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What is the Task of the State in Upholding Values in a Pluralistic Society?

An essay on the moral foundations of constitutional democracy

1. Introduction

What is the task of the state with regard to values and norms in a pluralistic society? That is the topic I want to address in this article. One of the most obvious answers would be: the state has no task. Upholding values and norms is reserved to the people. The government has no task, no role to play in this respect. If government would take the initiative in this regard, the danger of anti-liberal tendencies looms large.

A liberal, I presume, would be inclined to give a reaction in the sense outlined above. John Stuart Mill,² Wilhelm von Humboldt, H.L.A. Hart³ and many other thinkers have presented us the problems with opposite approaches, and communist and fascist utopias have shown the practical consequences of “the legal enforcement of morals”.

Yet it cannot be denied altogether that the state has something to do with values and norms.⁴ For instance, government tries to prosecute and convict criminals. Does it also have an obligation to prevent crime? It seems so. And how is this accomplished? Not only by punishing offenders retroactively, but also by stimulating behaviour for the future in conformity with the laws. And is the latter ideal possible without stimulating some respect for the values that lie at the foundation of the law? This seems unlikely.

Justice is blindfolded and carries the sword. But it does not only strike with the sword, it threatens, tries to persuade, tries to convince. To cut the matter short: government is, in a certain sense, a moralizing institution.

To substantiate this thesis one can refer to penal law. The examples I have just presented have to do with this specific area of the law. But it is certainly not restricted to that. Let us shift our attention to the values and rules that have to do with constitutional law. Most western states are constitutional states. That means they subscribe to:

- 1 Professor of Philosophy at the Technical University of Delft and senior lecturer in Jurisprudence at the University of Leiden
- 2 Cf. Mill, J.S., *On Liberty*, Penguin Books, Harmondsworth 1977 (1859). Cf. for criticism on Mill. Stephen, James, Fitzjames, *Liberty, Equality, Fraternity, And Three Brief Essays*, with a new Foreword by Richard A. Posner, The University of Chicago Press, Chicago and London 1991 and Cowling, Maurice, *Mill and Liberalism*, Second Edition, Cambridge University Press, Cambridge 1990 (1963).
- 3 Cf. Hart, H.L.A., *Law, Liberty and Morality*, Oxford University Press, Oxford New York 1963. Against Hart: Devlin, P., *The Enforcement of Morals*, Oxford University Press, Oxford/New York 1965 (first published as Maccabaeian Lecture in Jurisprudence, *Proceedings of the British Academy*, 1959).
- 4 Cf. also: George, Robert P., *Making Men Moral*, Civil Liberties and Public Morality, Clarendon Press, Oxford 1993.

- the principle of legality,
- the separation of powers,
- respect for human rights;
- judicial review

We speak of a constitutional state (“Rechtsstaat” in German and in Dutch) when the power of government is circumscribed by the principles mentioned. The ideal that inspires the constitutional state is constitutionalism.⁵ The opposite is totalitarianism, where the state has unlimited power. Constitutionalists are thoroughly convinced that “power corrupts and absolute power corrupts absolutely” (Lord Acton) Or, as Lord Bryce once remarked:

“No one is good enough to be trusted with unlimited power Unless he be a saint – perhaps even if he be a saint – he is sure to abuse it”⁶

Next to constitutionalism there is the great ideal of democracy And the combination of democracy and constitutionalism has resulted in constitutional democracy.⁷

Again, let us direct our attention to the relationship between legal principles and moral principles, this time with regard to the connection of constitutional norms and morality. Law and morals are intimately intertwined. Constitutional rules and principles are made up of legal norms, of course, but they are *not exclusively legal*. Democracy is based on the values of liberty and equality Constitutionalism’s respect for human rights has its ultimate foundation in human dignity These are all moral values.

Again, we can ask: does the state only organize itself on the basis of these constitutional norms or does it try to foster a certain respect for those principles among the citizens? And apart from what the state actually does, what *should* be done? Is it a legitimate task for the state to try to create respect for liberty, equality, human dignity and other moral ideas that are essential as the foundations of our constitutional order? One of the claims of my article is: this cannot be denied It is useful to present two examples to substantiate my case: a plea for aristocracy and one for theocracy. I think that some further reflection on these two examples will make clear that the state cannot remain neutral towards certain kinds of moral attitudes or certain ideas. Let us start with aristocracy.

