

²⁸ S. Ferrari, R. Bottoni, cit., 176-177.

²⁹ H. Rheinze, *New Aspects of an Old Technique: Ethical Dimensions of Jewish Slaughter (Shechita), Animal Welfare and Stunning*, 2010, <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=371aa7caddb8f2694e5ae42691d6f43f8a056e81d>.

³⁰ As regards the attractiveness of halal markets for Italian and Spanish business operators, see respectively E. Toselli, *Le diversità convergenti. Guida alle certificazioni kosher, halal e di produzione biologica*, Milano, 2015, 131 and 225-227; Á. Liñán García, *Aspectos controvertidos de la libertad religiosa en España y Europa. Alimentación halal y kosher*, in *Estudios constitucionales*, 15/2, 2017, 348-349.

³¹ A. Szumigalska, M. Bazan, *Ritual Slaughter Issue in Poland: Between Religious Freedom, Legal Order and Economic-Political Interests*, in 7(1) *Religion and Society in Central and Eastern Europe* 54 (2014); K. Tereszkiewicz, K. Choroszy, P. Tereszkiewicz, *Dispute on ritual slaughter*, in *Acta Scientiarum Polonorum Zootechnica*, 16/1, 2017, 5.

economic development; health; agricultural, food and forestry policies) signed an agreement to cooperate with a Muslim organization, called Co.Re.Is, in order to promote the trademark *Halal Italia*. This has been established as a “quality certification recognized by the Italian State to export products consistent with Koranic rules”, with the aim to provide “interested associations and companies with opportunities to enter Muslim-majority countries’ markets”³². Products that obtain the certification *Halal Italia* are not only meat from animals slaughtered according to the Islamic rite. Other types of food as well as cosmetic, medical, pharmaceutical, insurance and financial products are also included³³. Nonetheless, in my view, the State promotion of this trademark may hardly be imagined outside a legal context where the carrying out of religious slaughter without previous stunning is permitted.

In 2014 – when Russia had prohibited the import of fruits, vegetables, meat, fish, milk and dairy products from all EU Member States, the United States, Australia, Canada and Norway, in reaction to the sanctions they imposed during the Ukrainian crisis – the Lithuanian Minister of Agriculture estimated that “the export ban could cost Lithuanian business up to 87 million euros (\$110 million) by the end of 2014 without new markets”³⁴. New business opportunities have thus been seen in the kosher and halal markets. At this purpose, a new law has been approved, to allow the slaughter of animals without previous stunning according to the Jewish and the Islamic rites³⁵. In 2015, the first year of application of the new law, 10% of the country’s beef exports consisted of approximately 420 tonnes of

³² The translation into English is mine. The original text is available at https://www.salute.gov.it/imgs/C_17_pagineAree_1249_listaFile_itemName_6_file.pdf. On certification see P. Lo Iacono, *La rilevanza dei simboli religiosi nel campo economico e commerciale: il marchio e la pubblicità (traendo spunto dagli Accordi spagnoli con ebrei e islamici)*, in *Il Diritto Ecclesiastico*, 1997, 179-220; V. Fronzoni, *Libertà religiosa, sicurezza alimentare e halal defense. In margine alle linee guida OSCE 2019*, in *Jurnalul Libertății de Conștiință*, 9/1, 2021, 624-633; A. Giuffrida, *La certificazione di conformità del c.d. Halal Food*, in *Il diritto dell'economia*, 30/1, 2017, 103-105; F. Leonini, *La certificazione del rispetto delle regole alimentari confessionali: norme statuali e libertà religiosa*, in A.G. Chizzoniti, M. Tallacchini (eds.), *Cibo e religione: diritto e diritti*, Tricase, 2010, 145-150; L. Scopel, *Le prescrizioni alimentari di carattere religioso*, Trieste, 2016, 11-12. On Halal Italia certification, see R. Bottoni, *The Italian Experience with Halal Certification: The Case of Halal Italia*, in *Stato, Chiese e pluralismo confessionale. Rivista telematica (www.statochiese.it)*, 6, 2020, 1-18.

³³ See the official website <https://www.halalitalia.org>. See also A. Fuccillo, *Il cibo degli dei. Diritto, religioni, mercati alimentari*, Torino, 2015; A. Fuccillo, F. Sorvillo, L. Decimo, *Diritto e religioni nelle scelte alimentari*, in *Stato, Chiese e pluralismo confessionale. Rivista telematica (www.statochiese.it)*, 18, 2016, 21-22.

