religions

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The Concept of De-Radicalization as a Source of Confusion †

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† The title draws inspiration from "The Concept of Radicalization as a Source of Confusion" written by Mark Sedgwick. (https://www.tandfonline.com/doi/abs/10.1080/09546553.2010.491009?journalCode=ftpv20, accessed on 13 January 2023).

Abstract: The theme of the relationship between religious freedom and security has, over the last twenty years, acquired such centrality that hitherto unknown or little-used concepts have entered the public and specialized debates. Prominent among these is regarding the most concrete and important long-term public intervention in the fight against extremism on a religious matrix, i.e., de-radicalization, often simplistically understood as the opposite, or reverse, of a radicalization process. The activity of de-radicalization, therefore, must first be defined in its theoretical sense to grasp its real meaning and objectives; then, it is necessary to identify its content in practice, trying to understand its founding themes and limits. The risk of such a public intervention is interfering with the deepest sphere of the individual, with his or her religiosity and intentions, overstepping the limits derived from the different types of secularism (as Italian *laicità* or French *laïcité*) that characterize the State, requiring it to consider individual conscience as impassable territory. On the other hand, ignoring the intimate dimension of the subject can lead to complete ineffectiveness of a de-radicalization activity, which thus risks being reduced to a mere illustration of content. This contribution, starting from these difficulties, intends to outline, from a juridical perspective and specifically from a law and religion perspective, a hypothesis for a public de-radicalization strategy, capable of achieving concrete results but simultaneously respectful of the constitutional principles in which it is necessarily embedded, focused on the concept of responsibility.

Keywords: de-radicalization; radicalization; freedom of religion or belief; freedom of conscience; *laicità*; human dignity; security; responsibility

Citation: Negri, Alessandro. 2023. The Concept of De-Radicalization as a Source of Confusion. *Religions* 14: 374. https://doi.org/10.3390/rel14030374

Academic Editor: Francesco Alicino

Received: 14 January 2023
Revised: 28 February 2023
Accepted: 9 March 2023
Published: 13 March 2023

1. Introduction

Religious freedom and security have been continuously juxtaposed concepts in public and legal debates for more than twenty years. From the wearing of religious symbols, such as the Sikh kirpan and Islamic veil, in public spaces to the building of places of worship, to name but two examples, numerous issues have determined that security demands and the need to guarantee the right to religious freedom intersect, forcing legislators and legal practitioners to obtain new balancing points (recently, Alicino 2020; Fattori 2021).

The historical moment, however, from which two such apparently distant themes began to be brought closer together is easily identifiable, observed from the 9/11 attacks and the subsequent emergence of so-called religion-inspired terrorism.

To date, twenty years later, while public opinion seems to have turned its attention to other emergencies[1], Western legal systems are still wondering how to manage such a phenomenon not only at a repressive level[2], but also, and above all, at a preventive level, which in many ways is still unexplored territory. A real enigma is the concept of radicalization, unanimously understood as the process that precedes the terrorist act, but regarding its actual content uncertainties and ambiguities remain.

This study intends to focus on another element, equally, if not more, relevant than the one previously mentioned. Discussions about what constitutes radicalization can in fact sometimes result in purely theoretical debates of certain interest, but they lack

immediate practical repercussions. On a certainly more concrete front, however, is the concept of de-radicalization, undoubtedly the most relevant of all long-term interventions in the fight against religion-inspired terrorism. What should be pursued within a public de-radicalization activity? What are its objectives, limits, and contents? These in fact are all questions for which answers depend the contours of a national strategy on the subject.

In Italy, notoriously, despite a recent bill on the subject (Bill No. 243-3357-A, rapporteur Hon. Fiano), a lack of a national strategy for prevention and de-radicalization remains, so that trying to sketch out unprecedented solutions does not appear to be a mere speculative exercise as much as an attempt to suggest new paths for concrete solutions. In this landscape, conceiving de-radicalization, as is often the case, as simply the opposite, or the reverse, of a radicalization process is not sufficient.

As is the case with its counterpart term, radicalization[3], a problem of conceptual autonomy thus arises here as well, a child of the inevitable temptation to present de-radicalization exclusively as the opposite, more precisely the reverse, of a radicalization process. According to Horgan (2015, p. 154), at essence, de-radicalization programs are exactly, tautologically, "organized programs of activities that have the overall goal of helping to reduce the risk of recidivism of the terror population". Should, on the other hand, scholars seek to traverse beyond mere tautology, the search for a new meaning is called for, the repercussions of which would impact the next profile on which this paper focuses.

It is, in fact, a matter of outlining the content of a de-radicalization plan, which responds to the need for effectiveness without, however, crossing the boundaries set by the Italian constitutional framework, which is secular, democratic, and pluralist, as a guardian of individual intimacy. Once we understand the concept of de-radicalization, the subsequent step is to imagine what such activity might materialize into. What goals to aim for, how to pursue them, and what tools to employ are all questions that cannot be circumvented by those who wish to develop a new proposal.

2. De-Radicalization: A Free and Individualized Re-Education

As already mentioned, the problem of conceptual autonomy that arises about radicalization arises again for the path that lies at its antipodes, de-radicalization. Conquering the superficiality of those who understand the latter, simply, as the opposite of the former, must start from the concept of re-education.

