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Secularism and Religious Emancipation in Curaçao

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Abstract

On October 10, 2010 the island of Curaçao is born as an autonomous country within the Kingdom of the Netherlands. The framers of the constitution of this new country, on the one hand, included a phrase about faith in God in the preamble of the country's constitution. On the other hand, article one (1) of the same constitution claims to treat all citizens as equals and that discrimination on account of religion, among other things, are not permitted. Curaçao has been enjoying a good reputation as far as religious tolerance is concerned. Yet, there seem to be some struggles with the concept of separation between church and state that seem to lead to some direct and/or indirect threats to religious freedom in Curaçao. For that reason, this paper will take a closer look at secularism as a political principle in a way that might facilitate policy makers in Curaçao to guarantee religious liberty for her citizens. The analysis of secularism as a normative political concept, in this paper, has led to the concept of religious emancipation and a proposal of two actions: Proper legislation, and the establishment of religious liberty institutions, to guarantee the enjoyment of the long cherished values of tolerance, mutual respect, freedom, and social acceptance in Curaçao for the years to come.

Introduction

Curaçao is the largest of the five islands comprising the former Netherlands Antilles. This 444km² thin shaped isle is located in the southwestern Caribbean, just 35 miles (56.32 km) off the north coast of the South American country of Venezuela. The origin and meaning of the island's name has been the subject of much debate as there have been various theories regarding the origin and meaning of Curaçao. Most versions refer to the Spanish and/or Portuguese word for heart. Another version alludes to the Portuguese word for healing and makes reference to the rich flora on the island where many healing plants and herbs grow. Other accounts hint to the central position the island of Curaçao has taken in international trade and commerce. Yet others just point to the fact that early Spanish accounts refer to the indigenous people as "Indios Curacaos," which can be translated to "the natives of Curacao."¹

The history of Curaçao goes far beyond the first European presence began to change the island. The native inhabitants who lived in Curaçao when the Europeans discovered the island were the Awarak Amerindians. The records indicate that the first Europeans to set foot on Curaçao belonged to a Spanish inquisition. There is a debate though, as to who has actually discovered the island. The popular belief has been that Alonso de Ojeda discovered the island of Curaçao in the year 1499, while J. Hartog cites several reasons suggesting that Amerigo Vespucci is the one who can more reasonably be accredited for the discovery of Curaçao.² Of course, the contemporary citizens are more concerned about how they, in spite of their multiple ethnic, religious and cultural backgrounds, can live peacefully together, than who really discovered the island in the fifteenth century.

In 1634, the island was occupied by the Dutch and the capital of Willemstad was founded because of its natural harbor which proved ideal for trade. In 1662, the island was made a slave trade center by the Dutch West India Company. While this was doubtlessly cruel and inhuman, it did contribute to the prosperity of the island and led to the construction of impressive colonial buildings that are still there today. During the 18th and 19th centuries, the island was dominated

¹ <http://www.pages.drexel.edu/~cp76/curacao.htm> (Accessed March 26, 2012)

² J. Hartog. *De Geschiedenis van Twee Landen: De Nederlandse Antillen en Aruba*. Zaltbommel: Europese Bibliotheek, 1993. p. 33, 34.

by the British, the French, and the Dutch, but it was safely returned to the hands of the Dutch in 1815. In 1863, slavery was abolished, causing economic hardship to the population of the island and encouraging emigration to other Caribbean islands. With the discovery of oil in 1914, and the establishment of a refinery on the island in 1918, the situation was turned over. Sources of employment were created and immigration was, in turn, encouraged. In the mid – and later nineties, social unrest grew between the different social classes of Curaçao which culminated in the historic protest that went out of hands on May 30, 1969. Next to oil refinery and export of oil products, low corporate taxes were introduced to encourage the set-up of “off-shore” company holdings. Furthermore, tourism has been developed into an important industry for Curaçao. The island is renowned for its coral reefs, and the beaches on its south side contain many popular diving spots. Being below the hurricane belt, Curaçao remains as a suitable holiday destination for good weather during summertime.

The religious and educational history of Curaçao is closely intertwined. The European settlers thought their culture to be superior and therefore, desired an education for their children that is based on the Dutch experience. In the seventeenth century the West India Company requested the (protestant) clerics to redeem the “blind Indians” from their “barbaric manners” and to develop them into civilized people.³ Leo Dalhuisen et al indicate that the instruction given to the preachers in 1638 included that they should do everything in their power to educate the Portuguese, the Spanish, the Niger as well as the Indian (and their children) into the Christian doctrines.⁴ In spite of this order a very few amount of Indians and blacks were baptized into the Reformed Protestant Church. One reason being that the white and affluent protestant group preferred to be separate in their beliefs from the slaves. Apparently, this deliberately instituted dividing social and religious line existed on all the islands of the former Netherlands Antilles but was the strongest on Curaçao.

By the end of the eighteenth century there were three religious groups on Curaçao, the Protestants, the Catholics and the Sephardic Jews. At the outset, Christianization seemed to have served the interest of the West India Company. According to Leo Dalhuisen et al., the deputy

³ Leo Dalhuisen, et al *Geschiedenis van de Antillen*. Zutphen: Uitgeversmaatschappij Walburg Pers, 2009. p. 121

⁴ Idem

director of the company explicitly ordered the Roman Catholic priests in 1708 to impress upon the slaves obedience and loyalty to their masters.⁵ Also, until the end of the eighteenth century there was no permanent religious mission work. Of the abovementioned three religious groups, the Catholics were the most mission driven. For that reason, the Roman Catholic Church, under the leadership of a priest from Amsterdam by the name of Martinus Nieuwindt, established an official and permanent mission work on Curaçao in 1824. Arguably, his salary was paid by the colonial government.⁶ From that time onwards the Catholic Church developed a very strong social and political position. By working primarily among the slave society the Church won the majority of the population of Curaçao on her side.⁷ Thus, the Roman Catholic Church established a strong regime between 1824 and 1860, but not without conflict with the government. Later, during the nineteenth and the twentieth century other religious groups came to be established in Curaçao. See appendix – A (on page 55), for the latest available data on the religious population of Curaçao.

