Theocracy, Democracy and Secularization: Is There Room for Compromise?

By Bas de Gaay Fortman

Abstract

Liberal democracy appears to feel far from safe today. Fears of theocratic threats such as the introduction of Shar'ia law and anti-Western jihad abound. This article examines the dialectics of democracy and theocracy with special reference to past and present processes of secularization. In this connection a distinction is made between 'secularization' as a process of separating the secular from the sacred, and 'secularism' as an ideology restricting religion purely to the private realm. Rather than in orthodoxy or even fundamentalis the theocratic threat to democracy and the rule of law appears to lie in exceptionalism in the sense of a religiously motivated exemption from democratic decision-making and the rule of law. This type of threat is not confined to extremist attitudes grounded in religion however; in respect of the international legal order it is state-based exceptionalism that abounds. Notably, international human rights standards imply semi-autonomy rather than full autonomy for states and religious institutions alike. Prior to arithmetic rules of decision-making it is in the transcendental principles of universality and human dignity that society finds protection against exceptionalist threats to democracy and the rule of law.

IN A RECENT INTERVIEW, the Dutch minister of justice referred to the consequences of democracy as an arithmetic method of political decision-making. His point was that the ground rule of (qualified) majority decisions naturally implies that with an Islamist majority of two-thirds the Dutch constitution could be changed in order to introduce Shar'ia law. In

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a state of almost panic the Second Chamber of the States-General (the Lower House of Parliament) then devoted no less than a full afternoon to a discussion of ways and means to block Shar'ia in the lowlands. Notably, however, of the seven percent current MPs of Muslim origin none advocates such a move. Thus, in what used to be a society that would not easily be upset, a perceived threat of theocracy obviously touched its democratic nerves. Similar instances of anxiety in well-established democracies have manifested themselves elsewhere. Two issues may be discerned: (1) Is there a real confrontation today between democracy and theocracy? (2) If so, is there room for compromise?

This article attempts to answer these questions at both the global and the national/local level. Where the analysis at each of these levels reveals genuine concerns, two methodologies of regulating possible conflicts in the public interest may pass review: (a) standard-setting, supervision through monitoring of observance, and where necessary enforcement of judicial decisions; and (b) consensus-oriented measures to enhance receptivity of norms and values underlying democracy and the rule of law.

Obviously the two methodologies—one legal and the other socio-political—can be distinguished, but not separated. Indeed, law always needs socio-cultural receptivity. Even the hardest type of law—a mandatory court order—is not simply self-executing. Hence, in a search for compromise, extra-judicial aspects are likely to demand a great deal of attention.

Democracy versus Theocracy

Before engaging in the actual discussion, let us try to grasp the *problematique*. While democracy is conventionally defined as people's rule, theocracy means God's rule. As such, the two would appear to be manifestly incompatible. Yet, the issue is a complicated one. For one thing, democracy means more than just government *of* the people, as set out in Abraham Lincoln's well-known reference to government of, *by* and *for* the people. But even if the discussion is limited to just representative government, there remain a number of serious issues. The tens of millions of dollars a candidate needs to finance an election campaign for the U.S. Senate is just one example of dubious practices when it comes to democratic formation of public-political power. As for theocracy, God's rule is necessarily *indirect*, as reflected in the title of a well-known French movie, *Dieu a besoin des homes* (*God needs people*). Evidently, theocratic government still implies public-political power in the hands of human beings who, in this case, are not elected on the basis of one person one vote while a direct mandate from God cannot be indisputably established.

