

Brian Barry's Egalitarian Liberalism as an Inspiring Source for a Fair Church-State System, as Illustrated by the Belgian Case

LENI FRANKEN

University of Antwerp

ABSTRACT

Although the Belgian system is, as many European church-state policies, a form of accommodation, it is at the same time a system of separation. We can, using Modood's terminology, describe the Belgian church-state relationship as 'moderate secularism'. Because of the fundamental inequalities between diverse religious groups to which this system leads, it is useful to compare the Belgian church and state policy with Brian Barry's liberal egalitarianism. We deduce a normative political theory of church and state from his liberal egalitarianism and compare this theory with the Belgian state and church policy. Moreover, Barry's political theory not only gives us some arguments to improve the Belgian system, but it is also useful as a guideline and providence for other European church-state models.

KEYWORDS

egalitarian liberalism, church-state policy, recognizing religions, religious education

INTRODUCTION

In a recent article, Tariq Modood stresses the fact that most West-European countries are characterized by an active church-state policy which

he describes as *moderate secularism*:¹ in nearly all Western-European countries (France and Turkey are well-known exemptions), there are points of symbolic, institutional, policy and fiscal linkages between the state and aspects of (mainly the Christian) religion.² Although this system of active state involvement can be criticized from different points of view, Modood is convinced that it can be justified in liberal, egalitarian, democratic terms³ and that institutionalising religious pluralism may be a good way in certain historical and political circumstances⁴. In this paper, we will focus on the Belgian state and church policy as a specific example of *moderate secularism*, and see how this system – and in line with this, some other European systems as well – could be improved from a liberal egalitarian point of view.

In a first part, the Belgian church and state policy, which is characterized by active support for recognized religions and worldviews, will be elaborated. Next, we will explore how Brian Barry's liberal egalitarian theory would deal with the Belgian system of recognizing religions/worldviews and of supporting confessional schools and confessional religious education. Finally, we will apply Barry's egalitarian liberalism to the Belgian church and state policy. As this policy is characterized by inequality and unfairness, Barry's egalitarian liberalism can be a possible source of inspiration to modify the Belgian system⁵, without losing sight of the very specific, historical context of this system. Moreover, as most European church and state policies are also examples of *moderate secularism*, his egalitarian liberalism could be an inspiring guideline and providence for these church and state policies as well.

1. CHURCH AND STATE IN BELGIUM

In Belgium, the separation between church and state is not explicitly mentioned in the Constitution. The Belgian church and state regime is not

¹ Tariq Modood, 'Moderate Secularism, Religion as Identity and Respect for Religion,' *The Political Quarterly* 81/1 (2010), 4-14.

² Idem., 5.

³ Idem., 6.

⁴ Idem., 7.

⁵ Of course, the Belgian system of church and state can also be criticized from other liberal political theories, such as liberal perfectionism (e.g. Raz), different forms of egalitarianism (e.g. Rawls, Dworkin, Nussbaum, Kymlicka) or libertarianism (e.g. Kukathas). However, in this paper, we will only focus on Brian Barry's liberal theory and see how this 'neutral' theory can be in accordance with an active church-state policy.

characterized by *radical and assertive secularism*⁶ or by *separationism*⁷, but by *moderate secularism, favourable neutrality*⁸ or *accommodationism*⁹. The Belgian state has not chosen for a hands-off policy, but for an 'actively supported religious pluralism, that results in an effective benefit of the freedom of religious worship'.¹⁰

The Belgian church and state regime is clearly the product of Belgian history. Since 1825, both liberals and Catholics opposed the protestant King Willem I's meddlesome policy on the subject of religion and education. A monstrous alliance between both parties has led to the Belgian independence in 1830 and formed the basis for one of the most liberal constitutions of that time: in this constitution, freedom of religion, organization and education is explicitly mentioned. In addition, this constitution of 1831 formed the basis for an active support of religion, which was, in that period, almost only Catholicism.

