

State Support for Religion: An Autonomy-based Approach

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ABSTRACT

In the first part of this article, I will argue that it is, within a liberal framework, possible to give a neutral or anti perfectionists legitimation for state support for 'valuable options' or 'perfectionist goods.' After a critical elaboration of autonomy-based liberalism as defended by Raz and Kymlicka, it has been argued that state support for these goods can be allowed as a second-best option in order to guarantee equal access to an adequate range of valuable options, which is a necessary condition for autonomy (cf. Ben Colburn).

In the second part, I will focus on religion and argue that religion is a perfectionist good. Accordingly, state support for religion is *allowed*, but not required by justice, and this kind of support should only be allowed in order to guarantee equal access to autonomy. Furthermore, it has been argued that state support for religion is only allowed under specific circumstances and if several conditions are fulfilled. If this is not the case, this policy of support is not in line with autonomy-based liberalism and its neutrality constraint.

INTRODUCTION

Since the publication of Rawls's *A Theory of Justice*, state neutrality has become a core concept in contemporary political philosophy: in order to ensure that all citizens can lead a life "from the inside" (Kymlicka 2002, 216), the state should be 'neutral' or 'anti perfectionists'¹: political decisions should not privilege any particular view of the good life, nor should they favor individuals because they adhere to that particular view.² Policy decisions should, therefore, be formulated in 'neutral' terms:

[T]he state is not to do anything intended to favor or promote any particular comprehensive doctrine rather than another, or to give greater assistance to those who pursue it. (Rawls 1988, 262)

For this neutral policy, an *autonomy-based* justification is probably most common and acceptable: in order to respect freedom and equality, and in order to respect the right to autonomy – understood as the possibility "to lead our life from the inside, in accordance with our beliefs about what gives value to life" and "to question those beliefs, to examine them in

¹ Even though most authors do not make a distinction between 'antiperfectionism' on one hand and 'political neutrality' on the other, Quong (2011) makes this important distinction: *antiperfectionism* refers to a neutral state policy, while *political neutrality* refers to the 'neutral legitimacy' for a particular state policy. When I use the term 'neutrality' in this article, I will use it only in this first sense, as a substitute for antiperfectionism.

² Different from Rawls, who applies the neutrality constraint only to the "basic structure of society" (Rawls, 1971, 8) and "constitutional essentials' and questions of basic justice" (Rawls, 2005 [1993], 181, 308-309), I will, in order to avoid paternalism and coercion, extend the concept of neutrality to "all instances where political power is exercised over citizens." (Quong 2011, 275)

the light of whatever information, examples, and arguments our culture can provide" (Kymlicka 2002, 216) – the state should not base its policy on any particular comprehensive doctrine, but it should be able to give *neutral* arguments for its policy decisions.

But what does this neutrality constraint exactly mean? Does it mean that the state should only support goods that are *in the common interest*? Or should it also support several goods because they are *valuable for a number of citizens*? And what does this neutral policy mean for financial support for religions and non-confessional worldviews?³ Should the state, in order to be truly neutral, abstain from this kind of support? Or is it, within a liberal and thus neutral framework, allowed to support one or more religions and non-religious worldviews?

Based on the autonomy-based liberal theories of Joseph Raz, Will Kymlicka and Ben Colburn, I will give an anti perfectionists argument for state support for 'perfectionist goods,'⁴ or valuable options: in order to guarantee an adequate range of valuable options to choose among, which is a necessary condition for autonomy, state support for these options can, in some circumstances and under certain conditions, be allowed as a second-best option. Since religion can be such a 'valuable good,' state support for religion can also be allowed in a liberal state to guarantee equal access to autonomy. However, as a *general principle*, this kind of support is not *required* by justice: a liberal state *can*, but *should not always* actively support religion. Moreover, *if* the state chooses a policy of active support, several criteria must be fulfilled so that this policy is in line with autonomy-based liberalism and its neutrality constraint.

AUTONOMY-BASED PERFECTIONISM VERSUS AUTONOMY-BASED ANTIPERFECTIONISM: RAZ AND KYMLICKA

As stated by Raz (1986, 190), "[t]he capacity to be free, to decide freely the course of their own lives, is what makes a person. [...] On this view respect for people consists in respecting their interest to enjoy personal autonomy". Along the same lines, Kymlicka (1989a, 12) argues that "no life goes better by being led from the outside according to values the person does not

³ Examples are Buddhism and non-confessional humanism.

⁴ Perfectionist goods are, different from 'nonperfectionist goods' (e.g. health care and education), not necessary in the common interest: some citizens consider these goods to be valuable, but not all citizens do. Since these goods are not *required* in order to give citizens equal opportunities and since there is thus no neutral justification for their general benefit or value, I will call these goods '*perfectionist goods*'. Examples are different kinds of arts, sports, travelling, and having a night out; or more concrete: paintings and theatre; tennis and hockey; a trip to London and a trip to Ibiza; an evening in a restaurant or a night on the dance floor.

endorse. My life only goes better if I am leading it from the inside, according to my beliefs about value."