Without dwelling on all the possible synonyms of re-education[4], an analysis of the jurisprudence of the Italian Constitutional Court shows that, in fact, "regardless of the lexical variant used, the re-educative function is substantiated in all those interventions aimed at fostering the recovery of the prisoner to a life in society" (Magnanensi and Rispoli 2008, § 2.1). The concept of re-education espoused by the system, therefore, is not static, aimed at passively providing content to the individual, but dynamic. This signifies something much more complex, directly linked to the relational sphere of the subject: the educational path that will be offered to him must be oriented toward "an effective citizenship, understood as a contribution to the realization of a human civilization" (Scordamaglia 2010, p. 977). According to recent literature (Zannotti 2020, p. 4), therefore, in the Italian penitentiary system, reintegration can be considered the "final goal" of the re-educative path, the true goal to which civil institutions aspire, in the absence of any intent of moral repentance. In a not dissimilar manner, then, the reintegration of the radicalized into a new and peaceful sociality must be the ultimate goal of a de-radicalization plan[5].

So, although the perpetrators of terrorist crimes, and more generally the radicalized, are credited with having elaborated "a system of values antagonistic to institutional ones" (Di Rosa 2018a, p. 1), the most authoritative doctrine on the subject has in fact long clarified that criminal law is precluded from caring for the morality of the consociates[6], on pain of its transformation into an ethical State irreconcilable with a democratic and pluralist constitutional architecture. No inner purification or emendation is pursuable by our system, which must refrain from direct promotion of any ideal. At most, it may allow itself an indirect activity aimed at stimulating the moral principles underlying its laws (Vassalli 1982,

p. 466); the call for their observance, in fact, contextually promotes the ethical criteria by which they are inspired. Even in this case, however, the criminal reaction must exclusively result from material conduct of the individual who has violated a legal command.

Along these lines, de-radicalizing cannot amount to eradicating the individual's innermost convictions, however reprehensible and deplorable they are deemed by civilized institutions; rather, what the State can aspire to is the individual's disengagement from criminal action, even if this is motivated by the mere fear of a new sanction, rather than by a powerful adherence to the values at the basis of social coexistence and the order that regulates it.

As will be observed below, this does not imply, however, that the work of re-education must necessarily remain entirely axiologically adiaphoric; on the other hand, the very goals that re-educational activity aims to achieve are the offspring of precise choices created by the system, steeped in the political and juridical culture of their time.

The very fact that the 1948 Charter adopted, in a way that is far from self-evident (Dolcini 2018, p. 1669), a clear-cut position regarding the purpose of punishment must be considered an expression of the precise will of the constituents. The legitimacy of punishment, as well as its purposes, change in consonance with the form of State that inflicts it. Ours, democratic and pluralist, has identified multiple answers to the question about the purpose of punishment[7], but, at the moment of crystallizing one of them in the Constitution, it has sided in favor of re-education, so that the Constitutional Council was able to claim that "for other part, then (reintegration, intimidation, social defense), these are indeed values that have a constitutional foundation, but not such as to authorize the impairment of the re-educative purpose expressly consecrated by the Constitution in the context of the institution of punishment"[8].

Opting for re-education thus implies a basic axiological valuation, just as it implies a specific attribution of meaning to that concept. Admitting re-education in the sense of re-socialization is a value choice, at once an expression of what permeates the system in its essence and charged with consequences for institutions.

What must be emphasized, by virtue of this choice, is the conception of the individual made its own by the democratic State, in which the personalist one is not only a principle, but the principle, "which stands precisely at the beginning and, at the same time, at the end of the constitutional path that opens with it and in it circularly closes" (Ruggeri 2013, p. 3); that conception, rather than of man uti singulus, to whom the State merely guarantees a private sphere of in-tangibility, is of man uti socius. It is, in other words, an idea of the person assumed in his relational dimension, of a "social animal" whose relations with his neighbor to define him first and foremost.

From such a perspective, it can be understood how the essential purpose of a rehabilitation activity for those who have broken the covenant on which orderly, civil coexistence is based is, precisely, their social reintegration. I would say more: if, as argued, it is only through the establishment of said social relations that the subject is able to fulfil his or her personality, that of re-socializing the subject in difficulty becomes a real duty of the Republic under Article 3, second paragraph, of the Constitution, which invests the State with the task of removing the obstacles that stand in the way of the free development of the human being. Add to this the further consideration that the work of re-education occurs to a great extent within a detention facility. Prison is, on the one hand, an obvious and concrete obstacle to the ordinary socialization of the individual, but, on the other hand, constitutes to all intents and purposes a social formation, albeit not a spontaneous one, in which the individual must be free to develop his or her personality pursuant to Article 2 of the Constitution.

What has been clarified to date leads to a subsequent, twofold order of considerations, particularly relevant for our purposes.

First, reference is made here to what also emerges from a literal exegesis of the constitutional dictate of Article 27, third paragraph of the Constitution. Indeed, the provision requires, with felicitous lexical choice, that punishments "shall aim" at re-educating the

convicted and not that they must necessarily achieve it or, much less, impose it. The re-educational plan, inevitably the bearer of values, is thus only offered by the system to the convicted person, who nevertheless retains complete freedom to decide whether to accept all or part of the State's outstretched hand or, regrettably, to reject it. Such a lofty ambition as that of the individual's social reintegration does indeed require shared commitment[9] to a justice project based on the "restoration and reconstruction of the social bond" (see philosopher Paul Ricoeur's reflections on punishment, collected in Alici 2012 and cited by Ruotolo 2016, p. 35), but this does not translate to an obligation on the part of the individual to adhere to the treatment program.