A typical characteristic of the Belgian system is the combination of freedom *and* active support for religions and worldviews. Both article 19 and 20 of the (revised) Belgian constitution establish the freedom of religion and in article 21, we can read that 'the State does not have the right to intervene either in the nomination or in the installation of ministers of any religion whatsoever [...]'. Additionally, article 24 declares that education is free, which does not only mean that parents are free in their choice of a particular school, but also that (religious) organizations are free to found their own schools.

⁶ Ahmet Kuru makes a clear distinction between *radical or assertive secularism* on the one hand and *passive secularism* on the other hand. *Assertive secularism* requires the state to play an active, assertive role to exclude religion from the public sphere (e.g. France; Turkey), while *passive secularism* demands that the state plays a passive role by allowing the public visibility of religion. See Ahmet Kuru, *Secularism and State Policies toward Religion. The United States, France, and Turkey* (Cambridge: Cambridge University Press 2009), 11.

⁷ Within *passive secularism*, A. Kuru distinguishes *accommodationism* from *separationism*. While the *accommodationists* on the one hand regard close state-religion entanglements (e.g. official monotheistic references; public funding of religious schools) as compatible with secularism, *separationists* on the other hand see close relations between the state and religion as contrary to secularism. See Ahmed Kuru, *Secularism and State Policies toward Religion*, 44.

⁸ Because the recognized religions in general and Roman Catholicism in particular have a privileged position within the Belgian church-state system, Louis-Léon Christians calls this a system of *favourable neutrality* ("*welwillende neutraliteit*"). Louis-Léon Christians, 'Financiering van de erediensten: kritische elementen van vergelijkende rechtswetenschap,' *Nieuw tijdschrift voor politiek* 4/5 (1999), 38-44, esp.38.

⁹ For the term *accommodationism*, see footnote 7.

¹⁰ Freddy Mortier and Marie-Françoise Rigaux, *De federale financiering van de bedienaren der erediensten en de afgevaardigden van de Centrale Vrijzinnige Raad. Verslag van de Commissie der Wijzen* (Brussel 2005-2006), 9.

For the policy of support, article 181 is of main importance: this article asserts that government must pay the salaries and retirements of the clergy and of moral consultants belonging to recognized non-confessional worldviews. In addition, the state actively supports religious education: according to article 24, public schools are obliged to offer religious education in the recognized religions and in non-confessional ethics. The third paragraph of this same article adds that all pupils of school age have a right to a ‘moral or religious education at the community’s expense’, which implies that government must also pay religious education in non-public schools – that is in more than 70% of all the Belgian schools.¹¹

When we look at education policy, we can also see a mix of freedom and support. Since 2008, subsidies for non-public (mainly Catholic) and for public schools are equal in Flanders¹², with the exception of some objective differences such as the organization of religious subjects – which is more expensive in official schools – and transport facilities for pupils, to guarantee the free school choice everywhere in Flanders. In order to get recognition and subsidies, non-public schools have to meet an amount of criteria, but apart from that, they are free and have their own didactical approaches and syllabuses.

Until now, six religions (Roman Catholicism, Protestantism, Christian Orthodoxy, Anglicanism, Islam and Judaism) and the non-confessional union of freethinkers are recognized. Buddhism and the Syrian-Orthodox church are also applying for recognition and the question of scientology to get recognition was rejected some years ago. Besides those recognized religions and worldviews, many religions and worldviews in Belgium (e.g. Mormons, Jehovah Witnesses, Sikhs, Hindus, Jains) are not recognized. Consequently, they have no right to direct state support, but as non-profit organizations, they can benefit from tax reduction.

Recognition gives religions and worldviews many advantages: the salaries of clergy as well as those of chaplains and moral consultants in hospitals, prisons and in the army are paid by government; religious education in public and non-public schools is financed; and recognized worldviews have a right to broadcasting time on the public radio and television. In addition,

¹¹ Ludo Veny, ‘Onderwijs en grondwet. De nieuwe grondwetsbepalingen inzake onderwijs,’ *Tijdschrift voor bestuurswetenschappen en publiekrecht* (1988), 573-601, esp.588; Adriaan Overbeeke, ‘Levensovertuiging en onderwijs in de Belgische Grondwet,’ in: *Liber Amicorum discipulorunique Karel Rimanque*, Bruno Peeters (ed.), (Antwerpen: Intersentia 2007), 299-351.