To make autonomous choices (and the revision of these choices) possible, the liberal state should guarantee the social conditions that enhance this capacity. According to Raz (1986, 372) and Kymlicka (1995, 92ff), there are three such conditions: *negative freedom* or non-interference (no coercion or manipulation), the *development of mental abilities and capacities*, and the *accessibility to a wide range of 'valuable' options*. Particularly with regard to this last condition, both philosophers disagree about the role of the state: as said by Raz, a hands-off policy with regard to valuable options will not be sufficient and in order to guarantee a range of valuable options to choose among, which is a condition for autonomy, the state should lead a policy of *state perfectionism*. Kymlicka, on the other hand, defends a *social perfectionist* policy: it is up to citizens, and not to the state, to decide what is valuable and the free market will be sufficient to guarantee an adequate range of valuable options.

Raz's State Perfectionism

According to Raz, autonomy is the core liberal value, but it is only valuable when it is used *in the right way*. For that reason, the liberal government cannot and should not be neutral, but it should have an active role in creating and maintaining the accessibility to a wide range of 'valuable' options to choose among: "[i]f all the choices in a life are like the choice between two identical-looking cherries from a fruit bowl, then that life is not autonomous" (Raz 1986, 398) because an autonomous life is only valuable if it is spent in the pursuit of morally acceptable and valuable projects and relationships *and* because these valuable options are not always guaranteed without state support, state support for valuable options is not only permitted but sometimes also *required* by justice. Similarly, discouraging worthless options is sometimes needed to enable autonomy: "the autonomy principle permits and even requires governments to create morally valuable opportunities, and to eliminate repugnant ones" (Raz 1986, 417).

But what makes an option 'valuable' and who decides about this value? Even though Raz is not always clear and only provides a few examples of 'valuable goods' (e.g., art and monogamous marriage), in any case, he seems to defend the claim that some options are *intrinsically valuable*, and that the state can support them *for that reason*:

Consider the value of works of art not to their creator but to the public. [...] One view of their value holds it to be intrinsic. Watching and contemplating works of art are valuable activities and a life which includes them is enriched because of them. (Raz 1986, 200-201; also 212-213)

Because some goods are intrinsically valuable *and* because autonomy is only valuable if it is spent "in the pursuit of acceptable and valuable projects and relationships" (Raz 1986, 417), state support for these goods is not only allowed but also *required* in a liberal society.

However, the idea that the state should support particular options because they are *intrinsically valuable* is problematic since such a policy can lead to a restriction of individual autonomy (cf. Waldron 1989): if *the state*, and not the autonomous individual, decides which options are (not) valuable and should, therefore (not) be supported with public tax money, citizens are not threatened as autonomous individuals. Besides, it is not clear *how* the state should decide whether a practice or an option is intrinsically valuable or not. Should it use experts to decide this? And if so, can these experts refer to objective (or neutral) criteria? Or is the value of a specific option dependent on particular contexts, and on supply and demand? The least one can say is that Raz's state perfectionism is not uncontroversial, and it is not a surprise that Kymlicka, for instance, pleads for a different kind of autonomy-based liberalism.

Kymlicka's Social Perfectionism

Like Raz, also Kymlicka defends autonomy as a core liberal value: we should always have the opportunity "rationally to assess our conceptions of the good in the light of new information or experiences and to revise them if they are not worthy of our continued allegiance" (Kymlicka 1995, 81). The liberal state should guarantee (1) negative freedom, (2) liberal or autonomy-facilitating education, and (3) the availability of "an adequate range of options" (Kymlicka 1989b, 195) to enable a capacity for autonomy.

Different from Raz, Kymlicka is convinced that an anti-perfectionist or neutral policy suffices to guarantee these options. Even if the state can, based on research and expertise, prove that, e.g., going to the theater would be better or more valuable than going to a wrestling match, it is not allowed for the state to support the former and to discourage the latter because of this value-judgment. Such a policy would unavoidably lead to "an illegitimate restriction of self-determination. If there are willing participants and spectators for wrestling, then the anti-wrestling policy is an unjustified restriction on people's freely chosen leisure" (Kymlicka 2002, 214).

It is not the state's task to decide which options are valuable and need protection or support, and which options are not. The only place where this evaluation process should go on is civil society or the free cultural marketplace. When a liberal government enables this free-market mechanism, valuable options will automatically survive, while worthless options will

disappear: "[u]nder conditions of freedom, satisfying and valuable ways of life will tend to drive out those who are worthless and unsatisfying" (Kymlicka 1989b, 884). Kymlicka thus pleads for *social perfectionism* (or anti-perfectionism) and not for state perfectionism: it is *civil society* – and not the state – that decides which options are of value, and it is *civil society* – and not the state – that pays the cost of these options. If citizens regard certain options as valuable, they will be prepared to pay the cost. If they are not willing to do this, these options are no longer valuable enough to survive. State support is not needed here.