As per the 2001 census⁸ the island comprises of almost 150.000 inhabitants. There are two official languages. Next to Dutch is Papiamentu (or Papiamentu), the mother tongue for the most inhabitants, the second official language. English and Spanish are widely spoken, English being mainly the language of commerce.

In recent years, a wish to break free from the Antillean federation has become increasingly strong, and emigration to the Netherlands has increased while immigration to Curaçao from other Caribbean islands and South American countries has been the current practice. On 10 October 2010 the yearning to break free is realized as the island of Curaçao is born as a new country within the Kingdom of the Netherlands. The country acquires a different legal status combined with a different state's structure, yet the population of the new country obviously remained ethnically diverse and religiously pluralistic. Religion seems to be embedded in the island's pluralistic culture and society. Furthermore, the former Prime Minister of the Netherlands Antilles, Mrs. Emily S. de Jongh-Elhage, claims that Curaçao has known a long history of

⁵ Idem. 122

⁶ Idem.

⁷ Armando Lampe E.d. Kerk en Maatschappij op Curaçao. 1991. p. 17

⁸ A census was done in 2011 but official figures have not yet been published.

religious freedom.⁹ She praises Curaçao for having been a safe haven to her parents who were victims of religious intolerance in their native country. Now, should these long cherished values of tolerance, mutual respect and social acceptance be taken for granted? Can we rely that religious freedom in Curaçao is guaranteed of its own accord?

Religious freedom is a basic human right and a fundamental moral principle. Arguably, in spite of the growing fear these days, in the international arena, that secular values are undermining the role of religion in society,¹⁰ the drafters of the new country's constitution seem to have failed to take the pluralistic nature of the island's cultural, ethnic and religious population into consideration. Religion, being a very personal matter, and having to do with issues of life's ultimate meaning is still important to the citizens of Curaçao. Consider the wordings, "with our faith in God ..."¹¹ in the preamble of the country's constitution. Also, consider church attendance in Curaçao, as oppose to other countries,¹² and the celebration of different religious rituals, festivals and public holidays in this new born country. Therefore, should Curaçao not be more deliberate in her constitution in order to avoid inconsistencies that may challenge the principles of equality, separation and non-establishment as they relate to religious freedom? In order to guarantee religious freedom in Curaçao for the years to come, should policy makers not be more critical on several practices in the former Netherlands Antilles that might be challenging to the principles of religious liberty?

Can secularism as a political principle in the context of Curaçao be consistent with freedom of religion? This paper claims that the present circumstances pertaining to the concept of secularism in Curaçao, demands religious emancipation, meaning the leveling of the asymmetric relationship among religion and religious groups in Curaçao. Therefore, it will take a closer look at secularism as a political principle in a way that might facilitate policy makers in Curaçao to guarantee religious liberty for her citizens.

⁹ Sinaya R. Wolfert. *Curaçao: Religions, Rituals & Traditions*. Amsterdam: KIT Publishers BV, 2009. p. 4.

¹⁰ <http://news.adventist.org/en/archive/articles/2011/08/30/annual-meeting-of-experts-studies-influence-of-secularism-on-religious-free> (Accessed June 13, 2012)

¹¹ An allusion to Psalm 33: 12

¹² Speech by the acting Governor of the Netherlands Antilles Mrs. Adèle P. van der Pluijm-Vrede on the occasion of the opening of the exhibition "Kere den Arte" (March 31, 2004) <http://gouverneurvancuracao.org/index.php?lang=en&p=42&item=120> (accessed April 19, 2012)

In the first chapter I will describe in what ways freedom of religion seems to be threatened in Curaçao. In the second chapter I will explain what secularism involves and how to understand religious freedom. Finally, in the third chapter, I will explore the implications of my analysis for Curaçao.

Chapter 1

Religion and Religious Freedom in Curaçao

Curaçao has known a long history of religious tolerance in spite of the pluralistic nature of the island's cultural, ethnic and religious population. But, perhaps we should not take these long cherished values of tolerance, mutual respect and social acceptance for granted. In this chapter I aim to present a few examples of how Curacao, both the government and society at large are struggling with the concept of separation between the state and religion. Secondly, I will look at how these struggles sometimes may lead to indirect and/or direct threats to religious freedom. One should be aware, though, that several interconnected concepts such as; freedom, equality and equal respect, are being managed in this chapter. Each concept will be explained as they arise in the different sections and/or issue being discussed.

1.2 Example 1: The country's constitution

The law of Curaçao understands freedom of religion to mean: Freedom to worship for everyone, according to his/her conscience and to educate children in the beliefs of their parents. Freedom means to be able to change ones religion and the freedom to preach, teach and publish. These include freedom to establish educational institutions and to do charitable work and finally, freedom to establish organizations and to acquire and keep assets for the purposes already mentioned.¹³ Thus, the law in Curaçao seems to provide for ample freedom of religion. But perhaps freedom of religion, being such a basic human right and fundamental moral principle, should best be protected by means of the country's constitution. For that reason a closer look will be taken at the constitution of the new country born on October 10, 2010.