Some authors (Flick 2012, p. 198; Bonomi 2019) seem to be moving in a different direction: according to them, the solidaristic principle allows for re-education among the mandatory duties of solidarity, the fulfillment of which is required by Article 2 of the Constitution (Bonomi 2019, pp. 11–12). Since that principle would require each person to be at the same time "debtor and creditor of all other members (past, present, and future) of the same community" (Morelli 2018, p. 538), the individual who, through antisocial conduct, has called himself or herself out of the covenant that regulates the life of fellow citizens would be bound by the commitment to re-enter it, as debtors of the community offended by his or her behavior.

This is a reconstruction, however, that I do not find agreeable. The imposition of such an obligation, which implies an effort that is only minimally material (i.e., that aims at physical participation in the proposed activities), burdening, rather, the inner sphere of the individual, seems far from the concept of re-education.

The same paragraph of Article 27 of the Constitution in which the latter is mentioned also stipulates that treatments must not be "contrary to a sense of humanity", an essential precondition if they are to aim at the re-education of the convicted person[10]. Humanity, of course, means, first and foremost, dignity, if translated into more strictly legal terms. Additionally, if honoring human dignity amounts, in turn, to not placing obstacles in the way of the free development of his personality, here is where respecting his/her self-determination and free choices becomes essential.

Thus, the freedom of consent to re-educational treatment not only constitutes a decisive element for its success, but it also becomes a real limitation for civil institutions. Moreover, upon closer inspection, should one ever wish to understand the re-educative principle as a source of duties for anyone, one could not fail to note that it is exactly the Prison Administration's duty, during the execution of the sentence, to offer inmates opportunities for social reintegration without placing any constraints on them.

Furthermore, opposing the idea proposed by the aforementioned literature that among the duties of solidarity imposed by Article 2 of the Constitution is re-education, there then stands the barrier represented by the personalist principle, which underlies that provision of the Charter, as well as Article 3 of the Constitution. The fact that it inspires and informs the entire institutional fabric of our system prescribes placing the demands of the individual before those of the consociates as a whole, however worthy of attention, because of issues such as security.

Moreover, the collective interest in security[11], in the case at hand, would have already been satisfied with the criminalization of the conduct by the legislature and subsequent imposition of the sentence by the judge; requiring the offender to fulfill an additional duty, following the doctrinal orientation mentioned above, would distort the rationale underlying the constitutional provisions previously cited, which impose the centrality of the personalist principle "as a criterion of preference of the individual over the community" (Morelli 2019, p. 359).

Recalling, once again, the conception of human dignity as the fundamental balancing point inscribed in the constitutional framework, it is again difficult to observe how one could adhere to those doctrinal positions. Consent to a re-educative project, in fact, implies a real choice of conscience and is, consequently, part of that inner individual space in which any interference of law marks a retreat of freedom (Di Cosimo 2000, p. 2).

By its very nature, the necessary protection of the most intangible right of the individual, the freedom of conscience, cannot be sacrificed on the altar of the requirement to re-educate those who have demonstrated by their conduct that they need treatment. Moreover, it would prefigure an obligation on the part of the convicted person, which would not be sanctionable in any way, as the same doctrine under censure here recognizes (Bonomi 2019, p. 12).

On the other hand, to return to the beginning of our discussion, constitutional jurisprudence has long since recognized that Article 27, the third paragraph of the Constitution, uses the verb "aim" to precisely signify "the acknowledgement of the hiatus that in practice may occur between that purpose and the recipient's de facto adherence to the process of re-education"[12]. Such a hiatus, therefore, is not only naturally possible in practice, but also fully legitimate in view of the sphere of autonomy necessary to be recognized, even for those deprived of their personal freedom.

This is an issue of the protection of the individual in conditions of contractions of freedom, which criminal legislature has addressed by introducing into the code the crime of torture[13]. Not coincidentally, on that occasion, it was not limited to punishing the "acute physical suffering" caused by the agent, but also "the verifiable psychological trauma" derived from the violence or threats inflicted on the passive subject, testifying to how the crime can be integrated, even in the absence of injury and personally in the case of transient and nonpermanent shock, as long as it is demonstrable (Colella 2018, p. 6). The attempt, therefore, to inculcate in the detainee values considered essential for the purposes of a completed re-education, when enacted in the absence of his adherence to the treatment program and in such an invasive manner as to cause psychological disturbance, could even configure a crime against what expressly protects the physical and mental health of individuals.

Therefore, for the reasons previously stated, any re-educational project that can be conducted in the democratic, personalist, and pluralist orders cannot be considered free, or, more correctly, to be freely adhered to by the subject toward whom it is directed.

Second, any re-educative treatment will necessarily have to follow the path of individualization. This is not only an additional consequence of the decisive influence, in the Italian legal system, of the personalist and pluralist principles that value the specificities of each person in the variety of infinite forms by which individual personality develops. More specifically, the need to tailor the sentenced person's rehabilitation intervention to his or her specific condition is also expressly outlined in the Prison System Act in its first article. Following the innovations created by the so-called Orlando Reform, it must be enhanced further, as expressly described in the second paragraph of Article 1 Law No. 354 of 1975[14]. As (re)constructed at present, the aforementioned article is reminiscent of the enunciation of Article 3 of the Constitution: following a preliminary declaration of the conformity of the treatment of humanity and respect for the dignity of the person, the normative dictate states that it must be marked by absolute impartiality and without discrimination in the same categories[15] that appear in the principle of formal equality (similarly, Di Rosa 2018b, p. 1), referred to in Article 3 co. 1 Constitution.