Even though Kymlicka admits that the state supports "*societal cultures*"⁵ as contexts of choice, he does not allow *direct state support for particular options* since that would lead to a restriction of autonomy. The evaluation of particular options should be made by the media, intellectuals and other actors in civil society, and not by the state. Consequently, Kymlicka's 'social perfectionism' is compatible with liberal neutrality, according to which the state (and its officers) should be neutral, but its citizens should not:

The best reason for state neutrality is precisely that social life is nonneutral, that people can and do make discriminations among competing ways of life in their social life, affirming some and rejecting others, without using the state apparatus. (Kymlicka 1989b, 895, n.29)

Both Raz and Kymlicka argue in a convincing way why the state should (not) support valuable options, and it seems that both a policy of state support for valuable options (Raz) and a hands-off policy with regard to these options (Kymlicka) are possible in a liberal state. Accordingly, the question raises which model we should favor. In order to answer this question, we will have a closer look at Ben Colburn's *Autonomy and Liberalism* (2010), in which the concept of autonomy is connected with the ideal of equality and with a democratically sustained perfectionist policy.

BEN COLBURN: AUTONOMY, EQUALITY AND PERFECTIONISM

Like Raz and Kymlicka, Colburn defends the idea that citizens should at least be able to lead a life according to the values they endorse. As said by Colburn (2010, 91), "autonomy is an ideal of people deciding for themselves what is a valuable life and living their lives in accordance

⁵ Kymlicka defines *societal culture* as follows:

By a societal culture, I mean a territorially concentrated culture, centred on a shared language which is used in a wide range of societal institutions, in both public and private life (schools, media, law, economy, government, etc.) I call it a *societal* culture to emphasize that it involves a common language and social institutions rather than common religious beliefs, family customs, or personal lifestyles. Societal cultures within a modern liberal democracy are inevitably pluralistic, containing Christians as well as Muslims, Jews, and atheists; heterosexuals as well as gays; urban professionals as well as rural farmers; conservatives as well as socialists. (Kymlicka 2002, 346)

with that decision." In order to enable this, a hands-off policy is not always sufficient: autonomy should not merely be guaranteed in a *formal* way, but citizens should have a *real* possibility to live a life according to the values they endorse, and this means that they have *equal access to a sufficient range of valuable options to choose among*. Because all human beings should be treated equally, autonomy-based liberalism must show equal concern for everyone's autonomy, which commits the autonomy-minded liberal to ensure equal access to autonomy. And this implies, in turn, an egalitarian commitment to broad and equal opportunities for all citizens to live a range of different ways of life:

[...] the autonomy-minded state needs to ensure the presence of (though not necessarily itself directly provide) a broad and equal range of opportunities for different ways of life, and the components thereof: that is, we should prefer (all other things being equal) that people have open to them many careers, leisure pursuits, charitable causes and so on, and we should insist that these things are open to all equally. (Colburn 2010, 99)

At this point, the question arises on *how* a sufficient range of valuable options can be guaranteed to all citizens so that they have 'equal access to autonomy.' Unfortunately, Colburn does not go into detail here, but we can distinguish several possibilities.

First, it is possible, and worth aiming for, that a sufficient number of valuable options is guaranteed to all citizens within the free market mechanism: if our 'nonperfectionist' goods⁶ are distributed in a fair and equal way, and if there is a fair, free market, citizens will have the opportunity to lead a life according to the values they endorse and to choose between a sufficient range of valuable options. This is an ideal situation in a liberal society.

It is, however, also possible (and in practice more realistic) that the free market mechanism is *de facto* not sufficient. Particularly when there are, within a given society, some (persistent) socio-economic inequalities, the free market will not always be appropriate to generate a sufficient range of valuable options for all. In order to compensate for this inequality, there are two possibilities. The first, and most appropriate, is a *redistribution of our nonperfectionist goods*: if some citizens cannot choose between a sufficient range of options and can thus not be truly autonomous, the liberal state should, as a matter of principle, not support perfectionist goods, but it should redistribute nonperfectionist goods in such a way that this condition for autonomy is fulfilled.

⁶ Different from 'perfectionist goods', 'nonperfectionist' goods (e.g. education, health-care facilities, unpolluted air) are to everyone's advantage and state support for these goods is allowed (and even required) for that (antiperfectionist) reason.

In practice, however, this is not always the most efficient and low-cost solution, and for that reason, state support for valuable options or perfectionist goods can be a worthwhile alternative. Within autonomy-based liberalism, the state can thus give a neutral argument for supporting perfectionist goods: because all citizens should be able to make autonomous choices, they need a sufficient range of valuable options to choose among. And because state support for these options can be more efficient for this purpose than the free market mechanism and a redistribution of nonperfectionist goods, this kind of support is sometimes permitted. Moreover, since the liberal state should favor efficiency over non-efficiency, state support for perfectionist goods is in fact also *required* in this particular situation.