2. Two examples: aristocracy and theocracy

Aristocracy is based on the conviction that people are *unequal* One of the last widely read spokesmen of this idea is the German philosopher Friedrich Nietzsche Nietzsche

5 Cf Mollwain, Charles Howard, *Constitutionalism, Ancient and Modern*, Cornell University Press, Ithaca, New York 1947 (1940), Corwin, Edward S, *The ‘Higher Law’ Background of American Constitutional Law*, Great Seal Books, Cornell University Press, Ithaca, New York 1955, Rosenbaum, Alan S, *Constitutionalism, The Philosophical Dimension*, Greenwood Press, New York etc 1988

6 Bryce, James, *Modern Democracies*, I, MacMillan and Co, London 1921, p 49

7 Cf Macedo, Stephen, *Liberal Virtues, Citizenship, Virtue, and Community in Liberal Constitutionalism*, Clarendon Press, Oxford 1991, Holmes, Stephen, „Precommitment and the paradox of democracy”, in Elster, J, and Slagstad, R, *Constitutionalism and Democracy*, Cambridge University Press, Cambridge, New York 1988, Bobbio, Norberto, *Liberalism & Democracy*, Verso, London New York 1990, Cliteur, P B, „Traditionalism, Democracy, and Judicial Review”, in B van Roermond, ed, *Constitutional Review, Verfassungsgenchtigkeit, Constitutionele toetsing*, Kluwer/W E J Tjeenk Willink, Deventer/Zwolle 1993, pp 55-77

thinks that people are basically unequal.⁸ There are Supermen on the one hand and on the other hand what his teacher Schopenhauer used to call the “factory work of nature”: ordinary men. Equality, according to Nietzsche, is one of those illusory ideas of socialism and christianity. These concepts and ideals are representative of the slave mentality that his aristocratic world-view tries to disparage⁹

Once we subscribe to this vision, it is not very remarkable that one cannot endorse the value of democracy. In our days, most of us find these ideas revolting – that is to say, nobody would ventilate them in public – but for centuries these ideas were common to great civilizations and great thinkers.¹⁰ Democracy is a recent phenomenon in global historical perspective. Aristocracy and theocracy have much older roots than democracy. Nietzsche got his inspiration from some of the greatest philosophers of the past such as Heraclitus, Callicles, Plato and others.¹¹

A second way of thinking that does not match with our modern constitutional democracy is *theocracy*. Theocracy presents a similar challenge to our modern constitutional system, but for different reasons. Theocracy does not necessarily conflict with constitutionalism but it certainly does with democracy. The most influential brand of theocracy nowadays is not the official Roman Catholic Church, but different kinds of religious fundamentalism. Fundamentalists reject human rights such as freedom of speech, freedom of worship, freedom of conscience.¹² Neither do they acknowledge the foundation of these rights: the ideal of individual freedom. Fundamentalists proclaim absolutely valid norms, derived from revelation in the guise of a holy book or the divinely inspired vision of a clerical leader. Once the source of this insight is dubbed as divine, the content is considered to be absolutely valid and to be enforced by secular and clerical authority without limits. As appears from the definition of constitutionalism, the idea of power without limits or “unlimited government” is inherently antithetical to constitutionalism. Constitutionalism reserves a private sphere for the individual, a sacred individual domain, which no authority may violate. That implies that constitutionalism is inherently antithetical to theocracy and vice versa.

It is important to emphasize the difference between democracy and constitutionalism in this respect. Theocracies do not necessarily reject democracy. Modern Iran, for

8 Cf. about this example Nielsen, Kai, „Scepticism and Human Rights“, in *The Monist*, 52 (1968), pp. 573-594.

9 Cf. Nietzsche, Friedrich, „Aus dem Nachlaß der Achtzigerjahre“ in *Werke IV*, hrsg. Karl Schlechta, Ullstein, Frankfurt am Main, Berlin, Wien 1972, p. 413. „Die Sozialisten appellieren an die christlichen Instinkte, das ist noch ihre feinste Klugheit.“ „Christianity introduced the equality of all souls before God.“ „Man hat die Menschheit den Satz von der Gleichheit erst religiös stammeln gelehrt, man hat ihr später eine Moral daraus gemacht.“ was Wunder, dass der Mensch damit endet, ihn ernst zu nehmen, ihn *praktisch* zu nehmen! – will sagen politisch, demokratisch, sozialistisch, entrüstungs-pessimistisch“ (o.c., p. 414).