The real challenge in both systems of public-political rule is *legitimization* of authority. Notably in this respect, neither method of creating legitimate government has been shown to be infallible. Yet, from theocracy to democracy appears to be the historical sequence in the Northern industrialized states. *Secularization*, as traced back to the peace of Westphalia of 1648, has served to lay the socio-cultural foundation for pacifying political systems from within, while reducing reli-

gious violence.[1] An essential element was the recognition of the full sovereignty of the state, which could no longer be challenged on the basis of distinct religious convictions. Thus, the *secular* was separated from the *sacred*. The original driving force of this process was not *secularism* as an ideology, restricting religion purely to the private realm.[2] Instead, historically, processes towards democratic government have progressed together with multiculturalism in the sense of recognition of religious diversity.[3] Thus, rather than being banned from the public realm, religion maintained its own protected space albeit within the setting of diversity. The end of theocracy in Europe, in other words, went with a search for compromise. Established religions and specific arrangements for the protection of religious institutions should therefore be clearly distinguished from theocracy. What matters is the *rule of law*, implying that no individual nor the state nor any other institution, including those of a religious nature, would be above the law.

Secularization, then, is a process, as distinct from secularism, which manifests itself as an ideology. From a normative perspective, secularization's driving force is not anti-religion in the sense of "freedom *from* religion" founded on a sharp division between religion and the secular, but rather *pluralism* based on freedom *of* religion coupled with efforts towards genuinely functioning social contracts aimed at preserving the rule of law.

Meanwhile, the days of Fukuyama's *End of History*[4] are over and new doubts emerge as to the normative pretensions of democracy. As was already pointed out above, democratic government means more than just an arithmetic to create representative government ("of the people"), since *accountable* government ("for the people") and *participatory* government ("by the people") are essential elements of a functioning democracy too, as stressed by Abraham Lincoln. In a recent survey, *The Economist* reported only 28 countries as being full democracies, 54 as flawed democracies, 30 as hybrid regimes, and 55 as evidently authoritarian regimes.[5] Our theme, however, is not the superiority of either system and its relative success or failure in ensuring legitimate authority; it just focuses on the question if democracy and its twin sister secularization are, indeed, incompatible with modern demands or tendencies of a theocratic nature and how far there might be room for compromise.

From a legal perspective, our principal concern is the concept of *divine* law that stands at the root of theocratic government. That problem may be further identified as *exceptionalism*. This is a term generally used to describe the ways and means in which states exempt themselves from the international legal and political order. The

1 For an enlightening account on secularization and the Islamic route to democratic government see Parsi (1981).

2 A secularist position is the view that in a liberal democracy under the rule of law no separate provisions for freedom of religion would be required as this would just fall under freedom of expression as a general principle (See Jurgens (2001), and de Beer (2007).

3 For an insightful analysis of the issues at stake here see Cady (2005).

4 In his *The End of History and the New Man* (1992), Francis Fukuyama argued that after the fall of the Berlin Wall liberal democracy had emerged as the final synthesis in the history of ideas.

5 "The Economist Intelligence Unit's Index of Democracy," *The Economist* (2006).

United States is the familiar example of state-based exceptionalism.[6] Within the setting of the *problematique* that concerns us here, the phrase "exceptionalism" may be used to describe any attempt to exempt citizens and institutions from democratic public-political authority and its laws, policies and actual decisions, based on assumed incompatibility with divine principles.

Democracy and Compromise

What then may be seen as contemporary theocratic threats to democratic government? Two issues dominate current debate in particular: (a) *religiously motivated violence* following from a theocratic rejection of existing democratic arrangements that lie at the basis of the rule of law, and (b) *exceptionalism* by religious institutions based on theocratic pretensions of full autonomy.

It is important to emphasize that democracy's way of handling conflicts of interest in a public-political community is not just majority rule. Actually, even when confined to just the representative aspects of decision-making through democratic government, there are, in fact, three ground rules: (1) the majority decides; (2) the minority accepts that; and (3) the majority respects and protects minorities.