Continuing with this comparison, the counterpart of the second paragraph of Article 3 of the Constitution is, in the prison system, the second paragraph of Article 1, whereby treatment aims at social reintegration "and is implemented according to a criterion of individualization in relation to the specific conditions of the persons concerned". What emerges from this concept is the obligation for public authority to prepare a re-educational plan that does not ignore the peculiarities of the individual, but rather adapts to them[16] in the belief that only a truly personalized project can respect the variety in a pluralistic society and simultaneously achieve its ambitious goals.

The apparent contrast between instances of absolute equality of treatment, on the one hand, and of necessary treatment differentiation on the other, is thus resolved by the application of the criterion of reasonableness, whereby one aspect of the principle of equality[17] consists of the impossibility of imposing identical legislative disciplines on

different situations, and individualization within prison walls thus becomes a value to be pursued, rather than a patent violation of Article 3 of the Constitution.

Terrorist prisoners in Italy belong to a special penitentiary circuit, called AS2; beyond this aspect, however, which is certainly useful in reducing the most immediate risks of proselytizing, there are no further peculiarities that would characterize the treatment reserved for them[18] at the national level. There is no doubt that, as previously mentioned, a treatment authentically consistent with legislative and constitutional dictates should be completely tailored to the personality of the subject to whom it is addressed, but it is necessary to take note of the limitations of the Italian re-educational system at present. In fact, the latter, as a whole, is a generic model lacking specialized protocols (De Leonardis 2019, p. 6); on the one hand, this guarantees flexibility, not anchoring to pre-established prototypes; on the other hand, however, it entails an inevitable lack of coordination, particularly in the case of new figures, such as the radicalized individuals of the religious matrix, with whom it becomes necessary to build a relationship.

Therefore, it is not surprising that not even the most recent Report on the Administration of Justice[19], while expressly mentioning the strategies "of de-empowerment or de-radicalization", indicates the way these events should occur. It speaks agreeably of the duty incumbent on the administration as to the treatment, but then, contradictorily, it notes that the measures to be implemented consist of a "de-indoctrination program aimed at leading back to a non-extremist Islam that rejects violent action, without demanding the renunciation of a radical ideology". Two factors are prominent: either no renunciation of ideals or beliefs is demanded, or a strategy of de-indoctrination is devised. These are two paths of impossible convergence, the contextual mention of which reveals a permanent confusion.

There is therefore a need to outline a re-educational program suited to the needs of the radicalized, one that lies somewhere in between a utopian, albeit fascinating, integrally personalized plan and a model, and on the other hand, one that is generalized, devoid of any consideration of the specificities of the individual.

Should the system succeed in unambiguously defining what is meant by the radicalized, it would in fact reveal additional space for a new category of subjects who, while retaining their individual characteristics, would share common traits. The peculiarities of the radicalized, both those who have already become perpetrators of terrorist offenses and those who have embarked on a radicalized path but have not yet engaged in any consequent conduct of criminal relevance—whether they are detained for other crimes or at large, as in the case of subjects drawn by preventive measures—would thus be addressed, at the very least, in the wake of common guidelines to be supplemented on a case-by-case basis in light of individual experiences.

According to the reconstruction proposed thus far, de-radicalization should be understood to mean nothing more than what the legal system desires it mean: re-education that is tailored to the needs of the individual, in this case a subject deemed radicalized. Should one feel a need to distinguish between the two concepts, one could understand de-radicalization as a tool used to achieve the ultimate goal of the system, represented by re-education. In the case of a radicalized subject, his/her social reintegration, so that it does not exclusively remain a myth[20], must pass in advance of a plan of de-radicalization, which at the very least dissuades an individual from engaging in conduct consistent with his/her own religiosity vitiated and corrupted by terrorist propaganda.

Indeed, under all circumstances, the re-education paradigm remains indispensable, especially in the face of the asserted security emergency. To abdicate it is tantamount to contradicting the axiological core founded, once again, on human dignity and the personalist principle that is its direct expression, which inspires and orients our entire constitutional framework.

It is a system that necessarily bears values, but is only able to offer them to consociates, not imposing them, not even in the course of its re-educative activities[21], and therefore

re-socializing, activity. Additionally, it is the issue of the content that the *laico* and pluralist State can offer that will prove central to the discussion during the subsequent section.

3. Contents for a Secular De-Radicalization Plan: The Key Role of Responsibility

The last section dwells on that which is inherent in the substantive content of reintegration work, which is also, inevitably, imbued with value bearers.

Participating in a project as ambitious as that of the resocialization of an individual, moreover in his/her declination of radical positions, means illustrating to the person the ideal pillars that the legal system has implemented as the basis of the coexistence of fellow citizens and to which minimal adherence is required, albeit exclusively on a factual and relational level and not on that of the inner, individual conscience.

Notwithstanding the etymon of the lemma "re-education", it is not a matter of educating one on those values, but rather of explaining their essence, scope, and, above all, legal consequences for violating the rules formed for their protection. The conception of interpersonal relations between free and equal individuals and of those between private individuals and public power cannot naturally be the same in all systems, which are built on cultural substrata that are children of the historical–political contexts in which they arose[22].

The issues of religiously motivated radicalization and its contrast have assumed such relevance at present that addressing them may imply redefining not only the more overall approach to religions adopted by a legal system, but even the principles placed at the apex of its constitutional edifice, as recently has occurred in France and Austria (ex multis, Fregosi 2021; Wonisch 2021).