Even though there is no unanimous consensus about the value of different options, citizens can reasonably agree with the fact that an adequate range of options is necessary for the possibility of making autonomous choices or for "effective deliberation about the good" (Macleod 1997, 541). Also, they can agree that state support is sometimes an efficient means for this purpose. In fact, the *rationale* behind state support for perfectionist goods is thus not much different from that behind state support for nonperfectionist goods: one can expect every citizen to accept state support for some perfectionist goods because those goods may as well have been necessary conditions for one's own autonomy. As said by Mills (2012, 143), we are "subject to a range of autonomy-based duties towards one another, which help to create and sustain an adequate range of options and foster a range of inner capacities required for the conduct of an autonomous life."

THE VALUE OF VALUABLE OPTIONS

If it is allowed for the liberal, anti perfectionists government to support several valuable options to guarantee equal access to autonomy, two important questions emerge. The first one is *what* it is exactly that makes a particular option valuable, and the second one is how we can distinguish allowed and non-allowed state support for such options.

First, there is the question of value. According to Raz, the *intrinsic value* of a particular option makes that option valuable, but Raz does not clarify what this exactly means and this makes his theory unsatisfying. As an alternative, Kymlicka pleads for 'social perfectionism,' but this concept is also problematic. With his social perfectionism, Kymlicka avoids the kind of paternalism and manipulation of which Raz is accused, but his supposition that valuable options will automatically survive in a free market system is far too optimistic.

Probably, Joseph Chan offers us a valuable alternative with his *multicentered perfectionism*. Like Raz, Chan defends state perfectionism (it is allowed for the state to support valuable options), but he combines this concept with Kymlicka's idea of *social perfectionism* and, in particular, with the notion of *democratic consensus*. Within a multicentered perfectionist policy, the state can support several 'valuable options' because *citizens* consider these options valuable, and not because the *state* considers them valuable. The liberal state can thus not decide independently, i.e., without the agreement of civil society, which social practices are of value and therefore need state support:

[...] voluntary associations [...] take the primary and active role in promoting valuable goods and ways of life. The state might either not intervene at all if these groups are effective, or just assist in promoting the good by helping these associations. The state may need to take an active role in those areas where civil society fails. Alternatively, the state may work side by side with civil society. (Chan 2000, 15-16)

One of the conditions for state support for valuable goods is that the decision procedure is "as open and fair as possible" (Chan 2000, 33). This openness can be guaranteed within a rotation system, where the members of commissions responsible for subsidies and policy decisions are elected, e.g., every three years. These commissions could be composed of delegates of diverse groups, or individual experts, holding diverse reasonable views. These delegates should be elected democratically to guarantee a fair and just society. The result of such an open system is, according to Chan (2000, 33-34), "that most, if not all, major reasonable specific conceptions of goods would have a fair chance to be heard and supported by state funding in the long run." If this is indeed the case, Chan's multicentered perfectionism, which can also be labeled as '*democratic perfectionism*' (for this term, see Gutmann 1998, 40), is also reconcilable with the principle of autonomy.

THE BOTTOM LINE AND THE LIMIT OF SUPPORT

If democratic sustained state support for valuable options is allowed, one might ask where the line should be drawn between allowed and non-allowed state support. Differently put, if valuable options can, to a certain extent, be (re)distributed by the state, what would be the fairest way to do this?

Generally, there are two answers to this question. First, the state can *maximize the number of valuable options*, so that people have more valuable options to choose from. However, because more options do not always lead to more autonomy (we only need a 'sufficient' range of valuable options) and because state support for an over-extensive range of options can lead to the inability of some citizens to choose other, non-supported options

(because their tax money is used to support options they do not prefer), this is not a good solution. What counts is not the fact that we have *as many options as possible*, but the fact that we are, as autonomous citizens, at least *able to make real choices*. As said by Gerald Dworkin (1988, 81), "neither the instrumental nor the noninstrumental value of having choices supports the view that more are always preferable to fewer. In the realm of choice, as in all others, we must conclude – enough is enough."

For that reason, it would be better to *maximize equality at the level of making autonomous choices*. In this case, the state does not maximize the number of options, but it *facilitates a sufficient number of options for all* in order to guarantee (more) equality at the level of making autonomous choices. The *bottom line* for state support is thus *equality of a sufficient range of options* – and not a maximum number of valuable options. However, this *bottom line* is also the *limit* since supporting more than a sufficient range of options can also lead to a restriction on self-determination. In sum, those state actions aiming at more, or less, than the existence of a sufficient range of valuable options are illegitimate.