10 Cf. Lippincott, Benjamin Evans, *Victorian Critics of Democracy*, The University of Minnesota Press, Minneapolis 1938.

11 The death-verdict of Socrates is by some authors explained by Socrates' anti-democratic leanings. Cf. Stone, I. F., *The Trial of Socrates*, Little, Brown and Company, Boston/Toronto 1988 and much earlier Burnet, John, *Greek Philosophy*, Thales to Plato, The MacMillan Press, London and Basingstoke 1978 (1914), p. 148 ff.

12 Cf. Flew, Anthony, „The Terrors of Islam“, in Kurtz, Paul & Madigan, Timothy J., *Challenges to the Enlightenment, In Defense of Reason and Science*, Prometheus Books, Buffalo, New York 1994, pp. 272-284; Miller, Judith, „Faces of Fundamentalism“, Hassan al-Turabi and Mohammed Fallalah, in *Foreign Affairs*, November/December 1994, pp. 123-149; Nasreen, Taslima, a.o., *Dieu Fin de Siecle*, Religions et politique, éditions de l'aube, Paris 1994.

instance, is more or less a democratic country. In that sense we may call it "modern". But the difference with most western states is that it does not acknowledge limits to what majorities can do to minorities. It does not accept, in other words, human rights.¹³ Precisely for that reason, Iran is no constitutional system, even though it could be called a democracy.

But let us not elaborate upon the difference between constitutionalism and democracy. What concerns me here is that both Nietzschean aristocracy and fundamentalist theocracy are in a state of war with constitutional democracy. What these digressions teach is, that constitutional democracy is not compatible with pre-modern ideas about human dignity, freedom and equality. Theocrats and aristocrats live in another climate of opinion, in another conceptual and social world.

Once we have stated this, we can ask what this means for the task of the state in this respect. Would it not make sense to maintain that the state has a task to foster adherence to those principles that have to be embraced to make constitutional democracy possible in the first place? My answer to this question is affirmative.

What happens when the state remains "neutral" in this respect we may see in Bangladesh. The Bengalese author Taslima Nasrin was condemned by a fatwa. Although Islam is not the state religion of Bangladesh, the government takes no steps to prosecute those who have proclaimed the fatwa, and so the government fails to stimulate an atmosphere of respect for human rights. This example should make us suspicious of the value of neutrality. Neutrality towards pernicious moral ideas condones the most severe forms of spiritual terror.

It seems unavoidable for a decent society to proclaim the validity of some basic norms that regulate human behaviour. I think that the state has a responsibility in upholding this minimum content of values and rights. I even hold these values universal.¹⁴

That does not imply, however, that the state is justified in using all possible means to fulfil this task. We do not *forbid* the books of Friedrich Nietzsche or religious fundamentalists, but we try to argue with people with pernicious ideas. Essential for constitutional democracy is that we are very careful with force. The language of democracy is that of a careful dialogue, but it definitely *does* imply a moral position. Inherent in the constitutional attitude of the modern state is education in citizenship.

3. Is constitutional democracy a totalitarian ideology itself?

I said that the state has a duty in upholding values essential for constitutional democracy. A critic might retort that I myself am a kind of absolutist. "In your case it isn't the

13 Cf. Fukuyama, Francis, *The End of History and the Last Man*, The Free Press/Macmillan, New York 1992, p. 43. "It is possible for a country to be liberal without being particularly democratic, as was eighteenth-century Britain. A broad list of rights, including the franchise, was fully protected for a narrow elite but denied to others. It is also possible for a country to be democratic without being liberal, that is, without protecting the rights of individuals and minorities. A good example of this is the contemporary Islamic Republic of Iran, which has held regular elections that were reasonably fair by Third World standards, making the country more democratic than it was in the time of the Shah." Fukuyama uses the word "liberal" where I use "constitutional", but this is only a matter of words.