While being part of the Netherlands Antilles, the island of Curaçao, together with the other islands comprising the Netherlands Antilles was governed by the "staatsregeling" of the Netherlands Antilles. This "staatsregeling" served as the constitution for the islands of the

¹³ Staatsrecht van Curaçao, chapter 8, article 123, section 2.

Netherlands Antilles. Both the “staatsregeling” of the former Netherlands Antilles and the “grondwet” (constitution) of the Netherlands were subject to a document called the “Statuut.” The “Statuut,” basically arranged the relationship among the countries that comprised the Kingdom of the Netherlands. The “staatsregeling” of the Netherlands Antilles does not have a preamble like the one for the country of Curaçao. The “staatsregeling” of the Netherlands Antilles is in conformity with article 59, section 4 of the “Statuut.”¹⁴ The “Statuut,” however, does have a preamble wherein is described the nations covered by the document and the basis on which the terms are accepted, even mutual agreement. For that reason, presumably, no mention is made of God or a supreme being. The basis for accepting these authoritative documents is mutual agreement among the peoples. Obviously, this is an indication that political authority, in the countries comprising the Kingdom of the Netherlands, is derived from the people not from God or any metaphysical concept.

As mentioned before, for many years, Curaçao has enjoyed the reputation of being a safe haven for victims of religious oppression. For some reasons, the phrase “with our faith in God we shall enjoy His protection, for blessed is the nation whose God is the Lord”¹⁵ was included in the preamble of the constitution of the new country born on October 10, 2010. The statement “with our faith in God” implies that all citizens covered by this constitution are believers who have “faith in God.” Including such a phrase, in the new country’s constitution, would not make the new born country less inclusive than the former Netherlands Antilles, whose constitution (staatsregeling) made no mention of God? I fail to believe that the intention was to exclude any civilian or to create two classes of citizens, because article three (3) of that same constitution states that: “All those who are in Curaçao, are equally treated in equal circumstances. Discrimination on account of religion, life convictions, political orientation, race, gender or on any ground what so ever, is not allowed.”¹⁶

Literature indicates two ways for referring to God in legal documents. When the text itself is proclaimed in the name of God, the reference to God is an *invocatio die* (“call on God”). In these

¹⁴ De tekst van de Staatsregeling van 1955 is, conform art. 59, lid 4 van het Statuut, vastgesteld bij Algemene Maatregel van Rijksbestuur van 29 maart 1955 (Stb. 1955, 136; P.B. 1955, 32)

¹⁵ An allusion to Psalm 33: 12

¹⁶ <http://www.gouverneurvancuracao.org/pdf/Staatsregeling.pdf> (Accessed June 6, 2012)

cases the documents derives its authority from God. Other references to God are called *nominatio dei* (“naming God”).¹⁷ The reference to God in the constitution of Curaçao seems more like a *nominatio dei*, because the idea, here, seems not to derive authority from God, but more a statement of faith on the part of the citizens. *Invocatio dei* serves at least two purposes. In some cases the intention is to legitimize the state by declaring it to be exercised according to the will of God, rather than, on the will of the people. Political authority is, then, presupposed to be derived from God and not from the consent of the people.¹⁸ Secondly, the idea might be to anchor the state in history and tradition by perpetuating the very tradition of *invocatio dei* of older constitutions.¹⁹ *Nominatio dei* has also two functions: To express government support for a specific religion and/or to challenge the state through reference to a suprapositive law and common values.²⁰ The reference to God in the constitution of Curaçao may not be intended to express support for a specific religion, but may have been intended to challenge the state through the reference to an assumed common value. But given the fact that it is a statement of faith coming from a particular religious group it might indirectly be an expression of government support for a specific religion.

Furthermore, the preamble states that “for blessed is the nation whose God is the Lord.” I think this allusion to Psalm 33: 12 of the Judeo-Christian Bible qualifies the first statement about faith in God and may complicate matters even more. What are we to understand? The whole statement reads: “with our faith in God we shall enjoy His protection, for (or because) blessed is the nation whose God is the Lord.” A very salient reading of this statement could be; while we have faith in God we may enjoy His protection, because blessed is the nation (country) who’s God is the Lord. The protection and blessing that can be enjoyed is, hereby, predicated on the citizens’ faith in God and their identification with the Lord as their God. Since the text is taken from the book of the Psalms which is acknowledged by both the Jews and the Christians, the “Lord” to whom is hereby referred is the God of the Jews and the Christians. Again, I do not think the idea here is to establish a theocratic nation. The framers of the constitution perhaps having a Judeo-Christian

¹⁷ Osmer, Richard Robert; James W. Fowler; Friedrich Schweitzer (2003). Chalice Press. ed. *Developing a public faith: new directions in practical theology: essays in honor of James W. Fowler*. p. 201

¹⁸ Eberle, Chris and Cuneo, Terence, "Religion and Political Theory", *The Stanford Encyclopedia of Philosophy (Winter 2008 Edition)*, Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/win2008/entries/religion-politics>

¹⁹ <http://www.georgefox.edu/academics/undergrad/departments/soc-swk/ree/2004/schmid.pdf> (Accessed May 25, 2012)

²⁰ Naumann, Kolja (2008) (in German). *Eine religiöse Referenz in einem europäischen Verfassungsvertrag* (<http://books.google.com/books?id=kkxAOB4TZTgC&pg=PA59>). *Jus internationale et Europaeum*. 22. Mohr Siebeck. p. 59.

background wanted to be sure their nation is prosperous based on their personal and perhaps collective experience as believers in the God of the Bible. Perhaps they might have referred to God in a general sense without any hierarchies in mind among the different religious groups on the island of Curaçao. The framers of the constitution may not deliberately intend to exclude nobody. However, there is an inconspicuous problem here. The problem is that even “a nonsectarian reference to God is in fact sectarian.”²¹ While a reference to God obviously excludes atheists, in a less obvious sense it excludes polytheists, members of non-theistic religions, and perhaps many other groups of people.²² Empirical data indicate that Curaçao is ethnic and religiously very much diverse. Furthermore, the second largest single religious group within the island population is the non-religious group (see appendix – A on page 55). Thus, it is not farfetched to have a few atheists also among the citizens of Curaçao, and I assume that we do not want to exclude them on account of their life convictions.

