

Freedom of religion and freedom of speech

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In my short introduction for this workshop on freedom of religion and freedom of speech I shall present an argument in five steps, and, to stimulate a discussion, it will have some polemical touch.

- Freedom of religion can be claimed today as a human right, and the refusal or removal of this freedom as a violation of a human right. It means in a negative sense the prohibition to compel religious belief and religious norms via political and legal constraint. It implies the dissociation of our rights and duties as a citizen and as a person with a religious or non religious world view. Freedom of religion even has to do with what I consider as the core of a democratic order, namely the disjunction of truth and justice. In this order it is not in the name of *truth* as it appears to me that I accept and recognize the other, but in the name of his or her *equal right* to mine to live his life as he sees fit. In other words, it means the acceptance of pluralism, and is more than or a surpassing of tolerance, in the sense of the enduring of dissident belief. Freedom of religion does not eo ipso mean the right, never to be confronted with the public expression of the (religious) belief of others (some call this ‘negative freedom of religion’); nor does it mean the ‘privatization’ of religion, the banishing of religion from the public sphere, as, for example, in some versions of laïcité.
- From the side of the traditional religions, especially the Catholic Church, the full acceptance of the freedom of religion in the above mentioned sense was very late. In 1953 still, the pope Pius XII confirmed the traditional doctrine, that the church cannot recognize as a formal right the propagation of deviation and error; but the church can - in certain political circumstances - recommend tolerance, to avoid the worst. Here we see again the difference between tolerance and freedom of religion. Only from the Second Vatican Council onwards, the catholic church has accepted the freedom of religion, a turnabout, according to many observers. While we can say that the freedom of religion in history often has been achieved against the power of the churches, we must add to this that church and state, political and ecclesiastical community, *civitas dei* and *civitas terrena*, Kingdom of God and the kingdom of the monarch at the same time hardly never were considered as identical. The study of the adventures and ups and downs of this ‘difference’ is an important task of political philosophers in a field that we call ‘political theology’. In general, I think it is important to understand the argument of the opponents to freedom of religion, which perhaps for a present-day liberal is not easy. Moreover, I am not certain at all that this

attitude against pluralism and its consequences is absent today in our democracies. Well, he or she who is convinced that the unity or homogeneity of a political community depends on the unity in belief (or culture, or national loyalty) will be prepared to defend this unity for political reasons. In European history, we can observe that only when it had become obvious that the enforcing of this unity of religion and political community had provoked the worst (the religiously motivated civil war), tolerance and later freedom of religion became an option.

- As an answer to the era of sectarian war the great political thinkers of the seventeenth century forged ideas on toleration and later freedom of religion. In their works, we can observe also the systematic and positive relationship between tolerance, freedom of speech and the prosperity of a political community, but also the reverse, the negative relationship in the case of the lack of this freedom. In the words of Spinoza: 'The less the freedom of opinion is allowed to the people, the more one is leaving the most natural state (which is democracy, according to Spinoza) and the more violent the government has to become.' (TTP, 434) Today, we will affirm the same, when we say that in the open society freedom of speech and thus pluralism is not only accepted, but welcomed. But this also implies an interesting paradox: the only thing that cannot be 'opened' is the open society itself.
- Here, we must ask the most touchy question: Is the open society with its freedom of religion and freedom of speech, and what I called the disjunction between truth and justice, endangered in Europe today? My own answer to this question is: perhaps yes, from two sides. The first is rather evident: religious motivated terrorism and also threats in the modern media with physical violence as well as new threats in reaction to this kind of politics or anti-politics can promote a dynamic that pushes a free democracy to self-undermining and self-mutilation, because it drives the always existent tension between freedom and public security to a critical limit. In this respect, the difficult question is: when does the sacrifice of civil liberties on the altar of security reaches a critical limit? That religious motivated terrorism, and also the threat with violence must be resisted, seems to be evident. Less evident is maybe for liberals the defense of the right to differ against some strains of the modern ideology of emancipation. This ideology prescribes that we all have to become autonomous, self-sufficient individuals. Here the paradox known from a Monty Python-movie comes in my mind. We see a demagogue addressing a big crowd: 'You're all individuals!', he shouts. Yes, we're all individuals, the crowd echoes. Except one person, who cries: I'm not! In this kind of crowd, the only real individual must refuse this name. To accentuate my argument here, a distinction made by the French philosopher Alain Finkielkraut is perhaps

