IOTA HEN and the Normative T. On Interpretation of Religious Norms

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For verily I say unto you, Till heaven and earth pass,
one jot or one tittle shall in no wise pass from the law, till all be fulfilled.

1. Normative 'I' in fundamental religious norms (instead of Introduction)

I would like to commence with a Lesson of History.

In the fourth century, there emerged maybe the most serious controversy about one letter in history. The Fathers of the Council of Nicaea (325) have used the word *homoousios* in order to express the relation of the Father's nature to the Son's. Based on its etymology, the compound Greek word means 'of the same essence', or as used more philosophically, 'of the same or similar substance' (Bridge 1910). I emphasise: same, OR similar. In the Catholic Encyclopaedia, it is explained that because 'the unity of the Divine nature wasn't questioned, the word carried the fuller meaning: "of one and the same substance"' *(ibid).* Thus, the conditions outside the ambiguous sign - in fact, people's faith and lack of doubt - directed the believers to pick the orthodox meaning. The meaning which, moreover, corresponded to the simpler, more concrete and unsophisticated meaning.

For an excursive example, let us take the word 'dog'. In common sense it is used to mean *canis lupus familiaris.* Nevertheless, there are other uses. I do not refer to the content of Wikipedia article 'Dog (disambiguation)', listing several animals, people, music, and other, but to the popular use of the word as a pejorative, ***e.g.*** for 'something worthless or of extremely poor quality' ('dog'). In consequence, 'dog' means (at least) *'canis lupus familiaris* OR something worthless' (even if there are expensive breeds). Only the context, outer conditions fix which of the meanings should be chosen. If somebody hears that he is like a dog, it may mean that he is on all fours, or devoted like one, or that he is perceived as worthless (if somebody hears that he or she is a bitch, it may mean even more). Due to common sense, body language and rather simplistic *double entendre,* the right meaning is easy to be found in every situation.

Now from dog back to God. Even if God is considered to be simple, statements concerning the latter are rarely so simplistic; nor is it usually possible to recourse to body language while interpreting a text taken as revelation. There is a temptation to use common sense exaggeratedly, developing it to a philosophy - making common sense questionable for the sake of common sense. In our history, this is what was done by the group usually referred to as Arians. These Syrian rationalists could not take as granted, that the substances of Father and Son are identical; there had to be time when Son was not there. Some might say they did not believe unconditionally in the Divine unity. An open trouble came to light. For Christianity had become an allowed religion, the controversy was public. In the beginning, the Apostle-like Constantine treated it

> 'as an idle dispute about words and enlarged on the blessings of peace. The emperor, we should call to mind, was only a catechumen, imperfectly acquainted with Greek, much more incompetent in theology, and yet ambitious to exercise over the Catholic Church a dominion resembling that which, as Pontifex Maximus, he wielded over the pagan worship. From this Byzantine conception

> (labelled in modern terms Erastianism) we must derive the calamities which during many hundreds of years set their mark on the development of Christian dogma.' (Barry 1907.)

Rather sooner than later the Council convened in Nicaea, where the majority denounced Arian proposal for a Creed, pronouncing it with the word *homoousios* - probably with the common sense and orthodox meaning 'consubstantial'. As rebels, the most dogged of the Arians were banished. Although the Emperor changed his mind and was finally baptised by one of them, a religious peace was not achieved, and the 'idle dispute about words' went on.

The moderate party who tended to interpret the word *homoousios* rationally as 'of similar substance', and in order to preclude the disambiguation, adopted the Creed with *homoiousios* instead. Did you notice the difference? An 'i\ The meaning of which makes the word unambiguously mean 'of similar substance' - and thus not 'consubstantial' *(ibid.).* The decades of theological havoc that followed show that a single jot - *iota hen* , the smallest letter - may have importance. *Vice versa,* if the jot is lost, the change may be tremendous.

Much of the importance the jot has, is ascribed or *adscripted,* not free. The impact a jot has does not depend on the jot itself, but on the context and our perception. If we consider the jot as a taboo, holy, normative or significant, it has meaning. If not, an *'i'* makes no difference. For somebody who does not know the stoiy of'i', it is just a mumble.

Colloquial Estonian verb *patrama* may be translated as 'to chatter', or 'to talk rapidly in a foolish or purposeless way' ('chatter'); the same may be the meaning of *patter* in English too, beside other meanings ('patter' a). Into Estonian, the word has been borrowed from low German, where it may have meant to 'chat' already, as does Letzebuergesch *poteren.* However, etymologically the meaning has been - like that of middle English *patren* - 'to recite paternosters' (Weber 1999), maybe mechanically ('patter' b). For the profound meaning of the prayers did not reach the hearers, it sounded for them like something purposeless. Whether the meaning reached the patterers, is not known. Yet, it had a purpose for them, even if habitual: the habitude in fact could have been the reason.

