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## Freedom and equality as necessary constituents of a liberal democratic state

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## Chapter 15. Between the private and the public domain

**15.1** In his own way, Habermas seeks to find a way to accommodate the interests of both those that adhere to different worldviews (with religious worldviews in particular) and the state as a whole. There is no need to provide an encompassing representation of his views and I will concentrate on what he says about religious views in his recent contributions.

**15.2** Through a dialogue with Rawls,<sup>485</sup> Habermas presents a nuanced approach to the problems involved with religious convictions: “The liberal state may not transform the requisite *institutional* separation of religion and politics into an undue *mental and psychological* burden on its religious citizens. It must, to be sure, expect of them the recognition of the principle of the ideologically neutral exercise of power. Everyone must know and acknowledge that beyond the institutional threshold which separates the informal public sphere from parliaments, courts, ministries and administrations, only secular reasons count. To accomplish that, the epistemic ability also to consider one’s own religious convictions reflexively from the outside and to link it to secular views is sufficient.”<sup>486</sup>

Importantly, Habermas is critical of those who would demand of believers that they should compromise their beliefs.<sup>487</sup> He does not seek to intrude on particular views but focuses rather on the practical outcomes, acknowledging that restrictions may place a greater burden on believers than on nonbelievers.<sup>488</sup> I can only concur with this observation, with the results from the previous chapters in mind.

**15.3** Habermas – rightly – points out that there is a duty for religious citizens to develop an attitude in light of the confrontation with other views.<sup>489</sup> (The same standard, one might add, applies in the case of nonreligious citizens, although it may prove to be less challenging for (at least some of) them.<sup>490</sup>) He does, however, demand too much, and arguably more than Rawls does, from these citizens, by stating that they should “[...] develop an epistemic

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<sup>485</sup> J. Habermas, *Zwischen Naturalismus und Religion*, pp. 123-129.

<sup>486</sup> “Der liberale Staat darf die gebotene *institutionelle* Trennung von Religion und Politik nicht in eine unzumutbare *mentale und psychologische* Bürde für seine religiösen Bürger verwandeln. Allerdings muss er von ihnen die Anerkennung des Prinzips der weltanschaulich neutralen Herrschaftsausübung erwarten. Jeder muss wissen und akzeptieren, dass jenseits der institutionellen Schwelle, die die informelle Öffentlichkeit von Parlamenten, Gerichten, Ministerien und Verwaltungen trennt, nur säkulare Gründe zählen. Dafür genügt die epistemische Fähigkeit, eigene religiöse Überzeugungen auch reflexiv von außen zu betrachten und mit säkularen Auffassungen zu verknüpfen.” J. Habermas, *Zwischen Naturalismus und Religion*, pp. 135, 136.

<sup>487</sup> J. Habermas, *Zwischen Naturalismus und Religion*, pp. 118, 132-135.

<sup>488</sup> J. Habermas, *Zwischen Naturalismus und Religion*, pp. 320, 321.

<sup>489</sup> J. Habermas, *Zwischen Naturalismus und Religion*, p. 143.

<sup>490</sup> Habermas demonstrates to be aware of this (*Zwischen Naturalismus und Religion*, pp. 132, 133); cf. note 488, *supra*.

## CHAPTER FIFTEEN

stance toward the independence of secular knowledge and toward the institutionalized knowledge monopoly of scientific experts. This only succeeds insofar as they, from their religious perspective, fundamentally conceive of the relationship between dogmatic belief contents and secular knowledge of the world in such a way that the autonomous progress in knowledge cannot come to contradict the statements pertaining to salvation.”<sup>491</sup> This would intrude on citizens’ freedom too much, for the following reasons.

First of all, it presupposes a perspective on science that is (ironically) virtually tantamount to a dogmatic stance. After all, the results that the ‘experts’ produce can only be monitored by specialists in the field (at least if they are to be monitored integrally); the general public will in most cases have to base its judgments on the results produced in the past. Crucially, scientific outlooks are open to revision, which is what characterizes their prospect for progress, a prospect that (many) religions apparently lack (*inter alia* as it would undermine the premises that serve as the foundation of their very existence). One must be careful, however, not to confuse this latter fact with the justification of intervening in people’s convictions. The justification of such interference could be provided, on the basis of the ignore principle, if their clinging to such convictions would have harmful effects on others they cannot reasonably ignore, but it would testify to a paternalistic attitude to force people into an epistemic dialogue the value of which they would not recognize (and apart from that, one may wonder whether such an approach would be viable in the first place).