14 Cf. Outka, Gene, and Reeder, John P., jr., eds. *Prospects for a Common Morality*, Princeton University Press, Princeton, New Jersey 1993.

values of the Bible, the Koran or another holy book, but obviously you refer to *something*: to the Declaration of Independence, to the Constitution, to the Universal Declaration on Human Rights or to other secular sources, values or rights with a fundamental significance", my critic could declare. What is the difference? Is it not the substitution of one holy text for the other?

The difference, my critic might continue, is not that in some Moslem countries *they* have a state religion and *we* have not it is only the denomination which makes the difference. a modernist state religion of human rights with its rhetorical jargon about universal, absolute and sacred values as human dignity and autonomy, versus a pre-modernist state religion based on holy scripture and the sovereignty of God.

This kind of criticism is very common nowadays, especially in post-modern circles. Yet, I think this is a misleading way to pose the problem. There are two essential differences between theocracies and constitutional democracies. The first is that in a constitutional democracy there is the opportunity of criticising the regime. That makes a world of difference. Indeed, the state may try to contradict criticism of democracy. Government will try to refute Nietzsche's ideas and other pre-modernist conceptions, for instance. The state tries to foster respect for the idea of equality, freedom and human dignity, all those ideas that Nietzsche decries as illusions and manifestations of slave morality. But it is possible, within a margin, to express critical ideas. In the US and European countries we can buy the books of Nietzsche and of every religious crackpot one can think of.

That brings me to a second crucial difference between the ideology of constitutional democracy and that of theocracies. The latter is an all-embracing phenomenon, while the first one extends over a relatively small area of life. In constitutional democracies, governments try to foster respect for a minimal set of norms that should be respected to make it possible for liberal society to survive.

Here we have another crucial difference with theocracies. A state religion extends over *all spheres of life*. It provides guidelines not only for the organization of the state but also for our attitude towards marriage, sex, life and death. It is all-embracing. It does not only moralize with regard to the public order, as constitutional democracy does, but it extends its influence to what consenting adults do in their bedroom as well. Theocracies are totalitarian.

These two principles, the freedom of speech and the minimalist approach to a shared heritage of ideas, seem to me more relevant to discerning totalitarian regimes from free societies than more traditional approaches in which the relativist proclivities of democracy are proclaimed. Let me try to elaborate this point a little further.

4. The roots of totalitarian ideas

Many thinkers have tried to track the roots of totalitarian leanings, though not always successfully. Isaiah Berlin pointed to positive freedom and monism as responsible for these unfavourable tendencies in western thinking.¹⁵ The Austrian legal philosopher Hans Kelsen wrote in the same vein when he referred to absolutism in morals as the root of all social and political evil.¹⁶ But even a superficial glance over the history of

15 Cf. Berlin, Isaiah, *Four Essays on Liberty*, Oxford University Press, Oxford etc. 1975 (1969)

16 Kelsen, Hans, „Absolutism and Relativism in Philosophy and Politics“, in *American Political Science Review*, oct. 1948

western political thought reveals two relevant facts: (1) it shows us that not only the staunch believers in higher truths are responsible for bloodshed, but relativists as well,¹⁷ and (2) it demonstrates that absolutist thinking, in the field of inalienable human rights, for instance, has made a great contribution to human civilization. Both facts are not very well understandable from the perspective of Berlin and Kelsen. Benedictus Spinoza, an absolutist thinker in morals, was also a great campaigner for religious and political freedom.

Although this seems paradoxical, totalitarian ideas can be stimulated by both absolutism and relativism: to wit (a) by the conviction that there is only one single truth and (b) by the conviction that there is no truth at all. The reason for this paradox is easy to understand. Relativists become totalitarian thinkers once there are preoccupied with the problem of *order* in society. A good example of this tradition is Thomas Hobbes. Hobbes did not believe in natural law (at least not in the traditional sense), nor in inalienable rights nor in absolute moral truths. "Every man, for his own part, calleth that which pleaseth, and is delightful to himself good; and that evil which displeaseth him: insomuch that while every man differeth from another in constitution, they differ also from one another concerning the common distinction of good and evil. Nor is there any such thing as absolute goodness, considered without relation (...)"¹⁸

But Hobbes was convinced that *someone* had to proclaim what had to be orthodox, because otherwise society would be torn apart by divergent ideologies and tendencies; in short, anarchy would prevail.¹⁹ And authority had to be absolute in the sense of being without limits or it would be no authority at all. So the Leviathan finds its legitimacy in the ethically relativist leanings of its author.

