

“Religion never stands above the law”

The relation between the state and faith groups as illustrated in Belgium

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Abstract

Regularly, civil authorities in Europe ask religious communities to confirm that “religion never stands above the law.” Some believers would like to respond that the law never stands above the Bible (or Tanakh or Qur’an). However, the relationship between religion and law is more complicated than either of these statements would suggest. This article tries to formulate the relationship in a language that is understandable for civil authorities, and with a content that reassures them of believers’ peaceful intentions while not betraying religious convictions.

Keywords Belgium, human rights, European freedom of religion.

1. Problem definition

The representatives of religious groups in Belgium have been confronted more than once with the semi-obligation to approve – as allegedly behaves a “decent” religion – expressions such as ‘religion never stands above the law.’² This happens because there is no absolute separation of church and state in Belgium, but rather a more complex relationship between civil authorities and recognized religions, in which the formal representative bodies of religious organizations play an important role.³

However, it is not easy to respond to this kind of request. Although we understand that religion and the rule of law can exist together, we feel a tension that is created by specific contexts but that seems to expand into a general circumscribing of religion’s role in societal matters. This paper tries to formulate how both can exist together without any such restriction.

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² For a general introduction to the Belgian situation, see J. Creemers, “We All Share the Same Values, Right? How Institutionalisation of Religions in Belgium Promotes Liberal Secular Values,” in J. Creemers and H. Geybels (eds.), *Religion and State in Secular Europe Today* (Leuven: Peeters, 2019):137-150.

³ See G. W. Lorein, *L’episkopos en tant que contrôleur ou en tant que protecteur*. 1 May 2021. Available at: <https://bit.ly/3bqwHld>.

2. The task of the state

Freedom of religion (institutional, collective and individual – *forum internum* and public practice) is protected by law (including the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, and the Belgian Constitution⁴). Our entire legal system is based on the fact that law can be changed through the legislative procedure or by popular referendum. Besides a strict democratic mechanism ('+50%'), the rule of law exists, serving to limit the possibilities of legislators and judges and guaranteeing fundamental rights.⁵

It is the government's task to protect and promote fundamental rights, including freedom of religion. Therefore, freedom of religion cannot be traced back to protecting a greatest common denominator and especially not a comprehensive secular philosophy.⁶ Rather, an external pluralism must be allowed. This is at least the case according to the Anglo-Saxon Enlightenment,⁷ which presupposes a certain neutrality or rather impartiality⁸ of the state. In this way, people (particularly civil servants) can be prevented from being reduced to neutral robots.⁹

This Enlightenment amounts to acknowledging (a) the importance of knowing all arguments, (b) the importance of thinking for yourself¹⁰ and (c) the under-

⁴ The most specific articles in each text are ECHR Article 9, CFREU Article 10, and Constitution Article 19.

⁵ In addition, one could think of "security" as a separate element, but one that can also be counted among fundamental rights. For the Roman Catholic doctrine about the relation between the two aspects, see M. van Stiphout, "De katholieke sociale leer over de relatie gelovige/burger, samenleving en seculiere staat," in *Tijdschrift voor Religie, Recht en Beleid* (2018), 9(3):51.

⁶ O. Maingain and Véronique Caprasse, "Proposition de révision de la Constitution en vue d'insérer un nouvel article 7ter relatif à la laïcité de l'Etat," in *Actes du Colloque "Laïcité de l'Etat & Citoyenneté Partagée"* (Les Focus du CEG X; Brussels: Centre Georgin, 2015):63, referred to "[l]e plus grand dénominateur commun de valeurs." J. Maclure and C. Taylor, *Laïcité et liberté de conscience* (Montréal: Boréal; Paris: La Découverte, 2010):22 (English translation by Jane Marie Todd, *Secularism and Freedom of Conscience*, (Cambridge, MA: Harvard University Press, 2011)):13, rightly remark that this would reduce believers to second-class citizens.

⁷ P. Fox, *God versus de beschaving? Een pleidooi voor de-polarisering in een tijd van religieus geweld*, in *Sopie* (2015), 5(1):11-12.