¹² Since the revised Constitution of 1988, education in Belgium is not a federal, but a communal matter.

recognized worldviews receive subsidies for their material goods and government regulates and finances housing for clergy. In order to get recognition, worldviews have to meet some criteria: representing a huge amount ('several then thousands') of adherents, being structured, being settled in Belgium during some time ('several decennia'), representing a social importance, and not being in conflict with social order.¹³

2. BARRY AND EQUAL OPPORTUNITIES

In *Culture and Equality*,¹⁴ Brian Barry defends egalitarian liberalism as an alternative for multiculturalism. His basic assumption is that all people are equal and deserve equal opportunities. However, people differ from each other and therefore, they should not be treated 'equally', but 'as equals' (cf. Dworkin) and we should bear in mind their unchosen, and possibly harmful circumstances. Consequently, government should provide special measures 'to help the disabled' and 'for providing assistance to members of groups disadvantaged in other ways' (e.g. by low income, lack of a job, poor education, an unhealthy environment) in order to give everybody principally as much equal opportunities as possible.¹⁵ However, according to Barry, special accommodations are not legitimate if they are used to adjust or to compensate for cultural and/or religious preferences.¹⁶ Because Barry does not treat religion as an unchosen circumstance, government should not make exemptions or give special accommodation for religion. To explain this, Barry refers to the problem of *expensive tastes*.¹⁷ According to egalitarian liberalism, rules of exemption and of compensation should not be made for people who have expensive tastes.¹⁸ The same is true for religion and culture: if government bans the wearing of headscarves in public functions and if it prohibits ritual slaughter, then religious people cannot but bear the consequences of this

¹³ Patrick De Pooter, *De rechtspositie van erkende erediens en levensbeschouwingen in Staat en maatschappij* (Brussel: Larcier 2002), 135.

¹⁴ Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, MA: Harvard University Press 2002).

¹⁵ *Idem.*, 114.

¹⁶ *Idem.*, 34ff.

¹⁷ *Idem.*, 34 ff.

¹⁸ John Rawls, 'Fairness to Goodness,' *The Philosophical Review* 84 (1975), 536-554, esp. 553; 'Social Unity and Primary Goods,' in: *Utilitarianism and Beyond*, Amartya Sen and Bernard Williams (ed.), (Cambridge: Cambridge University Press 1982), 159-185, esp. 169; Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press 2000), 80 ff.

policy.¹⁹ According to Barry's liberalism, people are always responsible for their opinions, preferences and choices, even when those are related to culture, religions and worldviews.

However, people's worldviews are mainly the result of *unchosen* cultural or (anti-)religious circumstances and Barry does not take into account this critique:

The upshot is, then, that beliefs and preferences are in the same boat: we cannot change our beliefs by an act of will but the same can be said equally of our preferences.²⁰

In other words, nor religion, nor taste is something we freely chose. Nonetheless, this does not mean that we are not responsible for those facts, nor does it mean that we should not be free to decide what to do with them. Barry thinks that physical handicaps are fundamentally different from religious convictions because people can be held responsible for the consequences of their religious convictions, but not for the consequences of their handicap(s). The fact that both are not chosen, does not matter here: not being able to drive a car out of religious convictions is rather different from not being able to do this because you are physically handicapped.²¹ In the last case, people are not responsible and, therefore, special treatment is allowed. In the first case, however, people are responsible and therefore, special treatment is not allowed. The main point Barry wants to defend, is that an egalitarian-liberal government guarantees *equal opportunities*. The fact that people use these opportunities in different ways as a result of their different religious and cultural preferences, is not unfair. Here, Barry makes an interesting distinction between the restriction of choice on the one hand and the restriction of opportunities on the other hand: people are responsible for their *choices*, not for their *opportunities*.