5. Pluralism as the central tenet of our time

Thomas Hobbes was born in 1588 and died in 1679. His was one of the earliest modern statements of the view that moral values are subjective and relative. Good and evil depend on human feelings of pleasure and displeasure. From that point of view ethics is a matter of taste.

This idea was utterly out of tune with medieval thought, of course. In the moment that Galileo revolutionized our way of looking at the universe, Hobbes initiated a revolutionary change in the climate of opinion in moral affairs.

Where do we stand now? The constitutional order of western democracies is neither absolutist, nor relativist, but *pluralist*. In a pluralistic society, where different ideologies and life- and world-views compete with one another, Hobbes is partially right, but not completely. In a pluralistic society – as constitutional democracy is – we know that we have to agree about certain rules of the game: openness, respect, toleration, equality, the rights of minorities. In this field we can make no concessions. With all due respect to Berlin and Kelsen, we have to take a firm stand here. We must be absolutist when it comes to the ultimate foundations of our constitutional order, because only on the basis of a consensus about these principles can a rich variety of

17 A good case for this position is made by: Stace, W.T., *Religion and the Modern Mind*, MacMillan & Co., London 1953, p. 121 referring to the „political relativism“ of Mussolini. Cf. also: Stace, W.T., *The Concept of Morals*, MacMillan, London 1937.

18 Hobbes, Thomas, *Works*, vol. iv, ed. Molesworth, J. Bohn, London 1839-1845, p. 32

19 Pope wrote: „Order is heaven’s first law“ Cf. Haag, Ernest van den, *Punishing Criminals*, Concerning a Very Old and Painful Question, Basic Books, Inc , Publishers, New York 1975, p. 35.

difference be cultivated. Pluralistic society always means plurality on the basis of a firm foundation of principles that make variety possible.

Let me digress a little further on pluralism. We cherish a variety of forms, values, lifestyles et cetera. Why should we not? About the rituals of burial there can be differences. There is no need to take sides in the quarrel between the Greeks and Callathians about the rituals of burial as king Darius well understood.²⁰ "We do not quarrel about the most elegant way to court the other sex, to clothe, bath, wear our hair. Let a thousand flowers flourish."

The Greek Sophists made the sweeping statement that all was a matter of convention and nothing was natural.²¹ That was going too far. But that there is a great variety of customs, ideas and ideals, and that we have to leave people free *as much as possible* to choose their own way of life is not only a fruitful strategy to satisfy human wants but an inspiring ideal as well. Plato and other totalitarian thinkers thought this would corrupt society, but this is not the case. The secret of liberal society is that it is possible to harmonize different ideas and ways of life. Why should we not accept fundamental differences, different customs, different ideas? Let us celebrate pluralism! But there is a limit to variety and pluralism. We have to cultivate certain ideas and values as basic and indispensable. They make it possible to live together. Apparently, there is (i) a normative realm, where we try to find firm foundations or at least aim to organize consensus and (ii) an area, where we leave people free to cultivate dissident ideas. With regard to democracy, constitutionalism and the values they are based upon (liberty, equality and human dignity), we have to stand firm and contest all critics that disparage these ideas as western illusions. The state has a legitimate task in this respect. The state has a task to defend the foundations upon which it stands.

6. The position of life- and world-views

So far, I have come to the conclusion that the state has a responsibility to uphold ideas that are essential to the development of a free society. Liberal society cannot continue to exist without fostering respect for values such as freedom, human dignity, equality, tolerance and other basic ideas. But these ideas are not simply there. They are rooted in certain conceptions of man. They are fed by ethical and anthropological reflexion. This brings us to the function of life- and world-views.²²

Traditionally, *religion* provided the framework for this kind of reflexion. However, traditional religion is disappearing from the scene, at least in some parts of the world. In my country, the Netherlands, 50% of the people do not believe in God. Christianity is in decline. Usually atheists, unbelievers and humanists rejoice in this phenomenon, but there is also a feeling of unease. Modern virtue-theory points out that we need a spiritual substitute for this old religion. A natural substitute for religion has always been humanism. Could humanism replace religion as the social bond? I have some doubts. The problem is: although humanism as a mentality is widespread, its institutional form is very weak.