⁸ Whereas the state should be "neutral" or "impartial," individuals can never really be neutral. Cf. Prof. Jan Velaers in the Belgian Federal Parliament, 17 May 2016: the State must be neutral; the civil servant in State service must act neutrally (Belgian Federal Parliament, *Het karakter van de Staat en de fundamentele waarden van de samenleving*, 2018):144.

⁹ I take the image from G. Vanheeswijck, "The Place of Religion in the Secular Society," in Creemers and Geybels, *Religion and State*, 28. Cf. Mariëtte D.C. van der Tol, "Politics of Religious Diversity: Toleration, Religious Freedom, and Visibility of Religion in Public Space" (Ph.D. thesis, Cambridge University, 2020):144: "Neutrality prohibits the state from instrumentalising a normative framework to the disadvantage of individuals and communities, particularly regarding social norms."

¹⁰ Self-thinking (being authentic), but therefore not necessarily excluding every reference to the higher (being autonomous); see Vanheeswijck, "The Place of Religion":23.

standing that religion should never incite hatred or violence, because otherwise it disqualifies itself from being respected in the public square.¹¹

However, there is not only Enlightenment, but also *Lumières*.¹² In the French Enlightenment, religion must be privatized because (a) religious arguments are unreliable, (b) religious people are dependent and (c) religions are dangerous.¹³

These *Lumières* can be found in one of the two variants of the doctrine of *laïcité*. The first variant teaches a *neutrality* of the State (so interpreted by many in France¹⁴); the second emphasizes the state's *opposition* to religion(s) and advocates certain anti-religious views (as interpreted by some in France and by the *laïcs* in Belgium).¹⁵

This second Belgian form of *laïcité* wants the state to control everything¹⁶ in order to protect not only the state and public services but also the playing field of politicians and private individuals from religions.¹⁷ This idea was expressed in a recent proposal to amend the Constitution. According to two members of the Belgian Federal Parliament, it is the task of the government “to protect its public services

¹¹ Bundespräsident Frank-Walter Steinmeier, “Eröffnung der 10. Weltversammlung von Religions for Peace”, lecture at Lindau am Bodensee, 20 August 2019: “Inzwischen haben wir hoffentlich alle gelernt, dass sich jede Religion, die ihre Überzeugung mit Unterdrückung, Gewalt oder Terror behaupten will, schon selbst diskreditiert hat.” Available at: <https://bit.ly/3w21Dlq>.

¹² I am aware that historically this distinction must be nuanced or even avoided, but for this article the distinction should work.

¹³ Cf. Steinmeier, “Eröffnung”: “Imagine there’s no heaven / above us only sky / ... Nothing to kill or die for / and no religion too.’ Eine religionslose Welt wird geradezu als die Grundvoraussetzung für eine friedliche Welt angesehen.” Violence has also been used without religious foundations. W. de Been, *Monotheïsme kan uw staat ernstige schade toebrengen. Paul Cliteur, The Secular Outlook & Het monotheïstisch dilemma, in Rechtsfilosofie & Rechtstheorie* (2011) 40:144, refers to anarchist terrorism, the Holocaust, the Gulag, the Cultural Revolution, and the Killing Fields of Cambodia.

¹⁴ Cf. the *Conseil constitutionnel* in France with its decision 2012-297, §5: “Le principe de laïcité impose notamment le respect de toutes les croyances, l’égalité de tous les citoyens devant la loi sans distinction de religion et que la République garantit le libre exercice des cultes” (official translation: “The principle of secularism requires in particular that all beliefs be respected, the equality of all citizens before the law without distinction based on religion also be respected, and that the Republic guarantee the free exercise of religion”).

¹⁵ On the basis of A. M. Baggio, “The Cultural-Historical Roots and the Conceptual Construction of Laicity,” in Creemers and Geysels, *Religion and State*:42; the second variant appears to be the original. See also X. Delgrange (ed.), *Les débats autour de l’inscription de la laïcité politique dans la constitution belge* (Les Cahiers du CIRC 4; Brussels: Université Saint-Louis, 2020).