As a final point, three important remarks should be made. First, state support for perfectionist goods or valuable options should be rather the exception than the general rule. In a fair and just society and in ideal circumstances, the free market generates sufficient options for all citizens. If this is not the case, the state should first and foremost redistribute nonperfectionist goods in order to guarantee equal access to autonomy. Only when state support for perfectionist goods is *more efficient* than such a redistribution of nonperfectionist goods will state support for perfectionist goods be allowed as a pragmatic solution, but only "for as long as the inequality persists" (Barry 2001, 13).

Second, we should also take into account the fact that equal access to sufficient options (or equality of *opportunities for welfare*) is not the same as equal access to individual preferences (or equality of *welfare*). Within autonomy-based liberalism, the state should only guarantee the former, but not the latter. The reason for this is that we are not passive carriers of our desires and preferences, but that we can, as human beings, make autonomous choices for which we can be held responsible. The fact that we are not *fully autonomous citizens* (because our choices are influenced by our social environment, interests, education, parental preferences, etc.) and that we do not *choose* our preferences, does not imply that we cannot choose *how to*

cope with them, and for that reason, the state should not guarantee *equal access to our preferences*, but it should only guarantee equal access to *sufficient* options or preferences.⁷

Finally, one might ask what we mean by 'sufficiency': how many valuable options do we need to enable us to make autonomous choices? Unfortunately, a straight answer to this question is impossible because the range of 'sufficient options' is always context-dependent. Therefore, we should leave it up to individual citizens to decide about this in the democratic debate.

STATE SUPPORT FOR RELIGION IN A LIBERAL STATE

In many liberal states, perfectionist goods such as museums, dance- and music schools, drawing lessons, theatre groups, zoos, public parks and sport clubs are subsidized with public money. If state support for these goods is more efficient than a free-market mechanism and a redistribution of nonperfectionist goods in order to guarantee equal access to autonomy, this kind of support can be allowed. But is the same also true for state support for religion – i.e., *institutionalized religions* or religious non-profit organizations, established to practice a particular religion?⁸

In several liberal states, the state actively supports religion, for instance, by paying salaries and pensions of clergy and moral consultants, by subsidizing the construction and maintenance of churches and other houses of prayer without any historic value; and/or by financing materials used in religious ceremonies and liturgy. According to the so-called *separationists*, this kind of support is not in line with the liberal aim of neutrality. Since religious freedom can be guaranteed without this kind of state support, this kind of support is not required in a liberal state. For *accommodationists*, rather the opposite is true: in order to

⁷ At this point, critics may point at the *paradox of liberal perfectionism*: if our autonomous choices are seriously taken into consideration – which is what autonomy-based liberalism does – then we should also take into account the fact that we are, as authors of our own lives, *responsible* for our choices. But this implies that state support is not required for these choices, which is contrary to what is defended by Raz, Colburn and other liberal perfectionists. Even though there is indeed a tension between being responsible for one's autonomous choices on one hand, and receiving state support for the achievement of these choices on the other, I do not think this tension is too problematic. In fact, we can admit that we are responsible for our choices (and that we act thus in an autonomous way), but this does not imply full responsibility (and full autonomy), nor does it imply that citizens should never take into account the choices and preferences of their co-citizens. Because many external and unchosen factors (e.g. origin, culture, education, religion, parental interests) influence our choices, it is not unreasonable or illiberal to take into consideration these 'unchosen circumstances' and to support, to a certain extent, some valuable options or preferences, even if we do not consider them to be valuable for ourselves.

⁸ The attentive reader might remark that I do not pay attention to state support for faith-based institutions (e.g. schools and hospitals) and for confessional religious education. Even though these issues are very important as well, I cannot go into detail here since a profound analysis of these topics will broaden the scope of this article too much. For a thorough elaboration of these issues, see Franken 2016 (in press).

guarantee religious freedom, a hands-off policy with regard to religion is not always sufficient and the state should, therefore, support religion in an active way.⁹

Probably the main reason for this different approach is the dissimilar understanding of 'religion' and religious freedom. Those who are in favor of state support for religion often see religion as a public (or nonperfectionist) good or a good that is to everyone's advantage. Tariq Modood, for instance, considers religion to be "a potential public good or national resource (not just a private benefit), which the state can in some circumstances assist to realize." As argued by Modood (2010, 12), religion is

[...] a fundamental good and part of our humanity at a personal, social and civilizational level: it is an ethical good and so to be respected as a feature of human character just as we might respect truth-seeking, the cultivation of the intellect or the imagination or artistic creativity or self-discipline not just because of its utility or truth.

Whether we are a believer or not, religion is a good in itself and "a person, a society, a country would be poorer without it" (Modood 2010, 12). For somewhat different reasons, also authors like Robert Bellah, Jean-Jacques Rousseau and Alexis De Tocqueville consider religion to be a public (or nonperfectionist) good: religions have a positive influence on human ethics and behavior, they are catalysts for social cohesion and they are thus at the benefit of the entire society. From both perspectives (religions are *extrinsically* good because they lead to social cohesion and ethical responsibility; and religions are, as human phenomena, *intrinsically* good), all citizens – believers as well as non-believers – benefit from the existence of religion and religions are thus *to everyone's advantage*.