useful. In his book *L'imparfait du present* (2002) he talks about the 'ambiguity' in the concept of democracy. On the one hand this word 'democracy' in our political vocabulary is the name of a form of government. It is a system that confirms the power we have over our social life. In this form of government nothing is self-evident; nothing comes 'from above', and no achievement has the seal of eternity. Here, pluralism is not a handicap or a sign of weakness but the fundamental condition of politics, a politics that is before everything else a stage and a space. This form of government leaves *open* the question, what a good society may be. It is this form of government that I described earlier in terms of the disjunction of truth and justice. But, according to Finkelkraut, for many democrats today democracy is first of all a process, a progress of history towards some ideal of individual freedom, universal human rights or social equality. Democracy in this sense of the world recognizes not so much plurality but *obstacles* for a future which is evident; the process-democrat does not recognize political opponents but people who are behind the time, delayers and twerps who still not understand that the democratic movement is developing her truth inescapable in time. These kind of democrats, Finkelkraut adds polemical, 'are, to put it mildly, not suffocated in their modesty.' Well, against this kind of democrats, who often call themselves 'liberal', I would like to defend the right to differ. To finish my argument I give an example of such a defense.

- About a year ago, the general editor of a Dutch magazine called the *Gaykrant* in a newspaper demanded the Muslim theologian Tariq Ramadan to 'come out of the closet' at last. Ramadan at that time was, among other things, adviser for the city of Rotterdam charges with the task to stimulate and to give guidance to the dialogue between Muslims and non-Muslims in this city. In his article Krol, the general editor quotes some 'precarious statements' of Ramadan about homosexuals and women from his own *Gaykrant*; Of some of these statements, however, Ramadan denied he did them. An example of these latter statements. 'On the street, austerity (the austerity Allah asks from women) means that one always has to turn one's eyes to the asphalt paving.' In a reaction, Ramadan wrote that he never made this statement, and about homosexuality he points out that the Islamic religion forbids homosexuality, but that he himself always had called for respect for homosexuals. In his article, Krol evidently disagrees with Ramadan's views, but he also thinks that because of these views Ramadan is totally insuitable as adviser for the city of Rotterdam and wanted him to be fired. In the same Dutch newspaper there was another contribution about what in Holland at that time was already called 'the question about Ramadan'. The author of this article, Markha Valenta, explicitly mentions that she herself is living together with a woman, but that she does not want that the general editor to evoke negative feelings against Ramadan in the name of homos and lesbos.

The core of her argument is concentrated in this short sentence: 'It does not matter'. In her view, it does not matter what Ramadan exactly thinks about homosexuality, as long as he recognizes the civil rights of homosexuals and lesbians, and, she adds, 'Ramadan always did that.' In political-philosophical terms, this discussion is about the definition of democracy. When orthodox Islam (in the version of Ramadan) and modern democracy are incompatible, then we must say that our democracy requires a certain homogeneity (as in earlier times the unity of state and religion) and must reject what deviates from that as heterogeneity. Highly remarkable is that this requirement of conformity to a certain homogeneity in a country like The Netherlands is addressed to dissident voices who reject homosexuality or promote female chastity, while in a rather recent past (and today still in a large part of the world) it was exactly the opposite.

Against this conception of democracy (and together with Valenta) I see the essence of modern democracy in the earlier mentioned dissociation of truth and justice: while we recognize each other as equal citizens, we accept that there legitimately can be points of dissent and peaceful conflict about questions of truth and salvation. In this sense, I defend, as I said, the right to differ.

Even worse: my claim is that this right to differ is in tune with an important classical liberal tradition which is perhaps threatened today by aggressive forms of forced 'emancipation'.