¹⁶ Contra Maingain and Caprasse, “Proposition de révision”:65-66 (“pour l’Etat un droit de contrôle”). More recently expressed by F. De Smet and Sophie Rohonyi, “Proposition de révision de l’article 7bis de la Constitution en vue d’y consacrer la laïcité de l’État,” Belgian Federal Parliament, 9 November 2020:6: “Ce devoir de protéger les libertés entraîne pour l’État un droit de contrôle: il doit veiller à ce que la liberté des uns n’empiète pas sur celle des autres.”

¹⁷ Maingain and Caprasse, “Proposition de révision”:67: “protéger les services publics, le champ politique et les individus contre d’éventuelles tentatives de mainmise religieuse”; roughly the same words appear on p. 70.

and its citizens against the religious claims to interfere in the public space.”¹⁸ As a new group of lepers, believers must remain outside society. This status would then be anchored by monitoring access to eligibility.¹⁹ Strangely enough, secularist humanism is not mentioned in the same breath as religions, even though in Belgium it is also a recognized worldview.²⁰

Such an audit is *not* the state’s task, and the state should not wish to lead the citizens to a specific project.²¹ That would be “a form of paternalism.”²² The state cannot have a truth claim either, at least not as far as ultimate values are concerned.²³ Otherwise, we still would have a state religion, in which the state determines both the content and the coordination of this religion.

The same members of Parliament also want to promote this project in education.²⁴ However, education is not primarily the task of the government, although it must create frameworks and fill gaps; rather, education originates with the parents,²⁵ not with the state, and it is therefore also a question whether education should in any case ensure that “social choices such as the theory of evolution, the promotion of human rights, the preservation of the memory of the resistance, values such as equality and emancipation and so on”²⁶ are taught.

¹⁸ De Smet and Rohonyi, “Proposition de révision”:7: “de protéger ses services publics et ses citoyens contre les revendications religieuses d’interférer dans la sphère publique.”

¹⁹ Maingain and Caprasse, “Proposition de révision”:68-69; De Smet and Rohonyi, “Proposition de révision”:11, 13.

²⁰ In that way the proposition is in conflict with the requirement of J. Habermas, *Zwischen Naturalismus und Religion. Philosophische Aufsätze* (Frankfurt: Suhrkamp, 2005):127 (English translation by J. Gaines, “Religion in the Public Sphere,” *European Journal of Philosophy* 14 [2006]:5), that in a neutral state political decisions can be considered legitimate only when they are justified in the same way vis-à-vis both religious and non-religious citizens.

²¹ Van der Tol, “Politics of Religious Diversity”:148: “The state has no right to ‘conversion’ or the ‘conformity’ of minorities.”

²² Guido Vanheeswijck, “De plaats van religie in de publieke ruimte,” lecture at Antwerp, 30 November 2016; (“een vorm van paternalisme”). Cf. De Been, *Monotheïsme kan uw staat*:141, 145.

²³ J.-P. Willaime, “L’expression des religions, une chance pour la démocratie,” *Projet* 342 (2014):13: “L’État, en démocratie, n’est pas et ne doit pas être une Église. Il doit pouvoir autoriser et garantir la diversité des convictions religieuses et philosophiques des uns et des autres, mais aussi, dans certaines limites, les diverses façons de concevoir et de vivre une vie digne et bonne.” Of course, the state creates truth in Court, but that is a judicial truth, not less, not more.

²⁴ Maingain and Caprasse, “Proposition de révision”:67, want to base education on a critical emancipation idea in relation to religious dogmas. Jules Ferry in 1885 wanted to take the message even further: “Il faut dire ouvertement qu’en effet, les races supérieures ont un droit vis-à-vis des races inférieures” (Baggio, “The Cultural-Historical Roots”:48). Of course, we must place the comment in its original context, but it still indicates the missionary content of the *laïcité*.

²⁵ Cf. Article 14, Charter of Fundamental Rights of the European Union (CFR): “The right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected.”