However, not all people share this view. Recent developments such as secularization, religious pluralism and (religious) individualism, but also the actual presence and danger of religious fundamentalism, religious intolerance and religiously inspired terrorism, have not led to a consensus about the value and importance of religion(s) and/or about state support religion. For that reason, (institutionalized) religions should not be seen as nonperfectionist goods (any longer), but as perfectionist goods: for some citizens, religion is still important in their (daily) life, but this is not the case for all citizens.

Nonetheless, the fact that institutionalized religions are perfectionist goods does not imply that *religious freedom* should also be seen as a mere 'perfectionist good' or valuable option. Most liberal philosophers agree that the freedom of religion is a primary (nonperfectionist) good that should be protected by the state. But does this imply that the state

⁹ For the difference between *accommodationists* and *separationists*, see Kuru 2009.

has the duty to support (institutionalized) religions? In the United States, the absence of direct state support for religion clearly does not lead to an infringement of the freedom of religion. Moreover, even though many European nation states support religion in an active way, while this is not the case in the United States, American citizens seem to be much more involved with religion than European citizens, America seems to be less secularized than Europe, and the American Supreme Court takes the freedom of religion very seriously into consideration.

In fact, it is thus sufficient to guarantee religious freedom as a *negative right*. An analogy with the freedom of association can clarify this: like the freedom of religion, the freedom of association is a fundamental freedom, but this does not mean that the state is obliged to support associations in order to guarantee this freedom – even though this is a legitimate possibility. Similarly, religious freedom is a basic right, but *as a general rule*, the state is not *obliged* to support religious organizations or institutions in order to guarantee this right.

The fact that state support for religion is not required by justice; however, it does not imply that this kind of support is never *allowed* in a liberal state. From an autonomy-based perspective, one can argue that state support for religion is sometimes permitted in order to facilitate religion as one of the many valuable options to choose from or in order to guarantee religious freedom in a *positive way*, as some say. When a number of citizens consider a particular religion to be a valuable aspect of their lives and when these people have not the *real* opportunity to practice their religion, state support for religion can be permitted in order to make religions *de facto* accessible for these citizens and, in a broader sense, to facilitate equal access to autonomy.

Obviously, critics may take issue with the possibility of autonomously 'choosing' for a particular religion. In line with communitarianism, one could argue that a religion is not something we can choose in an autonomous way, but that our religious convictions are mainly the result of unchosen circumstances such as the conviction of our parents, our background, and the culture we live in. However, even though this is indeed the case, it is nonetheless a fact that citizens in a liberal society *can* – or should be able to – change their religion or convert to a particular religion. I consider religion thus to be something people can choose autonomously, even if many factors influence this choice. In fact, the same is true for many other choices. Playing football or playing a musical instrument, for instance, should be something that citizens can choose autonomously, but without a doubt, external factors like someone's upbringing, parental preferences and social environment, influence this particular choice. Nonetheless, in a liberal state, citizens should always *be able to choose* such activities *and to change them* if they

wish to do so. And in order to enable this, state support for perfectionist goods – and thus also for religions – is, under certain conditions, a legitimate possibility.

ACTIVE STATE SUPPORT FOR INSTITUTIONALIZED RELIGION: CRITERIA

If the state wants to support religion without losing its neutrality and without infringing on citizens' individual autonomy, several criteria must be fulfilled. In the next paragraphs, I will distinguish between primary and secondary criteria. As long as the former have not been met, it is not legitimate to support religions anyway. And once the state has chosen to support religions, the latter should be met, or else this policy of support should be modified or abandoned.

STATE SUPPORT FOR INSTITUTIONALIZED RELIGION: PRIMARY CRITERIA

Fair Distribution of Nonperfectionist Goods and Failing of the Free Market

Before the liberal state can support religion with public money, it should first and foremost try to guarantee equal access to autonomy by means of support for nonperfectionist goods (goods *required by justice*) and by means of a fair free market system. Only when this policy is in practice less efficient than a system in which religions (goods *permitted by justice*) are also supported, the state can (and should) also choose for this kind of support as a second-best option. There is thus no reason for the state to support religion if a hands-off system is sufficient to guarantee equal access to this valuable option.

Democratic Consensus

State support for religion (and other perfectionist goods) is only allowed if there is a democratic consensus among citizens about the value of religion and about the need for support. If religions are not seen as valuable options, or if there is no request for active support, such a policy of support is not legitimate.