In addition, Barry claims that general laws create sufficient opportunities for everyone and that, consequently, exemption laws are not needed. If it seems that a certain law causes some problems of (un)equality, it would thus be better to accommodate the general law, instead of making exemption laws. The same can be said about religious practices:

¹⁹ Barry, *Culture and Equality*, 34.

²⁰ *Idem.*, 36.

²¹ *Idem.*, 37.

Usually, though, either the case for the law (or some version of it) is strong enough to rule out exemptions, or the case that can be made for exemptions is strong enough to suggest that there should be no law anyway.²²

As exemptions regarding general laws and duties would lead to inequality, they should be avoided. However, in some cases, exemption rules should be allowed as a *pragmatic solution*: if people are disadvantaged as a result of certain rights or duties and if they cannot function in society (any longer), exemption rules are justified. Nonetheless, those rules are only permitted '*for as long as the inequality persists*'.²³

Furthermore, Barry states that everybody is free to gather in groups and to be a member of a group, as long as this membership is voluntary.²⁴ Adults of a sound mind must decide autonomously whether they would like to stay in a certain group, leave this group or join another group. Therefore, real exit-options are indispensable and in order to guarantee these options, obligatory education is needed to inform people about different alternatives.²⁵

Finally, Barry says (against Nancy Fraser and Iris Young) that the defence of equal rights is sufficient and that there is no complementary need for any kind of equal recognition. From a liberal point of view, the question for recognition by government is not legitimate because it always involves a value judgement²⁶ and such a judgement is not in accordance with government's liberal neutrality. Homo- and heterosexuals for example, should get equal opportunities, but this equality does not say anything about the value judgement people should have about homo- and heterosexual lifestyles. The same is true for religions.²⁷ It is not the task of liberal government to make claims about the truth or value of religions. The only thing government should do, is guaranteeing the freedom of religion and guaranteeing equal opportunities for people with different worldviews, in order to treat them in a neutral (equal) way.

²² Barry, *Culture and Equality*, 39 ff.

²³ *Idem.*, 13.

²⁴ *Idem.*, 148-154.

²⁵ *Idem.*, 238-245.

²⁶ *Idem.*, 273 ff.

²⁷ *Idem.*, 278.

3. BARRY AND THE BELGIAN SYSTEM OF CHURCH AND STATE: RECOGNIZING RELIGIONS

Barry's plea for a neutral and equal treatment of worldviews and religions can be fleshed out in different ways. On the one hand, egalitarian liberalism is in accordance with a *hands-off* policy, where government is not involved with religions and worldviews. On the other hand, Barry's theory is also consistent with a more active government. Recognizing religions does not necessary treat the principles of neutrality and equality, *as long as recognition does not involve a value judgement*.²⁸ Moreover, within a system of recognition, procedures of recognition should guarantee that different worldviews have *equal opportunities* to get recognition and that the recognized worldviews should be treated *equally*.

Yet, the Belgian system does not meet Barry's wishes, because some criteria for recognition do not support the principle of equality. One of these criteria is the requirement to be structured and to have some representatives who can negotiate with government. For some unstructured worldviews however, it is impossible to fulfil this requirement, which is based on the internal organization of the Roman Catholic Church. In this respect, the difficulties within the Muslim community in their search for a representative organization (the Muslim Executive) are illustrative. In order to set up such an organization, Muslims were obliged by government to arrange elections. In addition, government screened candidates for this Executive and some of them were found unsuitable.²⁹

But even if worldviews are recognized in Belgium, equal opportunities and equal treatment are not guaranteed at all. One reason for this is that subsidies for recognized worldviews are divided on an unequal basis. In particular, the budget for the Roman Catholic Church is based on the sum of inhabitants of parishes and not on the amount of baptized or practising people. On the other hand, the amount of adherents or believers is used as a criterion for the other recognized religions. Consequently, this leads to a disproportionate division of subsidies, in favour of the Roman Catholic Church, which receives

²⁸ Barry, *Culture and Equality*, 278.