²⁶ De Smet and Rohonyi, “Proposition de révision”:12: “Des choix nets de société sont enseignés à

3. The task of faith groups

Faith is not a loose facet of our being that we can put aside, but is identity-defining. Mia Doornaert sees here a distinction between the Western world, where religion is a private belief, and the Muslim world, where religion is an essential part of identity.²⁷ She is right to the extent that the Christian faith involves a personal choice and not an inherited characteristic, but she underestimates the importance of faith with this formulation, for individuals²⁸ as well as for institutions.²⁹

As Christians, the Bible calls us to commit ourselves to civil government and to society (Jeremiah 29:7; Romans 13:1-7; Titus 3:1-2; I Peter 2).³⁰

Where we are offered all kinds of freedoms, our faith gives direction to what we can do with that freedom in a concrete personal case.³¹

The quality of public debate can be improved if those who hold different convictions would put forward their views and arguments in generally intelligible terms.³² Solid information, as a counterpart to the sophistic reasoning seen on today's social media platforms that is not obliged to observe consistency, would prevent the population from swinging too easily from one point of view to another and thereby causing the opposite point of view to become obscured.³³

4. A dilemma?

As a religious community, we are positive towards the government and want to express our support for the state in working out what is true, good and beautiful.³⁴ We believe

l'école avec la théorie évolutionniste, la promotion des droits de l'homme, la mémoire de la résistance, des valeurs comme l'égalité et l'émancipation.” Of course, one should doubt whether theories and memories are social choices: see e.g. Habermas, “Religion in the Public Sphere”:16.

²⁷ Mia Doornaert, “Degenen die de brandklok luiden,” *De Standaard*, 28 October 2020.

²⁸ See J. Van den Brink, “Subsidie aan levensbeschouwelijke organisaties is ook van deze tijd,” *Nederlands juristenblad* 94, no. 39 (2019): 29531: “De religie of levensbeschouwing is in veler leven geen strikt persoonlijke ‘kers op de taart’, maar een essentieel aspect dat al onze activiteiten doortrekt.” Also Willaime, “L'expression”:12.

²⁹ See van der Tol, “Politics of Religious Diversity”:153: “The idea that religion is a private affair overlooks the social relevance of religious organisations in and beyond places of worship, as well as the interconnectedness and intersection of identities and the making of meaning in society.”

³⁰ See further A. de Bruijne, “Living with Scripture, Living in a Democracy,” *European Journal of Theology* 28 (2019):127; S. DuToit, “Negotiating Hostility through Beneficial Deeds,” *Tyndale Bulletin* 70 (2019):221-243.

³¹ Archbishop Jozef De Kesel, “Foi et religion dans une société moderne,” lecture at Brussels, 16 November 2016. See also the lines cited by R. L. Wilken, *Liberty in the Things of God: The Christian Origins of Religious Freedom* (New Haven, CT: Yale University Press, 2019):vi: “wilt thou let thy Soul be tied / To man's laws, by which she shall not be tried / At the last day?”

³² Cf. Habermas, “Religion in the Public Sphere”:10-16.

³³ Cf. Van Stiphout, “De katholieke sociale leer”:52.

³⁴ For the problem of defining this (esp. the “common good”), see Van der Tol, “Politics of Religious Diversity”:148-49, 161, where she mentions the risk that after all this will be defined by the majority of the day.

in the Kingdom of God, but that does not mean that we should act as competitors of the Kingdom of Belgium. The Kingdom of God is not of this world (John 18:36).³⁵

At the same time, we want to safeguard our own position and remind the state of its limitations. In a state that respects fundamental rights, religious communities can never be asked to commit to a stricter adherence to fundamental rights than other communities.³⁶

Reference is often made to John Rawls,³⁷ who would limit the consensus about the common good to a consensus about policy-making procedures reached on rational grounds. He concludes, “Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.”³⁸ This seems to offer a way out, but (a) it might be too optimistic that such a goal can be reached and (b) the appeal to reason might be necessary, but it can also be exclusive,³⁹ favouring those who only work with reason (i.e. atheists)⁴⁰ and leaving undefined what is ‘unreasonable.’ After all, Rawls seems to engage in circular reasoning when he argues, “Central to the idea of public reason is that it neither criticizes or attacks any comprehensive doctrine . . . except insofar as that doctrine is incompatible with the essentials of public reason.”⁴¹