That is not to say that no middle ground between letting everyone believing what he wants in isolation and forcing him into a dialogue can be found. Such a middle ground could consist in *inviting* citizens to such a dialogue, and hoping that they will have an open mind towards viewpoints that are not their own, or that even contradict them in some respects.<sup>492</sup> (Again, this position takes away nothing from the fact that the *manifestations*, i.e., the outward acts, are restricted by the pertinent legislation; the dialogue only regards citizens’ convictions.)

**15.4** This would also be my answer to Habermas’s following demand: “Religious citizens must develop an epistemic stance toward the precedence that secular reasons enjoy in the political arena. This only succeeds insofar as they embed the egalitarian individualism of the law of reason and universal morality unilaterally in the context of their comprehensive

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<sup>491</sup> “Religiöse Bürger müssen [...] eine epistemische Einstellung zum Eigensinn säkularen Wissens und zum gesellschaftlich institutionalisierten Wissensmonopol wissenschaftlicher Experten finden. Das gelingt nur insoweit, wie sie aus ihrer religiösen Sicht das Verhältnis von dogmatischen Glaubensinhalten und säkularem Weltwissen grundsätzlich in der Weise bestimmen, dass die autonomen Erkenntnisfortschritte mit den heilsrelevanten Aussagen nicht in Widerspruch geraten können.” J. Habermas, *Zwischen Naturalismus und Religion*, p. 143.

<sup>492</sup> A similar solution is proposed by Brettschneider (“When the State Speaks, What Should It Say? The Dilemmas of Freedom of Expression and Democratic Persuasion”, e.g., p. 1006), but, as I remarked in chapter 12, his position faces some important difficulties.

## CHAPTER FIFTEEN

doctrines.”<sup>493</sup> If people are actually required to incorporate the ‘egalitarian individualism’ and ‘universal morality’ of which Habermas speaks here,<sup>494</sup> they may in fact be asked to give up part of their worldview, and, one might say, part of their identity.<sup>495</sup> (I say ‘may’ instead of ‘would’: for some positions it is not problematic to accept these demands while others cannot consistently be maintained if this is required. In addition, the elements Habermas considers necessary in fact constitute a worldview, so that citizens must in some cases abandon their worldview and exchange it for another.) Demanding such a concession would, in this case at least, seem disproportionate in light of the – minimal – demands the ignore principle makes.

Elsewhere, Habermas suggests the solution described above in different terms: “The liberal state expects that the religious consciousness of the faithful will [become] modernized by way of a cognitive adaptation to the individualistic and egalitarian nature of the laws of the secular community.”<sup>496</sup> I would contend, in line with what was said in chapter 13, that this is *not* what the liberal state expects, and that if it did expect such an assimilation, the necessary minimum of the public domain, produced by the demands of the ignore principle, would be breached.

To reiterate, all that may be required of a religious (or nonreligious) citizen is that he abstain from acts that conflict with what prescriptive equality demands. If he truly believes, for instance, that men and women are unequal but does not let this interfere with his legal duties (and in practice treats every citizen equally<sup>497</sup>), he fulfills all his duties in the public sphere and does what may be demanded of him. To demand *more* of him than this basic duty (namely, that he reconsider his views with regard to the equality of men and women) would boil down to let the citizens’ private realm be permeated by norms that exceed the necessary

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<sup>493</sup> “Religiöse Bürger müssen [...] eine epistemische Einstellung zu dem Vorrang finden, den säkulare Gründe auch in der politischen Arena genießen. Das gelingt nur in dem Maße, wie sie den egalitären Individualismus von Vernunftrecht und universalistischer Moral auf einseitige Weise in den Kontext ihrer umfassenden Doktrinen einbetten.” J. Habermas, *Zwischen Naturalismus und Religion*, p. 143.

<sup>494</sup> Elsewhere, he addresses, in a similar vein, the duty of “[...] developing, from within the ethos of the religious community, cognitive links to the moral substance of the democratic constitution.” J. Habermas, “Intolerance and Discrimination”, p. 7. That ‘democracy’ need not have a ‘moral’ connotation should be clear from what was argued in part 1, especially chapter 6, of this study; this theme will be addressed in detail in the following chapter.