²⁹ Marie-Claire Foblets and Adriaan Overbeeke, 'A State Intervention in the Institutionalization of Islam,' in: *Religious Freedom and the Neutrality of the State: The Position of Islam in the European Union*, Wasif Shadid and Sjoerd Van Koningsveld (ed.), (Leuven: Peeters 2002), 113-128.

almost 88% of the budget for recognized religions.³⁰ Additionally, this Church – the *primus inter pares* or the first one among equals³¹ – has acquired a(n) (historically emerged) favourable position in many other domains. From the perspective of *fairness* and equality, we cannot but conclude that the system should be adjusted:

Therefore, a reform of the system seems indispensable. According to my view, more equality should be desirable. [This equality] consists, on the one hand, in equality between religious and philosophical worldviews and the way they are financed, and on the other hand in a better connection between what every worldview receives and the needs of the population.³²

In line with this, we can read in the report of the Commission of the Wise ('Commissie van Wijzen') about the *Federal Financing of the Religious Ministers and the Delegates of the Central Humanist Council*, that the Belgian system of recognition leads to inequalities that are not in accordance with the constitutional principles of equality and non-discrimination.³³

4. BARRY AND THE BELGIAN SYSTEM OF CHURCH AND STATE: ORGANIZATION OF (RELIGIOUS) EDUCATION

In Belgium, school is compulsory until the age of 18 and the state subsidizes public and private schools on an equal basis. According to Barry, there is nothing wrong with a state offering good education.³⁴ Besides, he endorses the fact that parents favour confessional over non-confessional schools. With regard to the financial support of these confessional schools, he mentions two possibilities: either they will be financed in a private way, or they will be financed in the same way as public schools.³⁵ Nonetheless, in both cases, government has the right to impose some criteria about the quality of education.

³⁰ Liliane Voyé and Karel Dobbelaere, 'La gestion publique de la diversité religieuse en Belgique. Pluralisme religieux et pratiques d'accommodement,' in: *La nouvelle question religieuse. Régulation ou ingérence de l'Etat?*, Pauline Côté and Jeremy Gunn (eds.), (Brussel: Peter Lang 2006), 163-183, esp.177.

³¹ Rik Torfs, 'State and Church in Belgium,' in: *State and Church in the European Union*, Gerhard Robbers (ed.), (Baden-Baden: Nomos 2005), 9-33, esp.15; 32.

³² Jean-François Husson, 'Le Financement public des cultes et de la laïcité,' *Politique: revue de débats* 52 (2007), 14-17, esp. 17.

³³ Mortier and Rigaux, *De federale financiering van de bedienaren der erediensten en de afgevaardigden van de Centrale Vrijzinnige Raad*, 1.

³⁴ Barry, *Culture and Equality*, 209ff.

³⁵ Idem., 206.

On all these points, the Belgian situation is in accordance with Barry's egalitarian liberalism: education is free, private and public schools are financed in an almost equal way and education is compulsory.

While it is mainly the Catholic Church that made use of the freedom of education (in Flanders, more than 70% of all the schools are private schools and almost all of them are Catholic schools), this does not imply that the system is unfair. Even though general laws can have a different impact on individual's and group's possibilities, this fact as such is not 'inherently unfair' for Barry³⁶, because state neutrality should not be seen as *neutrality of outcome*, but as *neutrality of justification*. All kinds of policy will favour some persons, groups and views about the good life more than others.³⁷ However, as long as confessional (private) and non-confessional (public) schools have the *same opportunities* to set up schools, there is no problem. The fact that some people make use of these opportunities, while others do not do this, is not in direct conflict with egalitarian liberalism. Consequently, the discord about the foundation of Muslim schools in Belgium is unjust, even though there can be raised societal objections to the foundation of such schools.³⁸

With regard to religious education, public schools in Belgium are obliged to offer subjects in the recognized religions and in non-confessional ethics and pupils can chose individually which of these subjects they take (Const. art. 24 §1). Starting from Barry's theory, we can question this system in two ways. First, there are pupils who do not belong to one of the recognized religions/worldviews and within the system, they can only take a subject that is not in accordance with their own worldview or get an exemption. However, according to the Constitution (art. 24 § 3), 'all pupils of school age have the right to moral or religious education at the community's expense' and within the actual system, this right seems not to be fulfilled for pupils who do not belong to a recognized worldview.