As to the operation of the first principle, it is known that when it comes to highly contested issues, just counting heads without any preliminary process of consultation and persuasion is not conducive to peaceful government. The second principle amounts to the rule of non-violence, implying that opposition, protest, and resistance ought not to go beyond civil disobedience (while even that methodology of non-violent confrontation of government and the laws enacted by parliament, already tends to be politically destabilizing). The third principle has been strikingly worded in the European Court of Human Rights' *Grand Chamber* judgment in the case of Sørensen and Rasmussen v. Denmark:

> Democracy does not simply mean that the views of a majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of dominant position.[7]

Yet, this is perhaps the most problematic aspect of democracy in our world today as minorities still tend to be rather unprotected,[8] precisely at a time when nations appear to become increasingly heterogeneous. Notably, peaceful settlement of disputes arising from conflicting interests requires a functioning rule of law, based on an accessible and independent judiciary within the context of limited government

6 This happens to be based on a combination of three elements: hegemony (and with that the idea of expansion), unilateralism ("going it alone"), and pre-emptive strike (see Chance 2004).

7 Case of Sørensen v. Denmark and Rasmussen v. Denmark. Judgment of 11.1.2006 on Applications 52562/99 and 52620/99, p. 22.

8 I see this as part of the huge "human rights deficit" that still abounds after more than sixty years of the international venture for the realization of human rights (see de Gaay Fortman 2006a).

respecting and protecting rights. The acid test of democracy, as Justice Geoffrey Robertson once put it, "is a justice system where there is at least a chance, a possibility of beating the state at its own game."[9] From these two intertwined perspectives, democracy and the rule of law, we shall now look at theocratic confrontation at both a global and a national/local level.

Theocracy versus Democracy as a Global Struggle

There is no democratic world government, as we know. Consensus-seeking is, however, enhanced through decision-making in the United Nations based on the representation of national states. The democratic character of the UN system of decision-making is fairly contested, and efforts towards reform have met with only limited success. A system of international law governs international relations between states, which aims at protecting individual citizens of these states as well, if necessary against their own governments. Within that setting, an internally "fully democratic" state tends to be an exception rather than the rule.

Theocratic threats to the peaceful functioning of this rather feeble international legal and political order originate from two distinct angles. Firstly, there are still theocratic states—such as the Islamic Republic of Iran, internally founded upon an attempt to reconcile theocracy with democratic principles—that utilize religious doctrine to occasionally exempt themselves from international human rights law and from decision-making based on the United Nations Charter and enforceable through the Security Council. Indeed, the judicial approach in attempts to protect the international legal and political order against perceived threats means going through the UN Security Council, grounding any possible action in its Charter (chapters VI and VII in particular). This is, however, far from common procedure. The real problem here is not so much theocracy as a ground for exceptionalism but exceptionalism as such. It is, indeed, American (secular) exceptionalism that might be seen as *the* major digression from international legal procedure.[10]

Dispute between theocratic states and the international political and legal order gets rather serious when such states attempt to undermine democracy elsewhere by supporting Jihadist movements.[11] Yet, even in those cases, it is doubtful whether unilateral or multilateral attempts towards regime-change would be the right response. Certainly, our world has already been confronted with the serious limits that abound when it comes to the "exportability" of democracy and the rule of law. Generally, moreover, flawed and fragile democracies tend to threaten international peace no less than established authoritarian regimes, vulnerable as they are to international crime and terrorism.

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9 At ABC Radio National, printed in the Law Report, Radio National Transcripts, Tuesday 31 March 1998. (Online source: http://www.abc.net.au/rn/talks/8.30/lawrpt/lstories/lr980331.htm).

10 On American exceptionalism see Dhanrajgir and de Gaay Fortman (2005).

11 *Jihadism* is the term generally used for violent movements based on an ideology of "holy war" against any private or public-political authority that is regarded as deviating from the "pure teachings" of Islam. For Qur'anic hermeneutics on Jihad see de Gaay Fortman (2007).