Another possible, even problematic, reading of the text could be that those who do not have the Lord as their God are not blessed. The question that follows is how should we consider the citizens whose God is not the Lord of the Judeo-Christian Bible? How should we relate to the groups of people that are excluded by such a reference to God? Does the inclusion of such a phrase in the preamble of the country’s constitution not divide citizens into classes of citizens who are believers, enjoyers of protection, belonging to the Lord and blessed as oppose to unbelievers, non enjoyers of protection non belonging to the Lord and non blessed? Closely related to the concept of freedom is the idea that all citizens are equal.²³ The idea is not just that all citizens are free, but that all enjoy equal freedom. The freedom itself is to be equally shared by all members of the society.²⁴ For that reason article one (1) of the Universal Declaration of Human Rights (UDHR) states: “All human beings are born free and equal in dignity and rights.” Thus, every citizen should be fully equal and be equally respected by the society in which they live. This means that every citizen should “enter the polity ‘on equal conditions.’”²⁵ What are the moral implications of the inclusion of a reference to God in the constitution of Curaçao? What kind of impact will this inclusion have on the long cherished value of religious freedom in this

²¹ Matha C. Nussbaum *Liberty of Conscience: In Defense of America’s Tradition of Religious Equality*. New York: Basic Books, 2008. p. 12

²² *Idem*, p. 12, 13

²³ *Idem*, p. 19

²⁴ *Idem*

²⁵ *Idem*

new country? An extreme interpretation of such a reference to God and the inference of blessing only upon those who have the Lord as their God, might unintentionally and indirectly establish a national religion. Such a reading of the constitution might indirectly pose a threat on the equal right to religious freedom in Curaçao.

1.3 Example 2: Tensions between the Ministry of Education and public school teachers

The educational system in Curaçao began with parochial schools. It all started when the West India Company asked the protestant clerics to educate and transform the indigenous people.²⁶ Later on, the Catholics focused on the slave community and developed a well elaborated educational system. Thus, education from a religious perspective started as early as in the 17th century. It was after 1816 that the government saw education as a matter of general concern.²⁷ After drafting the provisional school regulation in 1819, two public schools were established in Willemstad.²⁸ It is commonly understood that the public schools are to be a neutral space as far as race, politics, social status, religion, and so forth are concerned.

Conversely, there were some public school teachers, in this 21st century, who inadvertently were “witnessing” their faith to the pupils. In a letter dated August 30, 2004 the head of the Public School Services [Dienst Openbare Scholen (DOS)] wrote to all the public school principals warning all public school teachers that they are not allowed to impose their religious convictions on the pupils. The note cited as example the reading from the Bible, singing of religious hymns and spiritual songs, quoting the Bible or the use of religious convictions when addressing the pupils, among other things. The letter ended with an appeal to respect the neutrality of the public school system and made reference to disciplinary measures for those who fail to stop with this kind of disregard for public neutrality.

Arguably, on August 8 and 9, 2005 the DOS organized the yearly education conference for her teachers. On that occasion an Eastern New Age ritual exercise was presented as a non-religious,

²⁶ Dalhuizen, p. 121

²⁷ Idem, p. 122

²⁸ Idem

scientific program. Some teachers from a Christian background decided to leave the room as they felt very uncomfortable that an odd religious concept is being imposed on them. As a result of their leaving the room during the program, the teachers were threatened with part of their salary being curtailed.²⁹ Consequently, on October 4, 2005 the Curaçao Council of Churches (CCC) wrote a letter to the Commissioner for Education in defense of the teachers, citing DOS's letter of August 30, 2004 appealing for public school's neutrality. The CCC pointed out that the DOS failed to uphold the same neutrality principle she is reproving the teachers for. For that reason, the CCC has asked the government to retract the reproving letter and not to impose any disciplinary measures on the teachers who left the room during the education conference in August 2005.

The struggle with the concept of neutrality between the government on the one side, and some Christian teachers on the other side, seems to lead to direct threats to the religious freedom of the pupils on the one hand and the teachers on the other hand. Because, if the Christian teachers think it is their duty to impose their convictions and/or to proselytize³⁰ in the public schools where they are working, they might pose a threat on a fundamental right of the pupils. Public schools are a direct extension of the state and education at a public school is education provided by the state to her citizens. A public school, by virtue of being an extension of the state, should be a neutral space as far as religion is concerned. At the most, a public school may be a laboratory where children can learn about religion but certainly not a space where they will be persuaded to make religious commitments. If religious education is left for the parochial schools, then where is left for those who are looking for a neutral space to obtain education to go? The imposition of the religious convictions of the teachers and any attempt to proselytize at a public school might be a threat to the religious freedom of those participating in that space as a recipient of education.