That a jot or a tittle of sound does make a difference is also seen from the following digression. In the native language of South-East Estonia, negation of a verb is expressed by a single *'i'* furnished with a glottal stop. As well known, a negation turns the phrase upside down. It has been noticed that this peculiarity is very difficult for other Estonians. In official Estonian negation is built in another manner. Kalle Eller has experienced that though the vocabulary may be memorised by foreigners, and even language spoken after decades of training, the negation is almost never acquired:

> 'Suuros erinevuses tulo tunnista tegusyna eitus ... Ei tule om lite voimalusona piaaigu sama vSro keelengi, a tuu voi ollaq ka pooret: tulo-oiq, tulo-iq... Lounaeestlaisi sekka trehvanu poh'aeestlane opp kiil arq suuromba osa synavarast ja kato-kolmokiimne aastaga perast kyn5las voro vai seto kiilt peris ladusalo, a piaaigu kunagi saa-aiq toimo eitusega.' (Eller.)

The contextual or conditioned importance of a jot is particularly true if religious norms are at stake. On some occasions the norms concern theology proper, as in the case of *homoousios* or if anthropomorphisms used for God are treated, like God's eye. It may be substantial to know, how many eyes may be ascribed to God (Farrukh; *idem,* van Ess).

The practical impact of the truth concerning, for instance, the eyes, and especially its effect for everyday life may seem to be of low importance. Thus it seems to be especially in the agnostic, liberal and indifferent community of today. However, an approach of denying the context of a troublesome jot in order to gain peace has been made already in the Sirmian Manifesto (357) where the assembled prelates:

> '.. recommended the disuse of the terms *ousia* (essence or substance), *homoousion* (identical in essence, or substance), and *homoiousion* (similar in essence, or substance), "by which the minds of many are perturbed"; and they held that there "ought to be no mention of any of them at all, nor any exposition of them in the Church, and for this reason and for this consideration that there is nothing written about them in divine Scripture and that they are above men's knowledge and above men's understanding".' (Clifford 1907.)

The proposal has not been accepted. Hushing up the controversy was not an option; the *'i'* had to be discussed, and fought for.

There is something irresistible and enthralling in the 'i\ An individual or a group may be identified by it, and a society or whole civilisation built on it. In that way the small 'i', furnished with a meaning, becomes a *super-i,* which 'monitors and controls the ['i'] like a judge or a censor' (Colman 2003, p. 720). The manner of this transformation is analogous to the description of the development of super-ego. Using the. words of the propagator of the concept, Sigmund Freud, an over-I or super-ego is in fact constructed on the model of predecessors' super-ego, not on themselves; 'the contents which fill it are the same and it becomes the vehicle of tradition and of all the time-resisting judgements of value which have propagated themselves in this manner from generation to generation' *(ibid.).* Identity and ideals, but also norms and taboos are preserved in the transformed 'i' and passed on. Their presumed antiquity makes them particularly precious.

However, the 'tradition' is usually not older than some generations; sometimes it is longer but not as long as believed. For instance, the number of sacraments in the Church has not to be fixed to seven *(cf.* Berman 1983, p. 71). The seven is an 'i'.

Such a settlement of the number of sacraments, or the times and orders of prayer or fasting is ultimately comparable to the settlement of the order of letters in the Phoenician alphabet (and every other alphabet deriving there from), for which no reasonable explanation is known. Comparing it to the Indian syllabary that is scientifically grounded, the Phoenician alphabet is merely a cultural caprice, an artefact.

During an individual development, there may emerge several psychosocial crises, as proposed by Erik Erikson (Berger 2005, p. 36). Understandably, long-lasting crises may be met also in the development of a group - even if it is centred on an 'i', and though the last may have taken control over it. For instance, the community may have difficulties trusting the others, or 'feel inferior and unable to do anything well', feel guilty or just stagnate *(ibid.,* p. 37). The 'i' in control does not always avoid crises; it may cause them, but also mitigate their influence, I suppose.

Are some of the crises connected to the 'i'? Is there a causal link? Not directly, methinks: the cause is how the *'i' has been interpreted or perceived, and what kind of a super-'i' has been constructed. A *homoousion* may be interpreted with contradictory meanings. Which of the meanings is chosen, depends on what is left unquestioned, what is taken as granted. Those unquestioned questions form the identity of a religious world-view with its peculiarities. They identify the group as different from the rest. They are fundamental.