In Italy, on the other hand, a general law regarding the relationship between republican principles and religion, as well as one on religious freedom and, more specifically, one on combating radicalization, are notoriously absent. It therefore lacks the highest level, the one from which the horizon is glimpsed. It also lacks a comprehensive operational strategy to counter radicalization, as is emphasized numerous times in this study.

The State, on the other hand, must deal with the burden of de-radicalization activity, understood in the meaning clarified previously and the content of which we intend to understand, starting with the concept of identity. This allows us to progress to the terrain most congenial to us: that of the relationship between the State and the radicalized person to whom re-educational treatment must be offered—and, it should be remembered, not imposed. On the one hand, we addressed public, secular, and democratic identities; on the other, we addressed individual identity[23], entirely forged by the religiosity, flawed or not.

What must be made clear is that where the State is required to renounce any assertion of absolute truth, religiously grounded or not, the individual cannot be obviously precluded from embracing one. Moreover, the admixture operated by the radicalized, whereby the religious message also takes on a political nature to the point of losing its original connotations, would be intolerable if implemented by civil institutions, should they claim to impart religious, or even merely spiritual, valence to their political activities, but the same does not apply to individuals. In fact, the principle of distinction of orders—and more generally that of *laicità*, which is the essential core—does not require that simple citizens, as well as public powers, keep civil and spiritual spheres rigidly separate[24].

Thus, I do not agree with those authors attentive to the issue of de-radicalization (Martucci 2019, p. 22) who claim de-politicization of individual religiosity as an essential component. Furthermore, according to this orientation, public intervention should be structured in such a way as to "bring out the secularity and pluralism of society, in whose constitutional framework those precepts (religious precepts, ed.) must be observed and lived as essentially religious" (Martucci 2018, pp. 11–12). In my opinion, however, this kind of intervention presents critical issues in terms of both its constitutional legitimacy and its opportunities for success: indeed, the very *laicità* and pluralism mentioned impose on the State a prohibition against inquiring into the deepest sphere of the subject and syndicating his or her opinions regarding religious and political matters. On the contrary, the system will be burdened with the obligation to respect the political and religious

conceptions of everyone, being unable to impose any measures aimed at de-constructing the individual's identity.

Even if one were to focus on the outward manifestation of such beliefs, in the eyes of the legal system, motivating a violent act on the basis of political or religious reasons is in itself irrelevant. It is therefore difficult to observe the reason why de-radicalization activity should present, as one of its cornerstones, the definition of precise boundaries existing between the political and religious spheres, as if the contamination of the two fields represents a problem in itself[25]. One might possibly consider that such an admixture fosters the subject's opposition to the intangible ethical minimum that is made proper by the order represented by human dignity. From such a perspective, the typical force of religious messages, combined with the inevitable relational dimension that is proper to political content, would constitute an explosive mixture. The radicalized, however, must still be permitted to cultivate his or her own original religious, political, or political–religious conceptions, without this legitimizing him or her to act accordingly.

In light of the reflections thus far, I would say more: once it has been ascertained that a typical contemporary trend consists in the edification of a personal religiosity (Beck [2008] 2009), increasingly the child of individual experience, of autonomous choices of the individual, or from the desire to forge new community or institutional ties to fill one's need to belong, one can glimpse the concrete possibility of a "civil religiosity," this expression signifying a religious vision imbued with contents that are not strictly religious, but rather often reveal a more authentically political component. To oppose the flow of such a current, believing instead that religiosity must remain pure and indifferent to all external influences, appears not only short-sighted, but also far from the horizon of the *laico* State, to which the deepest individual choices must remain foreign. The same system that strictly complies with the supreme principle of *laicità*, by not creating an ethical–religious vision of its own would thus incur a patent violation if it claimed to prevent the individual from pursuing his/her personal religiosity, however vitiated by his/her political convictions.

The foregoing, however, does not mean that civil institutions are destined to implement a necessarily ineffective de-radicalization strategy. The canon of neutrality that distinguishes the *laico* State does not in fact prevent it from attributing relevance to ethical values[26], rationally founded, without evoking the idea of an order that oppressively imposes its axiological bearing[27]. Once enshrined in the Constitution, those values also assume legal prominence in the form of principles, giving shape to public ethics nourished by that indisputable patrimony of values. With such a notion, we do not identify a specific ethic, whether religious, secular, or collective, but a general and binding "meta-ethic" (Spadaro 2008, p. 57 ff.), whose ultimate purpose is to ensure the peaceful coexistence of other ethics within its framework.

This inevitably leads to the assertion that even the most liberal order is based on its own set of values[28], from which it has become necessary to draw, in order to produce a content proposal for a de-radicalization plan.

Returning to the reflection presented in this paper, we can recall that the concept of de-radicalization designates an individualized re-education to the measure of the subject, aimed at his or her social reintegration. Coming to the forefront, then, are, within the public axiological compartment, specifically those values that inspire coexistence among consociates advocated by the Constitution.

More concretely, a de-radicalization program will have to illustrate, first and foremost, to the individual to whom it is addressed that everyone is fully free, within a *laico* legal system, to profess his or her own beliefs, being assured in that sphere a space free from public and private interferences. Of course, in turn, other citizens are entitled to propagandize their own religions and thus to engage in proselytizing activity directed at persuasion; however, this does not authorize them to violate the constitutionally guaranteed freedom to adhere (or not to adhere) to a faith in a completely voluntary and spontaneous manner. In fact, the primary merit of *laicità* consists of its "assiduous concern to give everyone a way to be themselves" (Bellini 1996, p. 39): to every consociate, then, even if radicalized by

a religious or political matrix. Again, he/she will be explained the nature of the overall attitude that the State has towards the religious phenomenon, marked by equidistance, but not indifference, as well as the guarantees and limits that are children of the Italian version of *laicità*.