Similarly, if the government wants to impose a particular religious view on the teachers, she might be posing a threat on their right to religious freedom. To some extent it was mentioned in

²⁹ Letter from the Curaçao Council of Churches to the Deputy of Education, October 4, 2005

³⁰ To proselytize is: 1. To induce someone to convert to one's faith or 2. To recruit someone to join one's party, institution, or cause. *Free Merriam Webster Dictionary*. <http://www.merriam-webster.com/dictionary/proselytize> (Accessed May 7, 2012)

the discussion above (about the country's constitution) that the state should not identify with any religion or any worldview behind which all citizens should rally. Doing so, and by threatening to curtail their salary for failing to comply, seem to be the use of coercion on the part of the government. Thus, the struggle with the concept of separation between state and religion among the Ministry of Education, the CCC and the teachers might lead to direct threat to religious freedom in Curaçao.

1.4 Example 3: The Bishop, the cruise ship and Good Friday

“It is important to send a signal to the government that the Church does not approve this policy.”³¹ These were the words of the Bishop of Willemstad, Mgr. Luis Secco as cited in *Extra*, a morning news paper in Papiamentu, on April 5, 2012. The Bishop of Willemstad in this article expresses his indignation on the fact that the businesses and shops in the city of Willemstad were opened on Good Friday because of the presence of a cruise ship. The bishop claims that honor should be given to the largest religious group. Referring to the 2011 census,³² the bishop further stated that respect should be given to the majority of the population. According to the bishop, the decision to open the businesses and shops on Good Friday was a lack of respect for the majority of the people since the majority of the population belongs to the Roman Catholic Church. These statements raise at least two questions: In the first place, are honor, respect and consideration of the religious beliefs due to a religious group simply because it belongs to the majority? In other words, should the fact that a religious group is the largest in a given community, be of relevance to enjoy respect, honor and consideration of the government authorities? The second question has to do with the meaning of respect. In this context, the bishop considered that permitting the opening of business and shops on Good Friday was a gesture of lack of respect to the majority religion. In what sense, and to what extent, is permitting the businesses and shops to open a lack of respect to a particular religious group? The bishop referred to the fact that the Jewish shops and businesses do not open on their sacred days, thus likewise respect should be given to Catholic sacred days. But, was the fact that the government authorities permitted the shops to

³¹ *Extra*, 5 April 2012. p. 62.

³² Apparently the bishop has done an estimate from the figures of 2001. Because, to date, the official figures of the 2011 census has not been published.

open on Good Friday really a gesture of lack of respect on their part for the majority of the population?

1.4.1 Religion of the majority

The first question raised by the statements made by the bishop is whether honor, respect and consideration of the religious beliefs is due to a religious group simply because it belongs to the majority. Or, should the fact that a religious group be the largest in a given community, be of any relevance to the enjoyment of respect, honor and consideration from the government authorities? I hereby submit that these goods; i.e. respect, honor and consideration, should be given to everyone, not only to the majority. Suppose respecting the religion of the majority would mean disrespecting the religion of the minority, should the government respect the majority at the cost of the minority? Perhaps this is a matter of distributive and/or social justice, meaning that the government cannot give more of these goods to the majority just because they are more people than the rest. As a matter of fact, the second largest religious category belongs to those who claim to have no religion (see appendix – A on page 55). Following the non religious group are several other growing Christian denominations in Curaçao according to the 2001 census. Of course, the great World Religions (Hinduism, Islam, etc.) are also present in Curacao; none of them share the Catholic beliefs for which the bishop demands respect.

The question is how should the government go about respecting all these religious groups without discriminating against any of them? How should the government of Curaçao deal with the present religious pluralism without violating any groups' religious freedom? In this particular case, respecting the Catholic holiday as the bishop seems to suggest, maybe thwarting the opportunity of a person from the minority religious groups to earn a little more income on a day that for him/her does not have the same religious significance as Roman Catholics. Maybe, on the basis of equal respect of religious freedom, the bishop's demand might pose a threat on the religious freedom of the minority group.

1.4.2 The issue of respect

It is not very clear from the article what exactly the bishop meant with a lack of respect. For that reason, I will take two hypothetical possibilities for our analysis. The first possibility might be that the bishop meant that opening commerce on Good Friday would have forced committed Catholics to work on a day that is sacred to them. In this case their individual conscience would have been violated. If the individual conscience of the Roman Catholic workers would have been violated by opening commerce on Good Friday, then the bishop would have been right. For apart from the fact that religious freedom is each individual citizen's constitutional right in Curaçao, it is also a fundamental human and moral right.³³

The second possibility is that perhaps the bishop meant that opening commerce on Good Friday was an act of insult to the Catholics just like the film: *Das Liebeskonzil* (Council in Heaven) offended Austrian Roman Catholics and was banned by the Austrian government before it was ever shown to the public on 13 May 1985. Or like the cartoons that were published in the Danish newspaper *Jyllands-Posten* on 30 September 2005 were an insult to some Muslim communities. Robin S. Dillon makes a distinction between respect as “a behavior which avoids violation of or interference with some boundary, limit, or rule,”³⁴ without necessarily making “any reference to attitudes, feelings, intentions, or dispositions,”³⁵ (e.g. as in the case of the HIV virus that has no agency and knows no borders) and respect as being or expressing or signifying an attitude or feeling.³⁶ In this latter sense it means “having respect for another person or for nature or of certain behaviors as showing respect or disrespect.”³⁷ In this particular situation the bishop seems to see the government as the agent/subject and the Roman Catholics in Curaçao as the object deserving respect. The bishop may be interpreted to say that the attitude and/or feeling of the government of Curaçao towards the Roman Catholics is not favorable i.e. one of disrespect.

³³ See: Staatsrecht van Curaçao, chapter 8 and the Universal Declaration of Human Rights, articles 1 and 18.