20 Cf. Rachels, James, *The Elements of Moral Philosophy*, second edition, McGraw-Hill Inc., New York etc. 1993, p. 15.

21 Taylor, Richard, *Good and Evil, A New Direction*, Prometheus Books, Buffalo, New York 1984, p. 17 e v.

22 Cf. Cottingham, John, "Religion, Virtue and Ethical Culture", in *Philosophy*, Vol. 69, 1994, pp. 163-180.

Besides, there are other denominations in Dutch society as well, such as Hinduism, Islam and Buddhism. But every single denomination is a minority nowadays, even Christianity is.

That brings me to an important question. I have to admit that personally I am still ambivalent about the right answer. The question is whether the government has a certain task in facilitating the spiritual sources of values and ideas in Dutch society. Is it the task of the government to uphold a rich variety of religious and non-religious sources for the ethical ideals outlined before, or should government restrict its task to the more concrete manifestations of these sources in the essential constitutional foundations? Let me rephrase the question somewhat: is it the task of government to refrain itself from stimulating respect for human rights, respect for human dignity, tolerance and other central ideas of our constitutional order or should government go further and facilitate the life- and world-views that are the fountains of these ideas as well? Perhaps it is helpful to make a distinction between a pluralistic state and a neutral or a secular state.

7. Four options with regard to the relation of state and religion

Let us start with the relationship between traditional religion and politics. What are the attitudes government can take towards religion?

Firstly, it is possible to combat religion. That has been tried – not very successfully – in the former Eastern-bloc countries, in particular the Soviet Union. Atheism was the official ideology and government aimed at fostering atheism and suppressing religious ideas.

Secondly, we can discern the neutral position in the sense of a secular state. In a neutral or secular state government does not support religion or life- and world-views in any way. Especially in the United States, this model is prevalent in humanist and secular circles. Swomley gives a succinct formulation of the central tenets of this model:

'Given the fact of strong religious convictions and competing religious groups, religious liberty can be guaranteed only in a secular state. A secular state is not hostile to religion. It can be defined as a state that is uncommitted to any religious institution or institutions or to religious beliefs and practices.'²³

In a secular state or a neutral state, Swomley tells us, government does not uphold religious ideas. "The state has no responsibility to support or aid religion in any way". The secular state takes a firm position in the following scale of possibilities. The state does not support religion, but it does not try to suppress it either. Religion is *Privatsache* – a matter of personal concern for the people.

Thirdly, there is the theocratic position. Government tries to encourage respect for one particular religion. For centuries and centuries this has been the situation in Europe and it still is in many parts of the world. The king usually decided what was to be the religion of the country and the people had to obey this: *cuius regio, eius religio*.

Fourthly, there is the pluralistic model. This has been practised more or less in the Netherlands and Scandinavian countries. I think the pluralistic model has several defining characteristics. In the *first* place, it is based on the presumption that religious

23 Cf. Swomley, John M. *Religious Liberty and the Secular State*. The Constitutional Context. Prometheus Books, Buffalo, New York, 1987, p. 7.

and non-religious sources for morality can serve useful social functions. Christianity or Islam or other great theistic religions may have had nasty tendencies but, in general, religions can serve certain useful functions. *Secondly*, adherents of the pluralistic model believe that several religions can compete with each other within the framework of constitutional democracy. Religions and worldviews that do not accept the values of constitutional democracy cannot be tolerated and, for that reason, fundamentalism is rejected. But within the limits set by the constitution and international law on human rights, religious and non-religious ethical speculation has a function in stimulating respect for values and norms. *Thirdly*, neutrality is *also* the ideal in the pluralistic model, but this is not interpreted as *non*-commitment on the part of the state, but *equal* commitment towards all the relevant religious and non-religious life- and worldviews that foster the spiritual base for ethical culture.

According to the principles of the last model, the pluralist model, the Dutch government subsidizes certain social functions practised by the churches and by non-religious organizations such as the humanist league. This policy even finds a foundation in article no. 6 of the Dutch Constitution. There it is proclaimed: "Everyone shall have the right to manifest freely his religion or belief, either individually or in community with others, without prejudice to his responsibility established by act of parliament".²⁴ The word "belief" is a translation of "levensovertuiging", literally, conviction about life or life-stance. It has manifest non-religious overtones, and the introduction of this article in the Constitution in 1983 marks the equal protection of religious creeds with non-religious beliefs or life-stances.