³⁴ Cited in <https://www.dw.com/en/facing-russia-sanctions-lithuania-oks-ritual-slaughter/a-17948859>.

³⁵ Law no. XII-1147 of 23 September 2014, entered into force on 1 January 2015.

meat from bovine animals slaughtered according to the Islamic rite³⁶.

4. Anti-Semitism and Islamophobia

Past and recent history offers a few examples of prohibitions on (or proposals to forbid) religious slaughter without previous stunning, whose main justification has been hostility to Jews and, more recently, to Muslims.

The first prohibition in the European territory was enacted in 1893 in Switzerland, as a reaction to the emancipation of the previous decades. Following a referendum in 1866, Jews were recognized the right to settle anywhere in the country³⁷. In 1874, the constitution was revised to give citizens more civil rights, including freedom of religion. In the subsequent years, an exodus which had started from Russia rose concerns in Switzerland about an influx of Eastern Jews, which added to the traditional prejudices against this minority. In this context the first successful popular initiative in Swiss history was launched³⁸. On 20 August 1893, 60.1% of voters approved the introduction of a new clause in Art. 25bis of the constitution, prohibiting any type of killing of any kind of animals without previous stunning³⁹. According to a scholar, “[i]t would seem an exaggeration to define the Swiss nation as inherently antisemitic in light of these results. The motives people had for choosing to ban ritual slaughter – and to override the constitution’s guarantee of religious freedom – were actually complex. Nevertheless, the events leading up to the plebiscite did reflect a set of deep-seated prejudices regarding the “Jewish Question”, with religious, cultural and not lastly economic motivations masked by “honourable” principles such as equality before the law and, of course, concern for the well-being of animals. It is thus not surprising that Swiss animal welfare organizations continued to attract all sorts of antisemites [...]”⁴⁰.

A study on Norway and Sweden, where religious slaughter without previous stunning is prohibited, has also concluded that animal protection often disguised antisemitic feelings. The prohibitions were first enforced respectively in 1929 and 1937 and – given the historical context – they aimed at hitting shechita. At that time, there was not a comparable debate in

³⁶ See <https://www.foodnavigator.com/Article/2016/01/08/Lithuania-boosted-by-halal-meat-exports#>.

³⁷ See https://www.swissinfo.ch/eng/society/150-years-of-equality_when-swiss-voters-gave-rights-to-jews/41909380.

³⁸ J. M. Efron, *The Most Cruel Cut of All? The Campaign against Jewish Ritual Slaughter in Fin-de-Siecle Switzerland and Germany*, in *52 Leo Baeck Institute Yearbook* 167–184 (2007). Incidentally, this has been the same instrument used to prohibit the building of minarets (2009) and of face coverings in the public space and in places open to the public (2021). In all such cases the constitution has been amended. In 1978 the prohibition on religious slaughter without previous stunning was removed from the constitution and enshrined in the Animal Welfare Act. See J. Lang, *Switzerland’s rocky road to religious freedom*, 23 March 2023, <https://blog.nationalmuseum.ch/en/2023/03/switzerlands-rocky-road-to-religious-freedom/>.

³⁹ See <https://www.bk.admin.ch/ch/i/pore/vi/vis1.html>.

⁴⁰ B. Mesmer, *The Banning of Jewish Ritual Slaughter in Switzerland*, in *52 Leo Baeck Institute Yearbook* 191–192 (2007).

Denmark⁴¹, where this practice was banned much later, in 2014. A scholar has argued that this prohibition “does little or nothing to promote animal welfare and is in fact probably a reflection of Danish society’s discomfort with the country’s growing Muslim population”⁴².

Recent, deplorable examples of Islamophobia are offered by the already mentioned debate to approve Council Regulation 1099/2009. MEP Lydia Schenardi affirmed that she was “totally against the idea of permitting exemptions in the framework of religious rites”, and called for the complete prohibition of such practices, which “are from another age and can be rightly termed barbaric”⁴³. According to MEP Ewa Tomaszewska, “the ritual slaughter of animals, which causes them extreme suffering, is inconsistent with our civilisation. [...] Such slaughter is, rather, a custom of savage and primitive tribes, and we should not agree to it”⁴⁴. MEP Cristiana Muscardini said to oppose “tribal butchery”⁴⁵. MEP Carl Lang’s intervention stood out as a remarkable example of Islamophobic discourse in the political arena: little mention was made to animal welfare, and none to Jews who also perform religious slaughter without previous stunning⁴⁶.