According to Habermas, the state cannot expect citizens to justify their political statements without using religious convictions.⁴² Indeed, the obligation for religious people to present their arguments in a rationalist way would place on them an extra burden not applied to non-religious citizens.⁴³ Van der Tol remarks that after agreement is reached on a rational basis, another narrative can still be added.⁴⁴

³⁵ Keep in mind that “the world” (Greek *kosmos*) has different aspects: it has been created by God (cf. Eph. 1:4), is fallen into sin (cf. Rom. 12:2; Jas 1:27; 4:4; 1 Jn 2:15) and is still loved by Him (cf. Jn 3:16-17; 6:33, 51; 12:47; 1 Jn 2:2; 4:9, 14). Cf. G. W. Lorein, “מלכותא” in the Targum of the Prophets,” *Aramaic Studies* 3 (2005):15-42.

³⁶ See note 21.

³⁷ John Rawls, *Political Liberalism*, 3rd ed. (New York: Columbia University Press, 2005).

³⁸ Rawls, *Political Liberalism*:137.

³⁹ See e.g., Rawls, *Political Liberalism*:140 (“not unreasonable”) and also 441, n. 3: “How far unreasonable doctrines are active and tolerated is to be determined by the principles of justice.” The idea of “tolerance” is a step backwards.

⁴⁰ As Maclure and Taylor, *Secularism and Freedom*:31, also remark.

⁴¹ Rawls, *Political Liberalism*:441.

⁴² Habermas, “Religion in the Public Sphere”:8-11. The English translation especially raises the question whether all politicians hold a public office, also in states where they represent only their electorate and not the whole of their district. See also Rawls, *Political Liberalism*:443, who wants to exclude judges, officials, legislators and candidates for public office who do not agree with his premises – again seeming logical, but also exclusive in a certain way.

⁴³ Habermas, “Religion in the Public Sphere”:13.

⁴⁴ Van der Tol, “Politics of Religious Diversity”:152.

According to Maclure and Taylor, living together is possible when human dignity, human rights and popular sovereignty are observed, although even these values are not completely neutral.⁴⁵ The main principles are equality of respect and freedom of conscience;⁴⁶ other elements may be means to reach these goals, but should not be absolutized.⁴⁷

Even the reduction of this core principle to “freedom of conscience” – presented as being more objective by Maclure and Taylor⁴⁸ – contains a risk for Christians. Freedom of *religion* should not be dropped as a fundamental right. It is historically one of the first fundamental rights,⁴⁹ and it is broader than a combination of freedom of expression and freedom of association, because it is also about public worship, the right to follow one’s conscience because of religious beliefs and the right to have a truth claim. Especially in view of the persecution of my brothers and sisters in faith⁵⁰ in large parts of the world, I cannot consider the abolition of freedom of religion acceptable.⁵¹

Religions have internally a truth claim,⁵² but contemporary Christian believers recognize that they cannot force fellow citizens to adopt their views, because they realize that coercion in matters of faith is impossible.⁵³ They understand also that fellow citizens with a different faith commitment will have truth claims too, though

⁴⁵ Maclure and Taylor, *Secularism and Freedom*:11.

⁴⁶ Maclure and Taylor, *Secularism and Freedom*:20.

⁴⁷ Maclure and Taylor, *Secularism and Freedom*:29.

⁴⁸ Maclure and Taylor, *Secularism and Freedom*:90-91, and more generally 81-99.

⁴⁹ Cf. Wilken, *Liberty in the Things of God*:110-11: since Jean Gerson (1363-1429), who recognised the right to fulfil God’s law as a third “*ius naturale*,” besides property and self-preservation (which we find already with Cicero, *Pro Milone* §10 (52 aCn): “*Est igitur haec, iudices, non scripta, sed nata lex ... ut, si vita nostra in aliquas insidias ... incidisset, omnis honesta ratio esset expediendae salutis*”). See already Sophocles, *Antigone* 450-457 (442 aCn), although there the fundamental right is an implication of an undoubtable duty.