2. Normative 'I' in behavioural religious norms

Much more evident is the practical impact of a normative 'i' in the occasion of behavioural religious norms, let them be of technical, legal or moral character. Based on the analogy of a super-ego, it may, for instance, develop a *super-'i' lacuna,* tolerating 'obviously immoral actions that are not forbidden' by its super-'i' (Colman 2003, p. 720).

Starting from the norms of moral character, the rigour of morality may be either balanced as regards the requirements ascribed to others and requirements admitted by the person himself or herself, or quite unbalanced. Almost in every religious tradition the double moral standards and hypocrisy have been condemned. Jesus has asked: 'And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?' (Matthew 7:3). Qur'an also condemns hypocrisy repeatedly, as do other religious sources. However, there exist some kind of double standards in all of them. Due to the inseparable bond between faith norms and norms of religious moral it is quite presumable that ***e.g.,*** any noticeable activity of Protestants and Roman Catholics is considered to be *proselytising* in Orthodox Russia, and *vice versa,* such activity performed by the Orthodox, is just part of the local tradition.

Also, rather peculiar is the phenomenon of idolising a jot among norms of technical character. Whether to celebrate a Mass facing the people or not, whether to use two or three fingers for the sign of cross, whether to allow combining of prayers, or to sing in a church accompanied by an instrument or not. Many religious groups and denominations, in fact, identify themselves not by a fundamental 'i', but by a *digit* added or subtracted.

In the following part of the article, the third type of behavioural norms are addressed, namely the norms of religious law. It is true that only seldom a difference can be made between the legal and non-legal norms. However, only some of the norms have a legal character *eo ipso,* though other types of norms may be *legalised* by positive, observable legal practice. With every legal norm added, the bulk of non-legal norms diminishes.

In order to determine what (and better: *how)* is law, the following fragment of the late Harold J. Berman is almost ineluctable to shed light on the issue:

> 'The conventional concept of law as a body of rules derived from statutes and court decisions - reflecting a theory of the ultimate source of law in the will of the lawmaker ("the state") - is wholly inadequate to support a study of a transnational legal culture. To speak of the Western legal tradition is to postulate a concept of law, not as a body of rules, but as a process, an enterprise, in which rules have meaning only in the context of institutions and procedures, values, and ways of thought. From this broader perspective the sources of law include not only the will of the lawmaker but also the reason and conscience of the community and its customs and usages.' (Berman 1983, p. 11.)

Being nothing new, this methodological directive applicable *par excellence* for the study of religious systems of law, may be effectively combined by the views of the early 20th century representatives of the so-called legal realism like Eugen Ehrlich or Leon Petrazycki. The first has found that an investigator of law should first be concerned with 'concrete usages, relations of domination, legal relations, contracts, articles of association, dispositions by last will and testament. .. [0]nly the concrete usages *[etc.*] yield the rules according to which men regulate their conduct' (Freeman 2005, p. 720, quoting Ehrlich's *Principles of the Sociology of Law).* The latter, in turn, explained the psychological mechanism how (living or) observable law is created, namely by blanket impulsions of duty 'to which another person's right corresponds, for example, promisor's duty as matched with promisee's right' (Gorecki 1975, p. 6). Both of the approaches have been designed mainly for secular law; their theoretical universality is demonstrable from their fittingness to religious law.

As such, the applicability of law is not limited just to inter-human relations. Thus the rights or duties may belong to animals, gods or ghosts, in addition to humans. The theory of redemption by St. Anselm of Canterbury is an instance of laws directing the acts of God. Furthermore, the theory of redemption of Martin Luther follows the same paradigm, however preferring God's power of amnesty instead of more legalistic approach - as does Qur'an: 'If We pardon some of you, We will punish others amongst you, for that they are in sin' (9:66).

The issues of law, lawful consequence (reward), justification, pardon and free will have been the leading topics in all Abrahamic religious revolutions, including the birth of Protestantism. In Judaism the principal part of revelation is called *the Law (To*^{w}*ra*^{h}), and in both Judaism and Islam the 'clergy' is composed, in fact, of lawyers, advocates of God to whom most religious rights are due. There has even been a classifier of 'law religions' - even if the religions have a too complex structure to be reduced to mere law.

Two other issues need addressing here. There may be a discrepancy between the Ehrlichian concept of *living law* and the law (or *the Law)* posited by revelation. However, as in secular legal systems the law-giver may posit statutes and codes containing rules which never will be accepted and *lived according to,* so also revealed positive law may contain rules which are not followed, *i.e.* religious rules which never become religious law. Thus, the legal reading of the respective revealed (or other normative) text should never be taken as a true description of religious law, even if it may be an important source for the investigator as regards the will of God, rules of faith or else. A given rule that is never applied in reality, is in fact evidence of a contrary or contradictory rule in *living law.* Similarly, if a revealed rule is applied in a manner totally diverted from the revealed form, it should not be seen dogmatically as a heresy or breaking the rule but rather as true content of the rule as applied by practitioners.