It is important to stress that government only subsidizes social services as performed by the different denominations in Dutch society. It is not the churches as such, that receive money from government, but the social services they provide that are subsidized by the state.

8. Two implications of the pluralistic model

An interesting question is what this means for the relationship of the different denominations. The pluralistic model has two presuppositions: the first is the need to cooperate in a certain sense, the second is the emphasis on difference.

(a) Cooperation

The model of pluralism implies that representatives of the different denominations can work together in several areas. First, they have a common responsibility in stimulating good citizenship. Christians, Buddhists, Muslims, Humanists and Jews are responsible for sustaining and developing the ideas that are necessary for constitutional democracy. The structure of values we cherish in constitutional democracy are the common heritage of all the different religious and non-religious life- and worldviews. Life- and world-views that do not subscribe to this common heritage, such as fundamentalism, ethnic nationalism etc., cannot be tolerated. Here we have reached the limits of what can be condoned. Constitutional democracy can never accept that

²⁴ Kortmann, A J M, Bovend'Eert, P P T, *The Kingdom of the Netherlands, An Introduction to Dutch Constitutional Law*, Kluwer, Deventer/Boston 1993, p. 171

fatwas are proclaimed over peoples heads, nor can we accept the subjection of women: human rights are the most significant measure to evaluate what is acceptable and is not.

(b) Difference

So far we have talked about consensus, about the common standard of principles we all have to apply. But there is also difference of opinion about the good life. The infrastructure comprises values such as freedom, tolerance, human dignity. In this respect we may discern consensus. But apart from this consensus there is the realm of difference. Here we can distinguish several conceptions of the good life. Conceptions of the good life deal with the ultimate goal of human existence, life after death, the meaning of life. Here there are deep disparities between humanists, Christians and representatives of other denominations. Some people deny this, but the realm of difference is still considerable.

Here the different denominations may fight their civilized war of ideas. We have to agree on the rules of the game. We cannot tolerate force, cannot tolerate intolerance, cannot tolerate a closed mind. But once we have guaranteed consensus in this sphere, we can fully disagree with one another about the good life. In the clash of opinions the truth has to prevail. Or, to set a more modest ambition: as a result of the clash of ideas everyone must be able to make up his or her mind and be able to choose which conception of the good life is the most suitable for him or for her.

I stress the clash of ideas, differences, because to my mind a false conception of tolerance is nowadays defended to stimulate a pussyfooting attitude towards other denominations. Very often we hear: "Why polarize? Why be critical towards other ideas? Why should we be so intolerant? Isn't a religion or a world-view a matter of personal concern? Let everybody in peace, and respect the opinion of others."

This sounds very sympathetic and is probably well-meant. But to my mind, it is seriously mistaken. The model of a pluralistic society thrives on consensus *and* difference. We should accept difference as difference, not try to suppress or ignore it. Tolerance is not the same as indifference. Tolerance demands of us to respect another being, to let him or her tell his or her story. It never asks us not to contradict his or her story.

9. Two threats for the pluralistic model

I believe that we have to encourage the pluralistic model. But the model is under pressure from two sides. On the one hand there are those who proclaim there are no relevant differences between life- and world-views any more. The great differences are gone, some people contend. Everybody more or less thinks the same. We are all members of the great liberal, democratic culture. Fundamental ideological differences belong to the past. So why make so much fuss about those things? We approach a general consensus.

This has been proclaimed by those who think we are at the "end of ideology" or the "end of history". An influential author on this topic is, of course, Francis Fukuyama. Fukuyama himself is a little ambivalent in this respect but uncritical readings of his work stimulated the misconceived idea that his book could be the legitimation for this view.

The second kind of criticism of pluralistic society comes from those who *deny* every kind of consensus about foundations. According to this second perspective, society is immersed in boundless difference. There are as many worldviews as there are persons. The world is broken down into fragmented people with fragmented ideas. This perspective is connected to postmodern tendencies.

To my mind, neither of these types of criticism are convincing. However, they are, to be sure, *very* influential. In the first instance the consensus is overvalued, in the second instance one overemphasizes fragmentation. A more realistic diagnosis of our time seems to me to be: difference on the basis of consensus.

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