⁵⁰ And by extension those of other faiths and non-believers for the sake of their (un)belief.

⁵¹ Moreover, there is the lapidary argument in the form of a question: “And what is the next fundamental freedom that you wish to abolish?” (provided to me in a personal communication by Christel Lamère Ngnambi during the conference of the Conseil National des Évangéliques de France in Pontoise on 22 January 2015).

⁵² Steinmeier, “Eröffnung”: “Jede Religion hat ja für sich den Anspruch, wahr zu sein. Es gehört sozusagen zum Begriff der Religion selbst, die Wahrheit über Himmel und Erde, über Gott und die Menschen zu kennen. Wenn sie ernst und glaubwürdig bleiben will, kann eine Religion darauf nicht verzichten.” Cf. De Bruijne, “Living with Scripture”:126.

⁵³ A. Kuypers, *Het Calvinisme. Zes Stone-lezingen* (Amsterdam and Pretoria: Höverker & Wormser, 1899), lecture 4:132: “Gij kunt, ik zeg meer, gij moogt er zelfs niet aan denken, om aan wie uit een ander bewustzijn leeft de vrijheid van de gedachte, van het woord en van de drukpers te ontnemen.” Cf. Van Stiphout, “De katholieke sociale leer”:51, for a Roman Catholic parallel. For a general historical overview, see Wilken, *Liberty in the Things of God*:1, 11-18, who ascribes the idea of “choice instead of coercion” already to Tertullian (about 200), not just to the Enlightenment.

they will be different ones. Dialogue to understand the worldviews of other people⁵⁴ is useful to avoid conflicts and to avoid the risk of considering only ourselves as ‘reasonable, enlightened and modern.’⁵⁵

In a constitutional state, there is no dichotomy between law and religious principles.⁵⁶ Nevertheless, conflicts may arise between specific religious practices and specific laws in a specific context, but this must always be read through the lens of Article 9, section 2 of the ECHR: restrictions of freedom of religion must be formulated as a law (i.e. voted on by Parliament, not decided by an individual civil servant or judge), necessary and in order to protect others.

Professor Louis-Léon Christians has pointed out⁵⁷ that there is an “internormativity” of law and religion. Belgian law gives space to religion; the Bible speaks of obedience to the government. Under no circumstances are we expected to obey either the government or God in a robotic manner. In any situation, with its own facts, we must assume our responsibilities.

This statement is different from “religion is never above the law,” but also something other than “the law is never above religion.” The expression “separation of church and state” is often used to describe the situation; however, this expression must be understood correctly. Especially in Belgium, we speak about regular relations between government and individual religious convictions, according to which the state does not try to create a state church and the church does not try to achieve a church state⁵⁸ (nor does secularist humanism attempt to have a secularist humanist state).

Obviously, freedom of religion is no free pass for criminality. But who decides what is a crime? The formal answer may seem easy (it is the result of a broad social consensus on rational grounds, à la Rawls⁵⁹), but why are some acts regarded as criminal in Belgian law and not in another country (or even within a single country – ritual slaughter is permitted in the Brussels-Capital region, but not in Flanders or Wallonia)? Why is cutting off someone’s hand according to the sharia not acceptable, whereas cutting off someone’s foreskin according to the Torah is fundamental to freedom of religion? Probably because the one belongs to the core of its religion

⁵⁴ Cf. Habermas, “Religion in the Public Sphere,” 4, who, however, suggests taking over (!) the perspectives (in the original German: “die Perspektiven ... zu übernehmen”):126).

⁵⁵ Cf. C. Polanz, “Between Salafism and Secularism: The Contemporary Discourse of German Muslims on Freedom of Religion,” lecture at Leuven, 7 May 2021.

⁵⁶ Cf. for Belgium S. Echallaoui, “Le respect de la Constitution belge n’implique nullement le reniement d’un principe transcendant,” Communiqué Exécutif des Musulmans de Belgique, 8 March 2017.