As an example could be named the harsh punishments provided in the Jewish Law that have not been carried out for at least two thousand years due to the non-existence of Jewish state (Cohen 1995, p. 190). It is in this respect possible that the motto of the article could be interpreted: if due to Roman occupation the accomplishment of Jewish penal law was not possible in respect of execution of sanctions, the law should be fulfilled by following more sincerely the purpose of the precepts *(cf.* 'Expounding of the Law').

Secondly, due to the great part of vertical obligations in religious law, *i.e.* obligations to which only the right of God corresponds, there emerges the question of God's representation on Earth: is anybody authorised to protect the legal interest of God? Is it the community at large, or only established religious or civil authority who may lead the proceedings? Or is the enforcement reserved to God? Practically, from the point of view of an investigator of the *living law* these questions remain merely theoretical. However, from the point of view of defence they may be extremely important.

Here, also the distinction of *forum externum* and *forum internum* may be addressed. The latter does not need to be confined to the rules of mere morality if the obligated party is seen to owe the obligation to God in a way which is strictly required. In Islamic Law, the difference between *fard* and *mandub* obligations, and respectively *haram* and *makruh* prohibitions could be relevant. This parallel is however possible only so far as respectively the *mandub* actions are 'rewarded, but the omission is not punished', and a *makruh* action are 'disliked and disapproved by the Shari'ah but it is not under any penalty' (Doi 1997, pp. 50-51). It may be interpreted in the way that, *e.g.* in the latter case God has the right to be disgusted with an illegal act but will not punish for it. In this way the *forum internum* is also fulfilled by legal though not always legally sanctioned content, and the space for religious morality is left minute.

The rules of religious law are not confined to the religious sphere. In fact, the veiy modern and Occidental distinction of religious and secular spheres may be inappropriate while investigating legal cultures of other traditions. Harold Berman criticises A. S. Diamond, who:

> 'reduces his own argument to absurdity when he contends that much of the Hebrew law of the Old Testament is also "secular law," wholly distinct from religion. The Hebrews never recognized such a distinction and would have denounced it; for them eveiy word of the Bible was sacred.' (Berman 1983, p. 80.)

The same holds true for eventually every community prior to the rise of Modernism in respective part of the World. The interconnectedness of law and religion is still reflected by the relics of court ritual and many other ceremonies in law which lack any reasonable legal explanation. The connection is reflected also by legal documents which cite religious texts as their sources. The Civil Law of Baltic Governments (1845), valid in Estonia until 1944, has been one of such enactments.

3. Religious law in conflict and dialogue

Religious law is by far not the only legal reality today. On the other hand its existence should not be denied, for in the consciousness of a religious person, the impulses of religious obligations compete with other obliging impulses, and there are no impulses having *a priori* superiority or prevalence. Just to state that a person is *primarily* a citizen of a state, is not convincing.

In general, interpretations given to religious norms may justify actions and practices which contravene, for example, international human rights standards. In some of the cases the conflict is ostensible because the religious argument has been used insincerely or abusively. Other considerations, having political, nationalist, or economic nature have been pursued under the religious guise.

An illustration may be provided concerning Nigeria:

> 'It is not unusual for two different ethnic groups with a long history of conflict to have adopted different religions with the effect of exacerbating existing tensions. ... [A] mainly Christian Tarok militia from a nearby town in Plateau State massacred more than 500 mainly Muslim Hausa/Fulani residents in Yelwa village. The massacre occurred after a February incident in Yelwa in which more than 40 Christian Taroks were burned to death in a church. A week later in Kano State, Muslims staged a peaceful rally protesting the violence against Muslims in Plateau State. The rally took on a religious dimension when unemployed youth began vandalizing businesses belonging to Christians and erupted into mob violence in which more than 300 Muslims and Christians were killed.' (TSfigeria')

Many problems that have emerged during the last years may be reduced to an identity crisis of at least one party of the conflict - yeah, even the international community may suffer from such crisis. Traditionally the conflict is more likely to be between 'us' and 'them', these who have the 'i', and those who lack or do not respect it enough.