Up to this point, however, the activity consists of nothing more than a simple exposition; it would be, on closer inspection, a sort of course in constitutional law in a nutshell, addressed to subjects often lacking the necessary cultural foundations to fully comprehend the subject, devoid of any further ambitions. Clearly, the radicalized would not be required to adhere, for example, to the *laicità* of the State, or to approve of the latter's commitment to the preservation of pluralism. More simply, such perspectives would force the individual understand the specificities of the order in which he or she moves and the consequences of the violations of its established rules. In this we certainly observe a purpose consistent with the re-educational spirit that animates the operation[29], but, in my opinion, is not sufficient.

The theme that should be given renewed centrality is responsibility[30]. We have dwelt on the relevance in the constitutional system of the provision of mandatory duties of solidarity, the fulfillment of which is required with the same decision with which inviolable rights are recognized; what has not yet emerged, however, is the inseparable connection between rights and duties. Indeed, the idea that the concrete exercise of guaranteed freedoms may be opposed by limits related to the necessary social participation of the citizen reveals the role that the system attributes to the perceived responsibility of one individual toward another. The relationship between freedom and responsibility is thus conceivable in a circular manner, exactly as with the dialectic between rights and duties that it implies (Bascherini 2016, p. 162): the exercise of an inviolable right always entails the assumption of a duty toward the community, just as "every freedom is the foundation of responsibility" (Pizzolato 1999, p. 209).

Thus, to insist on responsibility is not only to aim to make people understand the solidary foundations of civil coexistence designed by the legal system, but also to raise an awareness of a bond that is considered essential for the realization of that minimum cohesion that constitutes the necessary compensation for the centrifugal thrusts proper to pluralism.

The reference to responsibility is valid for our purposes in two respects. In the first instance, inasmuch as the de-radicalization plan we are discussing cannot fail to include a reference to the sanctions to which an individual may be subjected in the event of conduct detrimental to the fundamental legal goods of others, such as life or physical safety. Such a reference, however, may not be sufficient. As Greco (2020, § 3) recently noted, "to lead law (and obedience to law) back exclusively to the threat of sanction is to [. . .] regard man as an object that 'must be driven' to do something he would not otherwise do". This is a view that is not only excessively cynical, which considers humans as incapable of regulating themselves in the absence of the prospect of retaliation, but above all is short-sighted, overlooking the essentiality, in our legal system, of the principle of solidarity. About the latter, we are reminded of its nature as the connective tissue of relationships between individuals, placed at the basis of the social coexistence prefigured by the Constitutional Charter.

The relational dimension of law, then, would be completely ignored in a re-educational perspective if one omits the fact that the legal framework in which the radicalized person moves requires an assumption of sympathetic responsibilities arising from his or her participation in the social theater. Once it is ascertained that the goal of a re-educational strategy is primarily disengagement of the individual from criminal action, one may well choose to pursue that goal purely through intimidation, but this would betray the genuine spirit of solidarism that animated the constituent project[31], which clearly requires something more.

In this context, a second aspect related to the new and, here, hoped-for role given to the theme of responsibility in a de-radicalization project takes on additional significance. To understand its significance, it is necessary to return to the very essence of radicalization

(Negri 2022b, p. 48 ff.), according to which the radicalized has conformed his or her entire identity to his or her profession of faith and refuses to recognize equal dignity for those who do not share this vision.

Reciprocal responsibility, in fact, is based on the idea that in the other, the subject can mirror himself/herself insofar as he/she is able to observe his/her own dignity reflected in it. It is, therefore, a type of belief diametrically opposed to that which founds radicalization, in which the inability to see common elements in the other leads to the impossibility of confrontation without resorting imposing one's own vision. In this direction, the core of the re-educative—or "de-radicalizing", as it may be—activity might justifiably consist of this aspect: if the radicalized person is unable to nurture respect, solidarity, or compassion toward the other since he or she disallows the latter's humanity and, ultimately, dignity, a different vision must be proposed.

A vision centered on respect for equal dignity and the solidaristic constraints imposed by the legal system in exchange for the recognition of inviolable rights, which really could ensure, should it be adopted by the radicalized, a renewed abstention from criminal activity motivated by his or her religiosity. This would be a public action that, in full compliance with the principle of *laicità*, is in no way intended to alter individual religiosity, which could very well remain intermingled with political and even totalitarian elements. It would, however, constitute a *laico* attempt at de-radicalization, which, together with the fallout from violating a State rule, would show the radicalized not only the legal consequences of his or her actions, but also what it means to be part of a social compact regulated by our Constitution, in which the bridge between guaranteed freedoms and required responsibility is constituted precisely by the value of human dignity.

Only in this way can the goal of social reintegration that underlies any re-educational intervention be effectively achieved. The public power will not offer blame and reproof to the radicalized, already sanctioned for his/her mistakes and presently placed in front of an authority that wishes, by embarking on an impossible crusade, to modify his/her deepest choices, but will present him/her an "instruction manual" suitable for a certain return to society.