⁵⁷ L.-L. Christians, “Les responsabilités du Déontologue confessionnel,” lecture notes, 13 May 2020.

⁵⁸ Anon., *Christen-zijn in de Nederlandse samenleving* (The Hague: Boekencentrum, 1955):17. Cf. Wil-laime, “L’expression”:13: “renoncement de l’État au pouvoir spirituel et le renoncement des autorités religieuses au pouvoir temporel.”

⁵⁹ See note 34.

and does no permanent harm, whereas the other depends on the interpretation of schools and of concrete situations. These are difficult questions with no clear-cut answers, but they have to be asked anyhow.

Sometimes, legislation provides exceptions for religious believers, but on other occasions believers must accept punishment (such as going to prison as a conscientious objector). Should these exceptions be defined precisely? This would have been the result of the 2010 proposal to amend article 21 of the Belgian Constitution: “Subject to exceptions concerning conscience determined by the legislature, no convictional prescription may be invoked to evade a legal obligation.”⁶⁰ This would mean that unless a specific reference to exceptions is stated, no exemption from the law’s provisions would be available for any reason.

What kinds of cases are we talking about? Ritual slaughter, shaking hands (problem solved thanks to Corona virus ...), hiding one’s face (*idem*), or refusal to cooperate or interact with people of the opposite sex come to the mind. This is not the place to solve such problems; I am simply pointing out a few of the many examples of conflicts between religion and the law.

In any case, a group that holds religious convictions has the right to seek a change in the law. By the way, such efforts have not been limited to Christians. In the recent past, secularist humanists have taken the lead in seeking legislative change, inspired by their convictions, on several occasions.

It should also be possible to protest against the violation of fundamental rights by a government.⁶¹ Doing so would, of course, be difficult if the law always comes first.

5. A proposed resolution

In spite of all the problems and unanswered questions, religious leaders need to be able to say something when confronted with the mantra “religion never stands

⁶⁰ “Behoudens uitzonderingen inzake geweten die door de wetgever zijn bepaald, kan geen enkel levensbeschouwelijk voorschrift worden ingeroepen om zich te onttrekken aan een wettelijke verplichting.” M. Magits and L.-L. Christians (eds.), *Hervorming van de wetgeving met betrekking tot levensbeschouwingen en niet-confessionele levensbeschouwingen* (s.l. 2010):99. In an even more restrictive variant: “Niemand kan zich op grond van religieuze of levensbeschouwelijke motieven onttrekken aan de geldende rechtsregels of de rechten en vrijheden van anderen beperken” (“No one can evade the applicable legal rules or restrict the rights and freedoms of others on the basis of religious or convictional reasons”; proposal by Vuye and Wouters, Belgian Federal Parliament, *Het karakter van de Staat*):177. A positive point is that these proposals use the word “conviction”, instead of limiting it to “religions”.

⁶¹ E.g. by going to Court or by public action. See Thomas K. Johnson, *Human Rights. A Christian Primer*, 2nd ed. (WEA Global Issues Series I; Bonn: Kultur und Wissenschaft, 2016):91: “To say a government or military force has abused human rights is to say that a public organization has committed a serious act of injustice which will require thoughtful people to consider public protests and civil disobedience.” It must be fundamental rights, because if one interprets human rights too extensively, everything is watered down (Johnson:88-90).

above the law.” Following is a brief proposal that tries to take into account all the rules and counterarguments mentioned earlier.

While various worldviews guide the thinking and actions of their adherents, including their social actions, the actions of citizens of different worldviews and the actions of the government towards all citizens should be consistent with rules agreed to in an impartial state (democracy, fundamental rights, security). In other words, the state should not be based on a single worldview.

We request support for the freedom of religion (conviction as well as worship), the freedom to invoke exemptions for religious reasons, the freedom to propose legislative changes and rules of life and the right to have a truth claim, which, however, does not mean that believers can restrict others in those freedoms or impose their truth claim on others. Respect for the state, which cannot and should not have a truth claim, and fundamental rights must be at the heart of this.

It is dangerous if faith groups question the rule of law; or if the state questions freedoms such as freedom of religion, conscience, expression and association.

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