This brings us to the second type of theocratic threat at the international level—Al Qaeda's "ideology" of the World Caliphate that is used to justify terrorist violence. Although Bin Laden and his associates were able to establish a structure in Afghanistan that attracted new jihadists and forged links among pre-existing Islamic militant groups, they never created a coherent terrorist network in the way commonly conceived. Instead, Al Qaeda functioned like a venture capital firm—providing funding, contacts, and expert advice to many different militant groups and individuals from all over the Islamic (and non-Islamic) world. Today, the structure that was built in Afghanistan no longer exists and Osama bin Laden and his associates have scattered, been arrested, or killed. There is no longer a central hub for Islamic militancy. However, Al Qaeda's worldview is growing stronger every day. This radical internationalist ideology—based on "Jihadism" and sustained by anti-Western, anti-Zionist, and anti-Semitic rhetoric—has adherents among many individuals and groups, few of whom are currently linked in any substantial way to Bin Laden or those around him. They merely follow his precepts, models, and methods. They act in the style of Al Qaeda, but they are only part of Al Qaeda in the very loosest sense.

No matter what organizational appearance Jihadism assumes, there can be no room for compromise here: democracy has to protect itself against terrorist violence with all means at its disposal. All means? Naturally, there remain limits inherent in a democratic government based on the rule of law. This, however, is not the place to discuss the crucial problem of defending democracy against anti-democratic forms of attack that do not accept any limitations based on the rule of law. It is sufficient to say that in respect of the international "war on terror" a current tendency to put security-concerns above human rights is cause for serious concern. In the defense of democracy such an attitude will turn out to be counter-productive.[12]

With regard to context and background, a primary challenge to actual—or potential—theocratic threats is to make sure that the core conflict cannot be misrepresented as one between religious believers and nonbelievers. What is needed, in other words, is a noticeable recognition of "the sacred realm" (see de Gay Fortman 2006b) as a domain of human interaction that deserves protection even though the law must remain of highly limited significance here. Noteworthy in this connection is the general desire in the Muslim world to define blasphemy as a crime in international law. Not surprisingly, this is fervently opposed by the "International Committee for the Defense of Salman Rushdie and His Publishers" with the support of "Article 19" and practically all PEN groups in the Western world. Indeed, in the light of the flawed jurisprudence on blasphemy within Western democracies and the serious injustices committed in theocratic environments defining and judging this "crime," such a move is far from commendable.[13] Yet, the search for protection of the sacred realm, as manifested at both the global level and within secular democratic states, cannot be neglected. As the legal method is bound to touch upon

12 See, for example, the Netherlands Advisory Council for International Affairs' Report *Counterterrorism from an International and European Perspective*, The Hague: Ministry of Foreign Affairs, 5 September 2006.
13 Illustrative is the way in which the Blasphemy Laws in Pakistan are applied against Christians.

serious constraints here, the search for extra-judicial ways of showing respect for people's sacred feelings becomes crucial.

In the interface between democracy and theocracy a particularly dubious tendency is to see Islam as monolithic. Notably, recognition of Islam as the established religion in the public realm nowhere resulted in a legal system based purely on Shar'ia in its original form without any relation to modern sources of state law. The real conflict is, indeed, between moderate Islam and radical Islam. Incidentally, these two categories do not concur with the distinction between liberal and orthodox. Orthodoxy means neither more nor less than believers taking their faith altogether seriously. The term "fundamentalism" refers to literal interpretation of the holy book. As such, this does imply a notion of "absolute truth," which may be seen as a firm step towards "exclusive truth." But the crucial issue here is theocratic *exceptionalism*.[14] If the latter is taken to mean not merely passive resistance against certain laws but engaging in religiously motivated violence against the state, the international community and targeted individuals as well, there is no room whatsoever for tolerance. Political-religious practice shows, however, that it would be erroneous to conceive of an inevitable string from orthodoxy via fundamentalism and notions of exclusive truth towards active theocratic exceptionalism of a violent extremist character. Essential then, for Islamic conformity to democracy and the rule of law is not a general conversion from orthodox to liberal, but rather an endeavour to combat claims of exclusive truth used to justify violent exceptionalism. This requires a precise rereading of texts in general—and critical texts in particular—precisely by orthodox scholars. At a conference on Hermeneutics, Scriptural Politics and Human Rights, organised by the University of Utrecht to bring theologians and jurists from different religious backgrounds together, Shiite scholars of Mofid University in Qom[15] addressed sensitive issues that always arise when it comes to the so-called "theocratic, violent and uncompromising" character of Islam. One of them, Sadegh Haghighat, argued convincingly that the militant interpretation of the Qur'anic notion of Jihad is false, concluding that:

> No text can be interpreted without its specific context. Jihad, in all kinds, must be read in the context of tribe-state conditions. The offensive kind of jihad—which is allowed just in the time of the holy Prophet and his successors (according to the majority of Shiite jurisprudences)—is tuned to anti-Muslim countries, not to secular ones. International conventions confine trans-national responsibilities of Islamic states"[16].