Citizens must thus always have the opportunity to participate in the political debate about state support for religions: in order to be non-coercive, the choice to support a particular religion or a number of religions, should be the result of democratic deliberation and consensus. Accordingly, a constitutional fixation of state support for religion (as e.g. in the Belgian and German Constitutions)¹⁰ is problematic: when there is no social consensus about state support

¹⁰ In the 6th paragraph of art.137 of the Weimar constitution (which is, together with art. 136, 138, 139 and 140 integrated in the German Constitution), it is stated that “Religionsgesellschaften, welche Körperschaften des öffentlichen Rechtes sind”, are allowed “auf Grund der bürgerlichen Steuerlisten nach Maßgabe der landesrechtlichen Bestimmungen Steuern zu erheben”. Similarly, in the Belgian Constitution we read that that “the salaries and pensions of ministers of religion are paid for by the State; the amounts required are charged annually to the budget” (art.181 §1) and the same is true for the salaries and pensions

for religion, but when citizens are – by constitutional law – obliged to pay their contribution for this kind of support, this can limit their religious freedom and their autonomy. For the same reasons, the a priori prohibition of state support for religions (as in the French church-state system)¹¹ is also irreconcilable with the idea of autonomy-based liberalism and democratic perfectionism.¹²

Principal Openness to Subsidize Different Perfectionist Goods

In order to make a system of support for perfectionist goods as fair as possible, diverse religious and non-religious organizations should have the same opportunities to receive state support: criteria for support should be objective, and they should be similar for different kinds of organizations. It is thus important that the state makes no difference between religious and non-religious non-profit organizations. This is what Greenawalt (2009, 284) calls the *inclusive approach*.

In the same vein, Christopher Eisgruber and Larry Sager (2007) reject the idea that religion is a separate, privileged category. For these authors, *equal liberty* is the core of liberalism, and therefore state support for religions is only permitted if similar non-religious associations can also make use of this kind of support. State support should thus never be supplied because of the special religious character of a particular organization, but only because support is also given to other perfectionist goods as an incentive to facilitate a sufficient range of options to choose from.

State support > hands-off

Finally, a policy of support for religions with public money is only legitimate if it leads to more equality (at the level of making autonomous choices) than a hands-off policy. Religions can thus only be supported by the state if this policy facilitates a sufficient range of valuable options (and if it facilitates, for some citizens, their religious freedom in a positive way) and if support does not impede the autonomous choices of those people who are not in favor of support.

of representatives of organizations recognized by the law as providing moral assistance according to a non-denominational philosophical concept (§2). In this same constitution, art.24 (§3) states that “all pupils of school age have the right to moral or religious education at the community’s expense”, which implies that the Belgian state pays religious education classes in all recognized (public and private) schools.

¹¹ Even though the church-state policy is not fixed in the French Constitution, art.2 §1 of the 1905 Law of Separation between Church and State, which prohibits the financing of religious groups, has rendered the principle of church-state separation to “a quasi-constitutional principle” (Laborde 2008, 33).

¹² Based on the Rawlsian difference between the principles of equality and difference, also Matteo Bonotti argues that church-state relations should not be fixed in constitutional laws. Church-state policies are part of “the principles covering social economic inequalities” (Bonotti 2012, 339) and they are not required for our basic rights and freedoms –the freedom of religion included.

STATE SUPPORT FOR INSTITUTIONALIZED RELIGION: SECONDARY CRITERIA

Justice as Fairness

If the state supports religion, it should be cautious that its religions (and particularly the supported religions) do not infringe on the principles of a liberal society. If citizens are in favor of active support for a particular religion in which some practices undermine some principles of this liberal society (e.g., the use of violence, the persecution of non-believers, the suppression of women, genital mutilation), the state should not fulfill this request. Moreover, because certain religious practices and claims are undesirable and unacceptable in a liberal society, the liberal state can and should prohibit these claims and practices. In this regard, John Locke already wrote in his *Letter Concerning Toleration* (1689):

[...] If some congregations should have a mind to sacrifice infants, or (as the primitive Christians were falsely accused) lustfully pollute themselves in promiscuous uncleanness, or practice any other such heinous enormities, is the magistrate obliged to tolerate them, because they are committed in a religious assembly? I answer: No. These things are not lawful in the ordinary course of life, nor in any private house; and therefore neither are they so in the worship of God, or in any religious meeting. (Locke 2002 [1689], 135)

If some practices (e.g., offering cattle) are prohibited by civil law on the basis of neutral arguments, these practices should also be prohibited in a religious context. Similarly, practices that are allowed by civil law (e.g., washing a newborn with water; drinking wine and eating bread) should also be allowed in a religious context (baptism; Eucharist). In Locke's eyes, the magistrate (the state) should only "take care that the commonwealth receive no prejudice, and that there be no injury done to any man, either in life or estate" (Locke 2002 [1689], 135-136). If religious practices conflict with this liberal aim, they should, like any other practice that conflicts with this aim, be forbidden.