At a superficial glance, this may seem to be an unambitious goal; it is, however, in my eyes, the road most nimbly traversable by an order that does not wish to renounce calling itself *laico* and whose unfailing, ultimate goal remains the protection of the human being, even in its most censurable facets. Provided with those tools, the radicalized person is given the possibility of understanding the essence of the constitutional conception of civil coexistence; it does not consist in respect for the laws as such, for that would already achieve the disengagement desired by the re-educational project, but in the consciousness of the equal dignity of each person and of the solidaristic bonds that bind fellow citizens. There are no certainties regarding the chances of success of such an operation, but undoubtedly this is a possible new way forward for a challenge: that of de-radicalization, which has been indispensable for the democratic-pluralist State for the past twenty years and for which, to date, we have not yet been able to offer an unequivocal and effective response.

The State could not in this way be blamed for failing in its share of responsibility. As wittily noted (Mazzola 2021, p. 89 ff.), the radicalized, especially the young, to whom de-radicalizing programs are directed, are certainly dangerous, but they are also themselves in danger, at risk of throwing away their existence with the commission of a violent act. A responsible legal system, indeed, attempts to deal with them, not by imposing ideological adherences, but offering those who have placed themselves outside the social pact a way back in.

4. Conclusions

In this paper, an attempt was first made to show that the concept of de-radicalization is not actually distinct from that of re-education, as understood through social reintegration. The legal tools that, therefore, should be provided to the radicalized person are those capable of enabling him/her to understand the conception of civil coexistence and interpersonal

relations espoused by the Italian legal system. Therefore, the reservoir of values from which it draws inspiration, demands that the purpose of secular de-radicalization must be identified, with a special focus on the concept of responsibility. To the radicalized person's attention would thus be brought the fact that the freedoms guaranteed to him or her by the legal system imply in themselves an assumption of responsibility, an awareness that participation in the social theater is certainly based on rights, but also, at the same time, on duties.

On closer inspection, such an outlook might be the most consistent with the constitutional dictate, not only in that it would refrain from any temptation of inner conversion of the subject, but also because it would be in the groove traced by the principle of solidarity, the lintel of our legal system. In fact, to elect responsibility as the nodal center of a de-radicalization plan is to consider the relational dimension of law plastically embodied by that principle and to understand that, although the first objective of resocialization activity must necessarily consist of mere disengagement, proceeding only with intimidation, threatening severe reactions in the event of criminal conduct, is not enough.

Responsibility means solidarity, awareness, and a sense of limitation, but it also means, above all, dignity—both one's own and the acknowledgement of others'—as the supreme value of the legal system and the essential reference from the perspective of this paper. An essential trait of a radicalized personality is, in fact, in my opinion, disregard for the dignity of others; moreover, the centrality of dignity, especially its connective function between inviolable rights and inalienable duties of solidarity, within a strategy of de-radicalization has been advocated.

This, then, is perhaps the most relevant conclusion: the genuine awareness that the supreme value of human dignity must always guide the entire action of the legal system, even in the face of new challenges seemingly undefeatable with the classical tools made available to the legislature. It is therefore from the foundations that we must identify a solution, or at least a possible path of resolution. It may not necessarily be the one most responsive to the ever-growing security demands, but it is certainly a path that can enable the *laico* State to achieve the greatest achievable goal: to remain itself, anchored in its constitutional roots, even while facing the present emergency.

Funding: This research received no external funding.

Data Availability Statement: Not applicable.

Conflicts of Interest: The author declares no conflict of interest.

Notes

1 The survey conducted by IPSOS for ISPI in December 2021 titled *Gli italiani e la politica internazionale* reveals that, essentially due to the outbreak of the pandemic, the perception of the terrorist danger has plummeted, with the health, environmental and economic emergencies being far more alarming to respondents (see https://www.ispionline.it/it/pubblicazione/gli-italiani-e-la-politica-internazionale-32705, accessed on 13 January 2023).

2 The most recent bill on countering radicalisation (No. 243-3357-A, rapporteur Hon. Fiano) also intended to introduce a new criminal offence, analysed in (Negri 2022a).

3 The problem of the definition of radicalization has recently been dealt with in (Negri 2022b).

4 For a review of the expressions used on the point by constitutional jurisprudence, see (Ruotolo (2016, p. 5), note 18).

5 Because of this, Cottu (2017, p. 201) speaks of the «transfiguration» of re-educational finalism into the concept of de-radicalization.

6 On this subject, see Dolcini (1979, esp. 472–74). Even before him, Stella (1977, p. 310) had questioned the relationship between criminal law and the principle of *laicità*, pointing out that «the State legal-criminal construction is a temporal construction, governed by its own principles, autonomous with respect to any faith, religious or otherwise».

7 As authoritative constitutionalist literature recognizes, the multifunctional theory of punishment, which affirmed full equivalence between retribution, general prevention, special prevention and re-education, constituted «the feature of constitutional jurisprudence prior to the reform of the prison system» Cf. Pugiotto (2014, p. 2). Nicotra (2014, p. 2) recalls that, in some less recent decisions, the Court had even considered the purpose of resocialization as «marginal or even eventual».

8 See Italian Constitutional Court, judgment No. 313/1990, considered in law, § 8.

[9] In this regard, see Art. 13(5) of Law 354/1975 ('Ordinamento penitenziario'), which states that «the cooperation of convicts and internees with observation and treatment activities shall be fostered».

[10] Regarding the link between the humanitarian principle and the principle of re-education, the Constitutional Court recalled «the 'unitary, non-disassociable' context in which the principles outlined in the third paragraph of Article 27 of the Constitution should be placed, as they are logically in function of each other»; see judgment No. 279 of 2013, considered in law, § 7.

[11] The debate on the legal nature of security—subjective right or legitimate interest ?—is reconstructed in (Negri 2022b, p. 38 ff.), to which reference is also made for the cited literature.