In the search for compromise through efforts such as those undertaken by Islamic scholars like Haghighat, arguing on a common ground and confronting religious rules and practices incompatible with universal standards of human dignity from within, are of foremost importance.

14 A recent convincing study in this respect is published by Reza Aslan (2006).
15 An institution established specifically for higher education of Mullahs.
16 See Sadegh Haghighat (forthcoming).

Theocracy as a Perceived Threat within Established Democracies

Jihadism, as we know, presents itself as a threat to the rule of law within established democracies, too. Democracy's fight against this menace is, again, not enhanced by a presentation of Islam as one monolithic peril that is just to be regarded as evil. Recently, one party leader in the Netherlands proposed to outlaw the Qur'an in the same way as had been done with Hitler's *Mein Kampf*. While the motivation for this absurd idea—the assumed violent character of the Islamic holy text—is evidently flawed[17], such an attempt to use the law as an instrument to eliminate a theocratic text would merely serve to further reduce Muslims' sense of identification with Western democracy and the rule of law. Censuring *Mein Kampf* served a symbolic purpose. The symbolic effect of anti-Islamic measures that are bound to be legally faulty will be merely to undermine the integration of Muslim citizens in public-political environments based on democracy and the rule of law. Having said this, let us turn to the issue of theocratically presumed autonomy.

Claims of autonomy for religious institutions founded upon theocratic doctrine are obviously not confined to Islam. Indeed, Pope John Paul II's question to Soviet leader Gorbachev, as narrated in a familiar story, "Mr. Gorbachev, this *glasnost* of yours, as I understand it—hopefully correctly—is just an idea for outside the church?", would have merited a negative answer. No institutions whatsoever, including those based on religion, can exempt themselves from human rights, including the fundamental freedom to criticise the use of power. Be that as it may, however, the Catholic Church in Europe and in Latin America has a long history of self-proclaimed autonomy *ad extra* and *ad intra*, based on a self-image of the *societas perfecta*. Joseph Kleutgen, author of the *Tametsi Deus* scheme for the First Vatican Council, has provided the following definition:

> Societas perfecta is a society, distinct from every other assembly of men, which moves towards its proper end and by its own ways and reasons, which is absolute, complete, and sufficient in itself to attain those things which pertain to it and which is neither subject to, joined as a part, or mixed and confused with any society (quoted in Mansi 1961: 315).[18]

17 Notably, the Bible, too, is full of texts that might be classified as brutal, some 1400 or so, more at any rate than in the Qur'an. Some of these classifications rest on obvious misinterpretations, concerning such texts as Jesus' admonition: "Think not that I have come to send peace on earth: I came not to bring peace, but a sword" (St Matthew 10: 34). Rather than advocating violence, Jesus told his disciples that they would encounter animosity. Yet, with regard to Exodus (32: 27-28), where Moses orders the people of Israel in the name of God that every man put "his sword by his side, and go in and out from gate to gate throughout the camp, and slay every man his brother, and every man his companion, and every man his neighbour," an order followed to such an extent that "there fell of the people that day about three thousand men," all the enlightenment that a modern commentary has to offer is a reference to the next verse which states that by executing that divine judgment the Levites were consecrated to the Lord. Not surprisingly, in mainstream contemporary Christian theology and practice such texts are totally disregarded. Evidently, that text had a context those times (combating the idolatry of the golden calf in this instance), which makes it inapplicable to Jewish and Christian believers today. No text without a context!