³⁴ Dillon, Robin S., "Respect", *The Stanford Encyclopedia of Philosophy (Fall 2010 Edition)*, Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/fall2010/entries/respect> (Accessed May 9, 2012)

³⁵ Idem

³⁶ Idem

³⁷ Idem

The reason given by the bishop was that the government “should have considered the sacred day.”³⁸ This idea seems to me somewhat problematic. Because the issue at stake, here, is not only the respect or disrespect towards a group of people, but the reason cited for respecting and/or disrespecting the group of people. The bishop said “government policy should have considered the sacred day and do not permit the shops to open on that day.” In other words the government (subject), according to the bishop, should have considered the day (object) as sacred and should have acted in accordance with her appraisal of the day (object). That is to say that the object of consideration is not only the Roman Catholics as citizens but also the day, even Good Friday. The question prompted by this line of reasoning is: to what extent should the state be involved in appraising religious concepts? Should the state consider a day that is sacred by a religious group and recognize it as such? This issue is related to the concept of separation between church and state and will be dealt with in the second chapter. But for now, I should say that respecting in this sense might be an indirect threat to religious freedom. Because, when the state recognize a day as sacred and makes it official, she might be restricting other people of doing business or work on a day that might not have any religious significance to them. Also, the state doing so might be establishing a national religion, and thereby might probably be violating the principle of separation between church and state.

A third question that maybe asked is why the bishop addresses the government and makes appeal to the government in connection with a public holiday. This question is closely related to the first section of the second question above that involves the individual conscience of the Catholic workers. Is it necessary, or even appropriate for the bishop to appeal to the government to have the entire trade and commerce in Willemstad shut down on Good Friday to respect the individual conscience of the Catholic workers? This question will be further explored in chapter three.

1.5 Example 4: The historical cultural legacy

The religious history of Curaçao has given her a legacy that may be a source of discomfort for religious minorities on the island in the 21st century. Consider the fact that society is organized

³⁸ Extra, 5 april 2012. p. 62.

around Christian holidays, for the Roman Catholic liturgical calendar seems to be the basis for public holidays. Of course, Curaçao is not unique in this situation. Consider secular countries like France, Canada and the Netherlands. Apparently, the Christmas holiday, for instance, is being celebrated even in some non-Christian countries like Japan.³⁹ Some of these practices and symbols might be taken to be merely for their heritage value. Yet, there may be other practices that should not be taken so inoffensively. Consider, for instance, the Catholic bishop's role and participation at the yearly celebration of the national Flag Day, and/or the blessing of the people every New Year on the main public square. This last activity has grown to be considered a symbol of the nation's cultural heritage. This program is organized yearly and financed with public fund by the Ministry of Education and Cultural Affairs. It is a public event whereby the Prime Minister and the Minister of Education and Cultural Affairs is expected to be there. Likewise, the celebration of Carnival from the government's perspective is considered a cultural activity while it is rejected by protestant evangelicals as a pagan festival incorporated into Catholic theology and liturgy.⁴⁰ For that reasons many protestant evangelical students at public schools feel their conscience being burdened when Carnival is celebrated at school. But, experience have shown that most of them are accommodated some way or another when they indicate that they cannot participate because of their religious persuasion. Nonetheless, the question remains whether a public school should celebrate an activity which is identified with a particular religious group. What kind of approach should the state take to deal with this complex historical, cultural and religious heritage in light of the current pluralistic society? Perhaps it is necessary to make a distinction between practices that really have only a heritage value from practices that can reasonably be classified as a form of the state's identification with a particular religion. As long as this distinction remains blurred society continues to be vulnerable for either direct or indirect threats to religious freedom.

³⁹ Jocelyn Maclure and Charles Taylor. *Secularism and Freedom of Conscience*. Massachusetts: Harvard University Press, 2011. p.117.

⁴⁰ Max Harris. *Carnival and Other Christian Festivals: Folk Theology and Folk Performance*. Texas: University of Texas Press, 2003.

1.6 Example 5: Payment of salary to clerics from public funds

Some nations in the name of secularism (separation between church and state) have chosen not to continue to pay the salary of the clerics.⁴¹ Curaçao seemed to have chosen for the opposite. According to the “Staatsrecht van Curaçao,” contribution from public funds should be made to both church organizations and religious communities, including their clerics and teachers on the basis of equal-fairness and in accordance with the regulations of the land.⁴² Apparently, this practice began since the colonial days when the West India Company was paying the Roman Catholic priests and Protestant ministers to Christianize the island’s population. Perhaps the reason that some clerics are being paid by the government, while others are not, is not because of state’s religious discrimination. I assume that the state is willing to pay all clerics equally as they register with the government. But should the state assume such a responsibility or does the payment of the salary of the clerics cross the line of what should be the appropriate separation between the state and religion? In the context of Curaçao, should this practice continue, in light of the trend towards emancipation and decolonization?

1.7 Conclusion

Perhaps there is an imminent possibility in Curaçao of what Nicholas Miller calls “the secular threat to religious freedom,”⁴³ involving the issue of same sex marriage and employment in Christian institutions and/or the mandatory homosexual education in secondary schools.⁴⁴ But, this phase of secularism might be somewhat less relevant to the current situation in Curaçao, and thereby unnecessarily expand the scope of this thesis. Therefore, in this chapter I have selected these five (5) examples to show how this new country is, presently, struggling with the relationship between state and religion. A sub claim of the thesis statement of this paper could be that implementing the principles of secularism is the best way to guarantee religious freedom in Curaçao. But, in implementing the principles of secularism the state may choose for an exclusive

⁴¹ <http://www.kerknieuws.nl/nieuws.asp?old=21211> (Accessed on April 30, 2012)

⁴² “Bijdragen uit enige openbare kas aan kerkgenootschappen en godsdienstige gemeenschappen, met inbegrip van derzelver bedienaren en leraren, worden verleend op grondslag van gelijkgerechtigdheid en volgens regels bij landsverordening te stellen” (Staatsrecht van Curaçao, article 124, section 2).