[12] See note 8 above.

[13] In compliance with the relevant supranational obligations of incrimination, Law No. 110 of 2017 finally regulated the crime of torture, now provided for in Article 613 *bis* of the Criminal Code.

[14] Before the amendment, in fact, the reference to the individualization criterion according to which treatment "in relation to the specific conditions of the subjects" should be implemented was in the last paragraph of Article 1 of Law No. 354 of 1975. By contrast, Legislative Decree No. 123 of 2018, in Article 11(1)(a), provided for the amendment of the aforementioned provision, so that the mention of that criterion can now be found already in the second paragraph of Article 1 of the Law No. 354 of 1975. Specifically to the individualization of treatment, then, an entire article, 13 ord. pen. is dedicated, and a further reference is found in the second paragraph of Art. 14 Law No. 354 of 1975, which regulates the criteria for the assignment of prisoners to different institutions.

[15] With the only addition, in the text of the penitentiary provision, of the mentions of the categories of nationality, gender identity and sexual orientation, evidently the subject of more recent attention.

[16] On this matter, the recent final report of the Commission for the Innovation of the Prison System chaired by Prof. Ruotolo, published in December 2021, intervenes on Art. 29 President of the Republic Decree No. 230/2000. under the heading «Individualized Treatment Program», proposing to involve in the compilation of the program also the «persons who have shown concrete interest in the prisoner's resocialization work pursuant to Articles 17 and 78 of the Law», in the direction of an extension of the subjects to whom would be entrusted the elaboration of the prisoner's treatment path.

[17] Calling this a real aspect, «rather than a further elaboration» of the principle of equality, is the Constitutional Court since Judgment No. 53 of 1958, Considered in Law, § 2.

[18] On this point, Di Rosa (2018a, p. 14) points out that even the successes achieved over the years by the prison administration with political terrorists are due more to elements external to individual treatment than to particular specific forms taken by it.

[19] See the latest *Relazione del Ministero sull'amministrazione della giustizia—anno 2021—Inaugurazione dell'Anno Giudiziario 2022*, 901.

[20] The title of Bettiol's (1964, p. 3 ff.) well-known work comes to mind here.

[21] Palazzo (2017, p. 423) emphasizes the essential role of re-education as a counterbalance to the natural «tendency of the punishment system toward barbarism».

[22] According to Catalano (Catalano [1957] 2007, pp. 20–21), «the modern State, having renounced making critical judgments on the subject of religion, was forced to create a human deontology independent of dogmatics and religious morality: it had to find in itself its own justification and sufficiency, thus transforming itself into an 'ethical State', that is, an entity with a set of principles».

[23] Personal identity represents, in the opinion of Pino (2003, p. 81), «a synthetic formula to distinguish the subject from a global point of view in the multiplicity of its specific characteristics and manifestations (moral, social, political, intellectual, professional, etc.), that is, to express the concrete and effective individual personality of the subject».

[24] About it, Colaianni (2015, p. 49) recalls that «the State has a duty to be secular but cannot expect every citizen to be or become so».

[25] *Contra*, Colaianni (2019, p. 49) believes that de-radicalization, understood as a counterterrorism prevention measure, centers on the positive obligation to undergo a process of re-education «to the proper relationship between Islamic faith and politics, leading as a result to not embracing an intolerant, armed, bloody version of that relationship».

[26] Already in 1977 Pototschnig (1977, p. 294) recalled that *laicità* «in no way entails the disavowal of cultural values that are common to society as a whole and form the support and soul of the political moment».

[27] Pasquali Cerioli (2009, p. 23) agreably recalls that since the Italian one is an open democracy, even the duty of allegiance to the Republic and to observe its Constitution and laws under Article 54 Const. cannot be understood as «a necessary full ideal conformity to the values of the order required of the sphere of conscience (religious, ideological, political) of the subject». See also the bibliography cited by the Author in footnote 61.

[28] Even, in Amato's (2008) opinion, «democracy is itself founded on absolutes, such being the dignity of the person, respect for his life and freedoms, equality regardless of any factor of possible discrimination, pluralism, the protection of minorities, and the cultivation of peace and solidarity in international relations». *Contra*, however, see Rimoli (1999, p. 71 ff.), for whom a secular legal system «is never an advocate of its own axiological option». The Author has more recently returned to the subject (Rimoli 2015, esp. p. 16 ff.).

[29] Italian Court of Cassation has repeatedly reiterated that the re-educative purpose of punishment consists of the «recognition of the need (on the part of the convicted person, ed.) to comply with the criminal laws, which ensure the minimum threshold of lawful conduct due and to conform one's actions in general to the mandatory duties of political, economic and social solidarity».

Cf. Criminal Cass., No. 688/1998, para. 5. Along the same lines, also Criminal Cass., No. 2481/2000, whereby «instead, it is necessary to have regard essentially, in harmony with the *laica* vision which inspires the legal system, to the prospect that the convicted person acquires awareness of the need to respect the criminal laws and to conform, in general, his or her actions to the mandatory duties of political, economic and social solidarity sanctioned by the system itself».

30 «One of the cornerstones of contemporary moral and political reflection», according to Pirni and Sghirinzetti (2014, p. 3).

31 Lipari (1989, p. 19) recalls that, in the Constituent Assembly, «the idea of solidarity—along with the idea of the primacy of the person, the principles of freedom and justice, and the rejection of totalitarianism—is among those on which the convergence of profoundly different ideal inspirations most spontaneously occurred».

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