18 Translated in English by Hildegard Warnink, "The Roman Catholic Church and Church Autonomy," in Warnink 2001, p. 253.

Thus, the Church, as *societas perfecta,* is a strictly hierarchically ordered autonomous monarchy in which all good things descend on the people, grade by grade, level by level: "from God to the Pope, from the Pope to the bishops, from the bishops to the presbyters, and finally to the lay people" (Swaminathan 2003: 2). In the Second Vatican Council, however, as Örsy concluded in his *Quo Vadis Ecclesia: the Future of Canon Law*, "the Fathers agreed and stressed that the Church was a '*communio*', modelled on, and participating in the nature of the Trinity, which is a communion of three persons in one Godhead."[19] Yet, as Torfs (2001: 63) has observed, in opposition to the Communio ideal, "*societas perfecta* thinking is far from dead." Such thoughts lie at the roots of autonomy ideology. One way in which an attempt is made to preserve autonomy, Torfs notes, is by limiting jurisdiction *ratione materiae*, i.e. to a field of activity in which ecclesiastical autonomy would seem obvious. Can such an evidently autonomous realm be delimited? While judgments in respect of the sacraments would seem to be the first to qualify for pure autonomy, it is precisely with regard to the annulment of that great sacrament called marriage that the European Court of Human Rights had to shatter a judgment from the Roman Rota on the ground of an almost total contravention of due procedure as laid down in Article 6 of the Convention.[20]

It is helpful to employ the term "semi-autonomous social field," as introduced by Sally Falk-Moore, to define non-state institutions that have "rule-making capacities, and the means to induce or coerce compliance" but at the same time are "set in a larger social matrix which can, and does, affect and invade it, sometimes at the invitation of persons inside it, sometimes at its own instance" (Falk-Moore 1983: 55-56). What strikes us in processes of law-finding in ecclesiastical courts, as manifested in a substantial number of fairly recent cases,[21] is the lack of an apparent interface with the larger social environment. How to explain this? I see two reasons. The first is an apparent prolongation of the time of the Guelphs and the Ghibelins: the rivalry between Church and State as if these were two competing autonomous socio-juridical fields. The second reason for the appropriation of autonomy instead of accepting semi-autonomy may, indeed, lie in a revival of the concept of a *societas perfecta*.

Notably, the Roman Catholic Church has an ages-old legal culture that makes it susceptible to litigation. A recent and as yet undecided case concerns a priest prevented by his bishop from converting his life-long relationship with a [female] friend into a civil contract. Torfs, who defends this priest before the ecclesiastical court, deplores the current retreat into *societas perfecta* autonomy as a purely defensive strategy but also on a quite remarkable ground:

> In view of the rich tradition of canon law, and the influence that it has had on secular law, it is shameful to have to observe that it should now, for

19 Quoted in Swaminathan (2003: 1).

20 European Court of Human Rights, Case of Pellegrini v. Italy (Application no. 30882/96), 20 July 2001. In the Netherlands, a High Court decided fervently against a procedure for the annulment of a marriage in which a psychiatrist declared one of the spouses as being fundamentally unable to enter into such a bond without even having seen the person in question. Hof's-Hertogenbosch, 2 December 1998, hearing no. C971117/Ro (See de Gaay Fortman 2004).

21 See Warnink (2001, passim).

> theological reasons, choose an approach to law which is no longer relevant to society in general (Torfs 2001: 69).

International human rights imply that the state cannot be considered as being completely autonomous either. Indeed, as both church and state should be seen as semi-autonomous, the outcome should be a dynamic interface between two institutions that are both vital for the implementation of human rights—the state because of its authority to enforce; the church and other religious institutions because of their potential in keeping the belief in fundamental human dignity alive.