⁴³ Nicholas P. Miller, Unpublished Presentation for IRLA – Punta Cana, Dominican Republic on April 25, 2012

⁴⁴ <http://www.trouw.nl/tr/nl/4492/Nederland/article/detail/3040599/2011/11/18/Verplicht-les-over-homoseksualiteit-Geen-punt.dhtml> (Accessed May 20, 2012)

approach, like the trend in France, Italy and Turkey,⁴⁵ to restrict all references to religion in the public sphere. This might be too rigid and may lead to instability in the country as her cultural heritage seems to be ignored. The other extreme might be to try to accommodate and facilitate all religious beliefs and practices equally. This inclusive approach seems also unpractical since it is impossible, for instance, to recognize all religious days as public holidays. Also, even such an approach might prove to be exclusive for atheists or perhaps for yet unknown and/or newly created religions. Nonetheless, both approaches imply a distance between the state and religion which involves a normative political concept called: Secularism. In the next chapter, I will explain what the concept of secularism involves and how to understand religious freedom.

⁴⁵ Mustafa Akyol. “‘Secular’ doesn’t mean ‘liberal’” Daily News and Economic Review. September 21, 2010.
www.hurriyetdailynews.com/n.php?n=8216secular8217-doesn8217t-mean-8216liberal8217-2010-09-21 (Accessed May 20, 2012)

Chapter 2

Secularism and Freedom of Religion

The main claim of this paper is that the present circumstances pertaining to the concept of secularism in Curaçao, demands religious emancipation, meaning the leveling of the asymmetric relationship among religion and religious groups in Curaçao. The terms “secularism” and/or “secularization” can be very confusing as both has been used to refer to cultural, social and political concepts. According to Veit Bader these three notions of secularism are both connected and contested.⁴⁶ They are connected in the sense that one concept may have had influence upon the other historically. Also, there seems to be some overlap in the meaning of the three perspectives of the concept. They are contested because of some biases that seem to undergird some of the presuppositions inherent to these concepts.⁴⁷ For instance, cultural secularism presupposes the validity of the historical original meaning of the concept in the canonical law that divides the world into “the religious” and “the secular.”⁴⁸ This dichotomy between the secular and the religious is considered false, especially among Christian thinkers.⁴⁹

It is the political meaning that is of interest in this paper, and also in the political sense; the term “secularism” has various meanings. For that reason in this chapter I will explore the different meanings of secularism as a political principle. I aim to articulate a working definition to be applied within the context of the issues related to religious freedom in Curaçao. In the process of doing so, I will first make a distinction among the cultural, social and political notion of secularism. Then, I will focus on the political conception of the same.

⁴⁶ Veit Bader. *Secularism or Democracy? Associational Governance of Religious Diversity*. Amsterdam: Amsterdam University Press, 2007. p.39.

⁴⁷ Idem, p. 39

⁴⁸ Idem

⁴⁹ George R. Knight *Philosophy and Education: An introduction in Christian perspective*. Michigan: Andrews University Press, 1980. p. 197.

2.2. The cultural notion of secularism

From a cultural perspective, secularism is defined by its views of God, man, the world, etc.⁵⁰ Secularism, in this sense, is non-religious (or sometimes atheistic)⁵¹ and sees science as the only source of truth and progress. Man is the measure of all things and all things is measurable. Hence, the world is reduced to her physical elements, to things that can only be grasped empirically.⁵² According to Douglas Groothuis, this cultural notion of secularism grew out of the religious humanism of the Renaissance.⁵³ The social changes brought about by the Scientific and Industrial Revolutions, the advent of scientific experimentation and quantification together with the influence of Descartes and Galileo have all contributed in shaping this secular culture. Perhaps, because of her rejection of religious authority, her emphasis on human reason and scientific innovation as the final authority for life and thought, her morality determined by the whims of humanity and revolving around human autonomy, this cultural notion of secularism has been labeled “Secular Humanism.”⁵⁴ Secularism from a cultural perspective, then, is a metaphysical claim about God, the world and human beings.

2.3. Secularism as a social phenomenon

As a social phenomenon, secularism refers to the process popularly stated as a decline in religion. This assumed decline in religion is indicated in terms of belief (in God, angels, doctrines, etc.), practices (baptism, weddings, church attendance, etc.) and institutions (membership, adherence, financial support, number of religious professionals, etc.). From a sociological perspective secularism is an empirical claim of the society’s attitude towards religion. Arguably, empirical studies do not support the popular decline thesis. Studies have shown that there has been, rather an individualization of religion. While the decline in religion thesis, allegedly, may hold only for Europe, a rise in the New Age popularity has been noted in the Netherlands. A study conducted by Dick Houtman and Peter Mascini, both sociologists from

⁵⁰ Idem

⁵¹ Douglas Groothuis. *Unmasking the New Age: Is There a New Religious Movement Trying to Transform Society?* Illinois: InterVarsity Press, 1986. p. 40

⁵² Idem, p. 42

⁵³ Idem

⁵⁴ Idem, p. 40 – 43.

the Erasmus University, tried to reconcile the question: why do churches become empty, while New Age grows? Their conclusions also rejected the decline thesis and affirm the process of individualization. Also, consider the rise of Islam and Pentecostalism in Europe.⁵⁵ This social process tends to make religion more invisible and privatized. Secularism in this sense rejects “stable organization, canonized dogmas, a system of member-recruitment, and a disciplinary system.”⁵⁶ There has been definitely a process of “unchurching,” but not necessarily a decline in spirituality. Being a social phenomenon and process, in order to differentiate it with the other notions of secularism, I would label secularism in this sense as: “Secularization.”