Secondly, we can expect that Barry interprets the question for confessional religious education as an *expensive preference*, where state support is

³⁶ Barry, *Culture and Equality*, 34; 38.

³⁷ Robert Nozick, *Anarchy, State and Utopia* (New York, NY: Basic Books 1974), 271-273; Ronald Dworkin, 'What is Equality? Part 3: The Place of Liberty,' *Iowa Law Review*, 73 (1987), 1-73, esp. 73; Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press 1987), 43-44; Will Kymlicka, 'Liberal Individualism and Liberal Neutrality,' *Ethics* 99/4 (1989), 883-905; John Rawls, *Political Liberalism* (New York, NY: Columbia University Press 1993), 193.

³⁸ Philippe Van Parijs, 'Welk rechtvaardig schoolpact voor de XXIste eeuw?', *T.O.R.B.* 10/1-2 (2009), 40-43.

not needed. In other words, confessional religious education should not be a part of public schools and should not be financed by the state. Nonetheless, because of the freedom of education, different religious groups are free to set up their own schools, where they can organize confessional religious education that could – but should not – be financed by those religious groups. In addition, the religious community and the family can take responsibility as well and do some effort for the religious upbringing of their children.

5. CONCLUSION

As we have seen, the Belgian system of church and state is characterized by *accommodationism* or *moderate secularism* and the state plays an active role in supporting religion. Although this active support has some advantages, it is criticized from different points of view. We briefly mention three of them. First, according to Martha Nussbaum – who defends a similar egalitarianism as Brian Barry – the American *hands-off* approach toward religions is the most fair and neutral system: when government does not support any particular religion, all religions are treated in an equal – neutral – way. For Nussbaum, this neutrality or equality is the main reason to support the American *Wall of Separation* and to plea for a comparable state and church policy in Europe.³⁹

A different defence for a hands-off approach can be found within Kukathas' *Liberal Archipelago*⁴⁰, where Kukathas defends the principles of tolerance and freedom (particularly freedom of conscience), which can only be guaranteed by a minimal state – and thus by a *hands-off* approach, also with regard to religion(s).

Another interesting defence for a minimal state-church policy can be found in the famous theory of Roger Finke and Rodney Stark: both sociologists are convinced that a religious free market system leads to more religious commitment and participation, while a system of active state support leads to religious laziness:

Our basic theoretical assumption is that effort is rewarded, and *that other things being equal, competition results in more energetic and efficient firms.* Ap-

³⁹ Martha Nussbaum, *Liberty of Conscience. In Defence of America's Tradition of Religious Equality* (New York, NY: Basic Books 2008), 31.

⁴⁰ Chandran Kukathas, *The Liberal Archipelago. A Theory of Diversity and Freedom* (Oxford: Oxford University Press 2003).

plied to religious “economies”, this assumption leads to the following proposition: *To the degree that religious economies are unregulated and competitive, overall levels of religious commitment will be higher.*⁴¹

Although we think there is some truth in those theories and in particular in the last one, we are also convinced that it is not self-evident to introduce the American church and state policy in Europe and this for two pragmatic reasons. First, most European countries have developed a system of active support for religions and from a practical point of view, it is not appropriate to break completely with this tradition and to introduce a completely different system. As in many other European countries, the Belgian church and state policy is the result of a particular, historical, sociological and cultural progress. For that reason, it can be a surplus value if there could be a fair system of church and state that takes into account this historical background.