In Islamic contexts, theocratic doctrine appears to be used to justify major human rights abuse such as violation of bodily integrity (e.g., wife battery and punishment by mutilation) and the prohibition of apostasy. Here judicial confrontation of religious institutions and their leaders is much less accustomed. Moreover, a serious obstacle to simple human rights litigation in this setting is the public-private divide: the state cannot easily check and control the influence and pressure of—and on—individual citizens. Hence, devoid of the involvement of the relevant religious institutions and their leaders it will not be easy to protect society from threats of violence based on theocratic justifications. Exemplary in this connection is again a scholar from Mofid University in Iran's holy city of Qom, Ali Mirmoosavi. In a paper on the highly intricate theme of "The Qur'an and Religious Freedom: The Issue of Apostasy," after carefully analysing the relevant texts he arrives at the following conclusions:

> The Qur'anic scriptures establish a general principle that can be described as the Qur'anic principle of religious freedom. The main rule is that 'there is no compulsion in religion', which rejects any pressure on belief. Yet, in connection with other verses that put some limitation on belief, this principle cannot justify religious freedom in its broad dimensions.…[Yet], according to the Qur'an apostasy does not mean just simple changing of religion or disbelief. It implies to change religion after confidently believing and because of an unjustified motivation, usually concerning treason. However, the Qur'an does not directly impose any worldly punishment for apostasy. This deduction discloses a possibility for reconciliation between the Qur'an and religious freedom.
>
> Freedom of religion was not compatible with past Islamic society where citizenship was based on religious belief.…Modern Islamic societies experience a completely different life in the globalized world of political, economic and security interdependence. Freedom of religion in this world is not only the legitimate right based on several arguments, but also a necessary condition for peaceful and stable life (Mirmoosavi, forthcoming).

Obviously, in the struggle against a theocratic undermining of the rule of law, it is authoritative attempts towards reconsideration and reinterpretation from within rather than legal battles from without, that run the highest chances of reconciling religion with democracy and the rule of law.

Democracy Under Theocratic Siege?

Our conclusion is twofold. On the one hand, in a public-political order based on democracy and the rule of law, theocratically driven *exceptionalism* cannot be accepted, whether in an international context or in any national setting. Here, in other words, there is no room for compromise. Decisive in the *problematique* reviewed here, on the other hand, are the attitudes of people as citizens and believers at the same time. Definitely, top-down attempts to outlaw certain religious views based on theocratic doctrine as being incompatible with democracy and the rule of law are bound to have limited effect if not being counter-productive. Crucial in the quest for conciliation is the role played by religious leaders, both in the impact they may have on concrete interpretation and the settlement of dispute, and in the exercise of leadership whenever it comes to concrete crises, like the incidents following the Danish publications of cartoons of the prophet Mohamed.

That democracy and the rule of law are far from safely established is obvious. Human rights—an indissoluble constituent of the rule of law—suffer from an alarming global deficit that manifests itself everyday in such abuses as impunity of state-related perpetrators of abuse, oppressed minorities, domestic violence against women and children, and systemic violation of the rights of the poor. The challenges with which humankind is confronted here demand a new dynamics, focusing on the values underlying democracy and the rule of law rather than just confrontational discourse. There is, indeed, good reason to resist popular attempts, extensively covered in the media, aimed at restricting democracy's predicament to theocratic threats. Insofar as such threats are real rather than constructed or just perceived, there appears to be a need for extra-legal approaches besides conventional hard-law confrontation. Secularism and theocracy demonstrate a common methodology in this respect: the creation of doctrinal us/them divides. Indeed, in confronting each of these distortions from an open and tolerant society, a common tactic may be employed: supporting serious challenges to exclusive truth and exceptionalism from within.

Democracy, then, is so much more than a calculation for public-political decision-making. It is the foundational principles of universality and human dignity (shih de Gaay Fortman 2006c) and such values as liberty, equality, due process and the sanctity of human life that underlie social contracts between citizens and their state based upon democracy and the rule of law. Such principles and values need a dynamics through which they are nurtured and sustained. Religion, then, is not just to be studied as an actual, or potential, adverse environment that might induce theocratic threats but also as a possibly enabling environment in efforts to secure sustainable democracy.

Note

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