<sup>495</sup> It must be mentioned that Habermas claims this is not the case, expressing the desirability of people remaining free to cling to their claims to truth and certainties (*Zwischen Naturalismus und Religion*, p. 320), but these two ambitions seem difficult to reconcile.

<sup>496</sup> J. Habermas, “Intolerance and Discrimination”, p. 6; cf. “Religious Tolerance”, p. 11: “[...] those beliefs in which each person’s ethos is rooted must be brought into harmony with the liberal norms of state and society.”

<sup>497</sup> The difference, maintained by Dworkin, between ‘equal treatment’ and ‘treatment as an equal’ (*vide* note 98, *supra*) becomes pertinent here: the first, which pertains merely to outward acts, can be demanded from citizens, while the second, which pertains to a conviction, cannot.

## CHAPTER FIFTEEN

minimum of the public domain and would effectively mean that he would be forced to adopt the view of a majority, a situation that one might paradoxically deem tyrannical.<sup>498</sup>

The only bastion for opponents of this conclusion to fend it off is the claim that the notions of ‘egalitarian individualism’ and ‘universal morality’ reflect reality somehow, in the sense that they testify to the ‘right’ way in which to live together, respecting each other on the basis of the values they proclaim. Considering what was said above, such a stance would be no less dogmatic than most religious tenets, and possibly more pernicious, since its dogmatic character is less easily acknowledged than that of religious viewpoints, whose adherents may more easily grant this to be the case. (This may, by the way, occur tacitly, *viz.*, if they simply fail to provide a support, in the form of an argumentation or otherwise.)

**15.5** One observation admittedly complicates the present issue. Habermas says: “Every religion is originally a ‘*worldview*’ or, as John Rawls would say, a ‘comprehensive doctrine’ – also in the sense that it lays claim to the authority to structure a form of life in its entirety. A religion has to relinquish this claim to an encompassing definition of life as soon as the life of the religious community is differentiated from the life of the larger society. A hitherto prevailing religion forfeits its political impact on society at large if the political regime can no longer obey just one universal ethos.”<sup>499</sup> What I have argued means that the burden on religious (and nonreligious) citizens is lower than what Habermas demands. I limit what may be demanded of citizens to their *outward acts*, but do I not thus grant them too much freedom? After all, there is, in contradistinction to what a proposal such as Habermas’s entails, no guarantee, or even aspiration, that people will relinquish ideals that may conflict with the very nature of democracy, and such ideals may, if their mindset is not changed, linger on until they can be used to dismantle the liberal democratic state itself.

Indeed, I would not demand of citizens to relinquish their “claim to an encompassing definition of life”. This raises an important issue: if, in the most extreme scenario, citizens should want to substitute, for example, a religious totalitarian state for the liberal democratic one *by means of a democratic procedure*, should they be allowed to promote such a view, and if a majority should hold such a view, should the consequence of the cessation of the liberal democratic state in question be accepted? This is a serious issue that merits a discussion of its own. It will be discussed in the next chapter.

### 15.6 Summary and relation to chapter 16

Habermas takes the interests of those who adhere to religious worldviews seriously. Still, while his alternative to Rawls’s account seems at first to be more compelling and viable, when its consequences are exhibited, it appears that what Habermas demands of (some)

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<sup>498</sup> Tyranny stemming from a majority is still tyranny, of course.

<sup>499</sup> J. Habermas, “Religious Tolerance”, p. 11; cf. *Zwischen Naturalismus und Religion*, p. 268.

## CHAPTER FIFTEEN

citizens proves no less problematic. They are required to acknowledge egalitarian and even explicitly 'moral' elements, thus compromising, in some cases at least, their worldview. Such a sacrifice from citizens is difficult to defend: the ignore principle merely requires that citizens' outward acts meet certain criteria, not that they be convinced of the 'truth' of any ('moral') worldview. On the other hand, Rawls's and Habermas's accounts provide liberal democratic states with a certain stability that may be welcome: some worldviews are incompatible with the aspiration for a liberal democratic state to endure, as they would seek to end this form of government. If accounts such as those of Habermas and Rawls are abandoned, the realization of that aspiration is jeopardized. The compatibility of worldviews that do not meet Rawls's and Habermas's standards (and, more broadly, that do not agree with an established specification of basic equality) with the guaranteed continuance of a liberal democratic state is the focus of attention of the next chapter.