At this point, it is notable that several religions do not apply the principles of justice as fairness *internally*. At first sight, it seems evident that such practices should not be allowed, even if they are religious. However, such a policy would not always be in accordance with the freedom of religion and the freedom of association. Therefore, a liberal government can still allow these religious practices if several basic conditions are fulfilled: non-members should not be harmed; there should be real exit-options; and citizens should adequately be informed about these exit-options.

No harm for non-members If a religion does not embrace the principles of justice as fairness internally, this religion can only be supported by the state if justice as fairness is still guaranteed for non-members (non-believers and members of a different religion): even though

e.g., the Catholic Church does not respect the equality of men and women with regard to priesthood, this policy does not affect non-members, and for that reason, it can be allowed. Evidently, religions that incite people to hate, discriminate and prosecute women (or other citizens) cannot be allowed.

Exit rights Many – if not most – liberal authors agree that the freedom of association should be accompanied by the right to exit: if someone is a member of a particular (religious) community, he/she must be able to leave that community at any time. Religious membership should thus always be voluntary. If, however, the right to exit is not guaranteed within a religious association, we cannot expect that a liberal state tolerates and (financially) supports such an association because this can lead to an infringement of individual autonomy.

Right to correct information In order for exit not to be just a theoretical chimera, citizens should be well-informed about the diverse options they have, and they must have developed the required capacities to make autonomous choices. Consequently, the liberal state can (and should) require its citizens to have a qualitative, liberal education – even if this kind of education is not in accordance with their religious convictions.

When the criteria above are fulfilled, there are two possibilities with regard to those religions that do not subscribe to the principles of justice as fairness internally: (1) the state can *allow* these religions, but reject financial support; or (2) the state can both *allow* and *financially support* these religions. The fact that they do not implement the principles of justice as fairness internally, is not a problem here: like enterprises and sport clubs, religions can have internal rules and laws that sometimes infringe on the principles of justice as fairness. At this point, there is in fact no substantial difference between the Catholic Church's refusal to ordain female priests on the one hand and the refusal of many football clubs to attain female players on the other. Even though these internal policies are not in conformity with justice as fairness (because women are discriminated on the basis of their gender), liberalism can allow them, as long as non-members are not harmed, there is a real exit option, and citizens are adequately informed about alternative possibilities.

Freedom of Religion

Even though the state can impose taxes for religions on its citizens, it can never require that individual citizens make use of the supported religions at hand. In line with the freedom of conscience (and the freedom of religion), citizens cannot be forced to be a member of a particular religion or to participate in particular religious practices. To put it differently:

subsidizing religion (a non-coercive measure) is allowed and can be in line with autonomy-based liberalism and the freedom of religion while forcing someone to adhere to or practice a particular religion (a coercive measure) is not allowed because it is opposed to autonomy-based liberalism (and the freedom of religion).

In addition, the collective freedom of religion and the freedom of association should also be respected, which implies that religious groups should be free to decide whether or not to apply for state support. Support schemes should, thus, never be mandatory.

Even-Handedness, Diversification and Proportionality

In a liberal state, state support for religions is only allowed when this support is neutral or even-handed (Barry 2001, 29). This implies that different religions should be treated in the same way and that they have equal opportunities to get support.¹³

Once religions receive state subsidies, these subsidies should be divided proportionally: "[S]tate support, if granted, should as far as possible reflect actual adherence" (Temperman 2010, 227). This can be realized, for instance, by means of voluntary taxes for religion as in Germany, by means of religiously oriented taxes as in Spain and Italy, or by means of a *multicentered* system of state support.

No Value-Judgments

Last but not least, a liberal regime of state support should not be based on any value judgment: within autonomy-based liberalism, the state can support religions in order to guarantee a sufficient range of valuable options and in order to guarantee equal access to autonomy (and thus also *de facto* religious freedom). However, the state can never support religions because religions are valuable, because a particular religion is valuable, or because religious views are better or more valuable than secular views. In addition, privileging particular (religious or non-religious) worldviews because of their value can, from a liberal perspective, not be allowed. Only if the state can give neutral reasons for a policy of active support for religions (facilitating sufficient valuable options as a condition for autonomy) and only if citizens have a real voice in the choice for such a policy, is this policy legitimate.

¹³ Martha Nussbaum (2008, 109) defends a similar position and prefers the term *nonpreferentialism* (cf. even-handedness) instead of non-establishment (cf. hands-off). See in this regard also Patten's conception of *neutrality of treatment* (Patten 2012, 257).

CONCLUSION

In conclusion, we can say that it is *allowed* for the liberal state to support valuable options and thus, in some specific circumstances, also religion. However, this policy is, as a matter of principle, not *required* and should not be a priori fixed in constitutional (or equivalent) laws. Furthermore, it is important that several conditions are fulfilled if the government supports religion. All being well, these findings and the above-mentioned criteria can serve as a 'neutral' guideline in practice.

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