⁴¹ M.M. Metcalf, *Regulating Slaughter: Animal Protection and Antisemitism in Scandinavia, 1880-1941*, in *Patterns of Prejudice*, 23/3, 1989, 32-48; A. Snildal, *An Anti-Semitic Slaughter Law? The Origins of the Norwegian Prohibition of Jewish Religious Slaughter c. 1890-1930*, PhD dissertation, University of Oslo, 2014, <https://www.duo.uio.no/bitstream/handle/10852/82684/1/PhD-Snildal-2014.pdf>.

⁴² R.J. Delahunty, *Does Animal Welfare Trump Religious Liberty? The Danish Ban on Kosher and Halal Butchering*, in *San Diego International Law Journal*, 16/2, 2015, 341.

⁴³ Verbatim report of proceedings, 6 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-06-ITM-006-13_EN.html?redirect.

⁴⁴ Verbatim report of proceedings, 6 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-06-ITM-016_EN.html?redirect#3-521.

⁴⁵ Verbatim report of proceedings, 6 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-06-ITM-006-13_EN.html?redirect.

⁴⁶ He stated that “[b]y affirming that animals must be slaughtered without unnecessary suffering, except in the case of religious rites, most of our House has demonstrated both its hypocrisy and its cowardice. ‘Religious rites’ mainly refer to the ritual slaughter practiced during the Muslim festival of Eid-al-Adha, when hundreds of thousands of sheep have their throats cut. Legal recognition of such a practice is part of a much wider phenomenon, that of the Islamisation of our societies. Our laws and customs are changing progressively to accommodate Islamic Sharia law. In France, more and more local authorities are indirectly funding the construction of mosques. School menus are drawn up to meet Islamic dietary requirements. In some cities, such as Lille, the swimming pools have women only sessions. By creating the Conseil français du culte musulman in 2003, Mr Sarkozy, then Minister of the Interior, introduced Islam into France’s institutions. To put an end to these developments, we must reject the Islamically correct, reverse the flow of non-European migration and create a new Europe, a Europe of sovereign nations, without Turkey, affirming the Christian and humanist values of its civilization”. Verbatim report of proceedings, 6 May 2009, https://www.europarl.europa.eu/doceo/document/CRE-6-2009-05-06-ITM-006-13_EN.html?redirect.

5. Concluding remarks

The conflict between the opponents and the supporters of religious slaughter is typically described as the “contrast of interests between those who aim at preventing animal pain and those who practice the two faiths [Judaism and Islam]”⁴⁷. However, the heated debate on this practice is based on some ungrounded assumptions, which ‘muddy the waters’ and exacerbate tensions. One is the widespread misperception that conventional slaughter – which aims at depriving animals of their life just like religious slaughter – is consistent with the application of *high* animal welfare standards. Equally problematic is selective indignation: traditional practices, or commercial uses of animals in conventional markets – such as the killing of redundant male chickens in industrial egg production, force-feeding of geese and ducks for the production of foie gras, and whale hunting – do not attract the same stigma as religious slaughter.

This contribution has also challenged the idea of a conflict between religious actors promoting a religious interest and secular actors advocating the respect for such secular principles as animal welfare. There are in fact more actors involved, who further varied interests: in particular, the meat industry representatives that support the production of meat by a method of religious slaughter in view of an economic profit (and not in support of religious minorities’ right to religious freedom), or individuals and groups whose depiction of religious slaughter as a barbaric practice is a manifestation of an anti-Semitic/Islamophobic (and not pro-animals) orientation.

As a final remark, I would like to stress that the stigmatization of religious slaughter does not improve animal welfare standards, but it alienates religious groups and is an obstacle to any possible dialogue. Furthermore, a fair compromise does not require the relinquishment of either religious freedom or improvement of animals’ well-being, but rather the honest acknowledgment that there are good and bad practices in both conventional and religious slaughter.

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⁴⁷ D. Acciaroli, *La macellazione rituale nella tradizione ebraica e musulmana*, in S. Castignone, L. Lombardi Vallauri (eds.), *Trattato di biodiritto. La questione animale*, Milano, 2012, 485.

