

Religion in the Service of Democracy?

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In her thought-provoking and clearly written new book, Myriam Hunter-Henin seeks to answer the question of why religious freedom matters for democracy. Her fundamental thesis is that religion matters for democracy because, even in a society that is generally secular, religion provides a distinct perspective on social life that sustains the pluralism that a democracy requires. In this she takes her cue from the judgement of the European Court of Human Rights in *Kokkinakis v. Greece*, where it was held that freedom of thought, conscience and religion is one of the foundations of a democratic society and so should be regarded as a precious asset for atheists, agnostics, sceptics and the unconcerned, as well as the religious themselves.

In seeking to establish this thesis Hunter-Henin pursues many interesting discussions along the way, ranging from the idea that democracy is about securing the conditions for citizens to live together, what she calls the *vivre ensemble*, to the way in which the economic theory of ordo-liberalism might be wrongly used to restrict the regulation of private enterprise.

Particularly noteworthy are the two chapters interpreting the history of laïcité in France and of church establishment in England. In the case of the former Hunter-Henin argues that a militant secularism is not implied by the principle of laïcité, but rather offers a space in which genuine religious expression can flourish. In respect of the latter, she argues that rightly understood, establishment is compatible with respecting other faiths both Christian and non-Christian, indeed contributing to the strengthening of those faiths. There is much to prompt thought and reflection in both these chapters, not least the question of how one properly interprets complex and sometimes internally inconsistent traditions of thought. However, in these comments, I will pass over such hermeneutical questions and focus on Hunter-Henin's central claims in democratic theory.

The three principles that are said to define the idea of democratic freedom of religion are: avoidance, inclusion and revision. Avoidance secures the necessary negative freedom to practise one's religion free from state control. Inclusion and revision are the principles that turn that negative liberty into a positive freedom according to which religion makes a contribution to the flourishing of democracy. Minority faiths have to be able to make a contribution to democratic debate *in their own terms* and not constrained by some idea of public reason that is biased towards the secular. The view can be read as a development of Waldon's claim that citizens in a democracy miss much if they always require arguments about political values to be cast in secular terms. It also ties in with Gaus's view that different premisses can converge on similar conclusions, despite pluralism.

There is much to be said in favour of this thesis, particularly if we think of policy and legislative contexts. One notable example is the Jubilee 2000 campaign which called for the cancellation of the debts of low and middle income countries at the end of the millennium (see <https://jubileedebt.org.uk/tag/jubilee-2000>). Jubilee 2000 characterizes its campaign as a requirement of justice, but it is a deeper concept of justice than simply that of reciprocity for obligations entered into, and recalls the injunction in *Leviticus* that debts should be remitted and slaves freed every fiftieth year. The original rationale for this practice is distinctively religious, based in Jewish theology where the reason for the remission is given as: 'For they are my servants, whom I brought forth out of the land of Egypt...' (*Leviticus*, 25: 42). Were someone to say that, in the absence of this specific theology, the practice of remitting debt would have no point, they would have misunderstood the rationale in a most spectacular way, for the original is a pointer to a sense of justice built upon a broad human solidarity.

Hunter-Henin chooses to illustrate the implications of her thesis through a discussion of various employment cases, involving, among others, the right of employees to wear religious dress or symbols while at work. These are not obvious cases in which to consider the

democratic dimension of religious freedom, but on reflection I think we can see why such cases have relevance. When individuals wish to manifest their faith at work, for example by wearing a head covering or a cross, they are engaged in a communicative act. They are bearing witness to their faith and to the values that they associate with that faith. They are saying that religion is not a purely personal matter, but it also has lessons for the organization of social life, be that modesty in dress or a sense of one's own fallibility. In an account of democracy that makes reason-giving and open-mindedness central, these communicative acts become part of the larger conversation of society.

In this context, it is not an accident that the legal example that provides the source for the guiding principle of the book - that freedom of thought, conscience and religion is one of the foundations of a democratic society – is taken from a case in which someone is criminally prosecuted for proselytism. The facts of the case are as follows. Mr Kokkinakis converted from Greek Orthodoxy to the Jehovah's Witnesses in his teens in 1936. Under laws passed by the authoritarian Metaxas government in 1938, he spent various spells in prison for proselytising activities. In 1986 he and his wife called on the home of a cantor of the Orthodox Church, seeking to convert the cantor's wife to their faith, by all accounts in the form of a long and unintelligible monologue (I suspect that we have all been Ancient Mariners in this way). He was reported to the authorities and sentenced to four months in prison or a fine under the 1938 law then still in place. After various appeals the case ended up at the European Court of Human Rights, which determined that there had been a breach of Article 9 of the European Convention, though on the specific point that the Greek authorities had not made enough effort to determine whether the conversation in question had employed improper means of proselytism. Despite the specific grounds of the judgement not being quite the ringing endorsement of the principle of freedom of religion that Article 9 seems to assert, it does point to one important consideration. The diverse expressions of religion that are vital for a democratic society must have limits.

How might those limits be defined? The key condition is that the expression of a religion should be protected if it is compatible with a broadly humanist perspective. In suggesting this, I am using humanism in the same sense that R.H. Tawney once did, in which humanism is not the possession of those who reject religious belief or of those who accept it, but is instead the view that the externals of life should be judged by their role in assisting the human spirit and the dignity to which it is related. The limits of religious expression implied by this condition would not require the public authorities to suppress anti-humanist sentiment, but it would allow them to do so in appropriate situations. Thus, the German law that bans Holocaust denial could not be challenged on the grounds that it prevented the expression of a metaphysical conception by which there were lower and higher races. Whether it would be prudent to introduce such a law into any particular jurisdiction is a practical matter. But if religion is to provide the pluralism that democracy requires, as Hunter-Henin rightly asserts, it must also be consistent with the values on which democracy rests.