Sometimes a single person is the target of an attack justified by religious law. The most well known case of Salman Rushdie is by far not the only one. Amnesty International (AI) has announced that

> 'Dr Younis Shaikh, a medical school lecturer, was sentenced to death on 18 August by a criminal court in Islamabad for blasphemy. He had allegedly remarked during a lecture that the Prophet Mohammed was not a Muslim until the age of 40 when Islam was revealed to him. His comments

> were taken up by an Islamist organization.., which brought a complaint to the police.' ('Death Penalty News')

Sometimes the justice has been taken in the hands of the community. Thus, AI reported in 2003 that Mushtaq Zafar was shot dead by two unidentified gunmen on his way home from the court in a blasphemy case brought against him by his neighbours. A dispute between Mushtaq Zafar and his neighbours resulted in his house being set alight and shots being fired at him, killing a friend of his. The report continues: 'The neighbours were arrested for the murder ... [According to Mushtaq Zafar's son, the neighbours' family put pressure on his father to withdraw the murder case and the accusation of blasphemy against him was part of an attempt to intimidate him. Friends and relatives of the neighbours allegedly wrote to religious leaders, demanding Mushtaq Zafar's death.'

The mass attacks may be one- or both-sided, as in the case of India, where, for instance, 'more than two thousand people had been killed in early 2002 in the wave of violence targeting the Muslim community. These killings followed an attack on a train in Godhra in February 2002 in which fifty-nine Hindus were killed by a mob' ('India'). Ten years before that a conflict burst out in India, in connection to the demolishing of Ayodhya mosque which according to a myth had been built on the birth-place of god Rama.

At least in the first case, passive involvement of the state makes the religious nature of the conflict questionable. Namely,

> '[rjeports implicated police officers and members of Hindu nationalist groups, including the Vishwa Hindu Parishad (VHP) and the ruling BJP in the violence against Muslims. There was increasing concern about the failure of the state government of Gujarat to ensure that those responsible for widespread communal violence in early 2002 were brought to justice. In many cases, attempts to hold the perpetrators accountable were hampered by the highly defective manner in which police recorded complaints. Victims complained that police failed to register complaints, or recorded details in such a way as to lead to lesser charges, omitted the names of prominent people who were pivotal in the attacks, and did not take appropriate action to arrest suspects, particularly where they were supporters of the BJP.' ('India')

As shown by the developments of the Darfur conflict in Sudan, such state-supported or even state-organised conflicts need not necessarily religious difference, and ethno-cultural difference (of Arabs and Africans) is sufficient to actuate hatred and genocide (*Vid.* Glazov 2004).

Even using traditional methods immanent to the religion, religious law may in majority of cases be interpreted in a way that conforms to other legal considerations. In Jewish Law, for instance, the principle *dPna' de-malU^{l}u^{w}ta' dPna'* recognises political law of even a heathen state supreme, as far as denial of most holy principles of Judaism is not required (Cohen 1995, p. 90). In such way, avoiding the conflict is possible.

If the immanent and traditional methods are exhausted, a conflict may be avoided or mitigated only by a dialogue between representatives of the normative systems. Entering into the dialogue presumes that each party is ready to acknowledge the faults of his own legal system; if the factual development of the system is observed, its imperfectness is evident and a possibility of further developments and reinterpretations could be recognised. Thus the process should be started by an internal purification and setting things in the right order; paraphrasing the Gospel, 'if thy right 'i' offend thee, pluck it out, and cast it from thee: for it is profitable for thee that one of thy members should perish, and not that thy whole body should be cast into hell' (Matthew 5:29). It is preferable that the dialogue is not centred on the question of truth but rather on self criticism (Kiing 1992, p. 109).

For a basis of such criticism, the fundamentals of the religion should be rediscovered, asking what in fact is the message and purpose thereof: is the 'i' really so important (*cf*. Abou el Fadl 2003, p. 249)? An illustration may be given from Saudi Arabia where during a fire religious police did not let out improperly clothed girls who then perished in the fire ('Saudi Arabia').

Also, a dialogue presumes mutual independence, autonomy and recognition by the parties concerned. An exercise of a position of power by a party or a *tertium gaudens* is absolutely prohibited. Every irrelevant and immaterial motive or consideration should be left aside, especially if it could inhibit the process of dialogue (Kalmet 2006, p. 200 *etpassim*-, cf. Raudsepp 2007, p. 2220).

The purpose of the dialogue should not be set too high: when hating each other, it is not easy to start loving instantly. Achieving a kind of *modus vivendi* could be set as a primary purpose. It may be done by not concentrating on the different (though it may not be denied) but rather unifying needs, tasks and hopes of humanity. An excellent model description of such a dialogue is Graham Greene's *Monsignor Quixote*. Positions centred on *ἓν* are as dangerous as positions concentrated in I (Raudsepp 2007, p. 2232).

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