Second, Europe is, in contrast to the United States, not characterized by one church and state system, but different European nations fill in this system in their own, contextual way. The contextual approach in political philosophy has shown that universal principles about freedom and equality can be implemented in different ways, dependent on the context.⁴² In line with this view, religious freedom and the separation of church and state could be concretized in a contextual way. This contextual approach is also in line with the use of the *margin of appreciation* in the jurisdiction of the European Court of Human Rights: the Court leaves the European nation states free to organize their state and church policy in their own way, taking into account their particular historical, sociological and political context. The Court does not impose a uniform model, but leaves individual countries free to decide how they reconcile universality with particularity.⁴³

But there are also normative reasons to defend a system of support in Belgium and other European nations. In his famous article *Two Concepts of*

⁴¹ Roger Finke and Rodney Stark, ‘Religious Choice and Competition,’ *American Sociological Review* 63/5 (1998), 761-766, esp. 762. See also Roger Finke and Rodney Stark, ‘Religious Economies and Sacred Canopies: Religious Mobilization in Americal Cities, 1906,’ *American Sociological Review* 53/1 (1988), 41-49; Roger Finke, Rodney Stark and Avery Guest, ‘Mobilizing Local Religious Markets: Religious Pluralism in the Empire State, 1855 to 1865,’ *American Sociological Review* 61/2 (1996), 203-218.

⁴² Veit Bader, *Secularism or Democracy? Associational Governance of Religious Diversity* (Amsterdam: Amsterdam University Press 2007), 89ff; 229.

⁴³ Eva Brems, ‘Is er ruimte voor actief pluralisme in de rechtspraak van het EHRM?’, in: *Scheiding van kerk en staat of actief pluralisme?*, Paul de Hert and Karin Meerschaut (eds.), (Antwerpen: Intersentia 2007), 21-29, esp.25-26.

*Liberalism*⁴⁴, Isiah Berlin makes a distinction between negative liberty (mere absence of something) and positive liberty (the presence of something). Although Berlin is very critical of the second form of liberty, it makes sense to say – at least to us – that negative freedom is not always sufficient: freedom can only be useful when people are capable to *do* something with it and therefore, negative freedom sometimes needs to be supplemented by some form of positive freedom. From this point of view, guaranteeing negative freedom of religion by a *hands-off* approach is thus not sufficient, but should be supplemented by active support, e.g. by financing different religions/worldviews. However, if the state wants to promote positive freedom with regard to religions and worldviews, some basic requirements should be fulfilled and Barry's egalitarian liberalism is particularly involved with the fulfilment of those requirements.

For these pragmatic and normative reasons, it is not necessary to deconstruct the Belgian system and to reconstruct it in a very different way. Moreover, as this system pays positive attention to some minority religions and/or worldviews (Anglicanism, Orthodox and Protestant Christianity, Judaism...), it could be interesting to modify and equalize it, taking into account the specific Belgian context. Barry's egalitarian liberalism could be a source of inspiration here. Although this liberalism is not hostile towards a *hands-off* policy, his theory is also in accordance with positive support, which is typically for the Belgian church and state regime and for many other European church and state policies as well. Nonetheless, this active support should not harm the principles of equal opportunities and equal treatment and we have shown that the Belgian situation is not always in accordance with those principles.

In 1998, the VN *Human Rights Committee* rapped the Belgian church and state regime's knuckles because the principles of non-discrimination, freedom of religion and equality were not fulfilled:

The Committee notes that the procedures for recognizing religions and the rules for public funding of recognized religions raise problems under articles 18, 26 and 27 of the Covenant.⁴⁵

In this paper, we have shown that Barry's theory is an interesting inspiring source for the evolvement and modification of the Belgian system in particular and for other European systems of active state-church policy as well.

⁴⁴ Isiah Berlin, 'Two Concepts of Liberalism,' in: Isiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press 1990 [1969]), 118-172.

⁴⁵ United nations, *International Covenant on Civil and Political Rights* (1998), nr. 25.

According to Barry, giving equal opportunities and actively supporting worldviews is not necessary a contradiction. However, within a system of active state support, we should always look for a fair system of redistribution and for good criteria with regard to equal opportunities.