2.4. Secularism as a political principle

Secularism as a political principle emerged as a solution for ending the Wars of Religion in Europe in the seventeenth century. According to Saba Mahmood, the idea was to establish “a lowest common denominator among the doctrines of conflicting Christian sects”⁵⁷ and to define a political ethic altogether independent of religious doctrines.⁵⁸ Initially, and essentially, the concept of secularism means separation between church and state. This political conception seems related to the cultural notion which makes a dichotomy between the secular and the religious. Perhaps, this distinction is more compatible with the political perspective than with the cultural and social notions of secularism. Consider the fact that the historical meaning of the original concept stems from the canonical law.⁵⁹ Originally, secularism was a legal terminology. Nonetheless, it should be noted that secularism, meaning “the distinction between private and public ... is based in traditions historically associated with Christianity.”⁶⁰

Historically, and even currently, secularism has been adopting different meanings in different places as democratic states struggle to protect the values of equal respect and freedom of religion in different contexts.⁶¹ Next to the principles that secularism seeks to protect, it assumes two operative modes to make the protection of these principles possible. These operative modes are

⁵⁵ Grace Davie. “Belief and unbelief: Two sides of a coin.” *Approaching Religion*, Vol. 2, No. 1, June 2012, p. 5.

⁵⁶ Dick Houtman and Peter Mascini. *Journal for the Scientific Study of Religion*, 41 no 3 S 2002, p 458.

⁵⁷ Saba Mahmood. “Secularism, Hermeneutics and Empire: The Politics of Islamic Reformation.” *Public Culture*. 18:2, 2006 p. 324.

⁵⁸ Idem

⁵⁹ Bader, p.39.

⁶⁰ Joan Wallach Scott. *Politics of the Veil*. New Jersey: Princeton University Press, 2007. p. 92.

⁶¹ Jocelyn Maclure and Charles Taylor. *Secularism and Freedom of Conscience*. Massachusetts: Harvard University Press, 2011. p. 53.

“separation between church and state” and “neutrality of the state towards religion.”⁶² The different meanings of secularism as a political principle can be summarized into two extreme attitudes. Each attitude is defined by how well they protect both major principles upon which secularism rests, namely, equality of respect and freedom of conscience/religion.⁶³ The relationship among these attitudes is hereby arranged along a continuum denoting, militant secularism, the most rigid and exclusive attitude as it relates to religious freedom, on the one hand, and liberal secularism, the approach aspiring to be “all inclusive” on the other hand.

2.4.1. Militant secularism

Secularism, by definition, tends to be exclusive in her relationship to religion. As a political principle, it seeks to exclude religion as much as possible from public sphere. In this paper “militant secularism” refers to the attitude that qualifies the concept of secularism as it relates *negatively* to the values of equal respect and freedom of religion. The term “militant” means “engaged in warfare or combat” or “aggressively active” (as in a cause).⁶⁴ It is used, for instance, to refer to “political radicals with a *militant* unwillingness to compromise on any issue.”⁶⁵ Some synonyms for “militant” include words like aggressive, argumentative, assaultive, combative, confrontational and so forth. In *The Politics of the Veil*, Joan Wallach Scott argues that France’s policy of banning the wearing of headscarf is an example of “a particular idea of secularism – conceived in sharp oppositional terms as the expulsion of religion from public sphere – became an ideological tool in an anti-Muslim campaign.”⁶⁶ Veith Bader refers to the same as “an aggressive secularism”⁶⁷ who’s proponent present themselves as “the only reasonable people fighting both fundamentalist and conservative religionists as well as the ‘progressive liberal’ multiculturalists and postmodernists.”⁶⁸ This model of secularism sometimes assumes the form of organized atheism and very much resembles religious fanaticism. For that reason, Mustafa Akyol argues: “There is really nothing, after all, which makes a secular mind inherently more open, civic or tolerant than a religious one – a lesson the world should have learnt by now after

⁶² Maclure and Taylor. in *Secularism and Freedom of Conscience*. p. 20.

⁶³ Idem

⁶⁴ <http://www.merriam-webster.com/dictionary/militant> (Accessed May 28, 2012)

⁶⁵ Idem

⁶⁶ Joan Wallach Scott. *The Politics of the Veil*. New Jersey: Princeton University Press, 2007. p 97.

⁶⁷ Bader, p.19.

⁶⁸ Idem

its secular experiences under Hitler, Stalin, Mao and the like.”⁶⁹ Militant secularism, for that matter, sometimes seems to enforce the cultural perspective of secularism, i.e. “Secular Humanism” as some sort of state religion. Sometimes, in applying the principle of separation of church and state, it might take it to the extreme of doing away with religion altogether from public sphere. In this case militant secularism comes directly into conflict with the principle of religious freedom as it tends to restrict religious practices.

Militant secularism may manifest itself both in democratic states like France and in dictatorial regimes like North Korea.⁷⁰ Thus militant secularism, in this account, is not a label for a particular political system in a given nation. It is rather an attitude towards the principles of equal respect and religious freedom. Please be aware, though, that militating against some religious views may not necessarily be always negative. Take, for instance, Saba Mahmood’s view of secularism as “to be not the dissolution of religion but its rearrangement so as to make it more congruent with a certain modality of liberal political rule.”⁷¹ In her article entitled “Secularism, Hermeneutics, and Empire: The Politics of Islamic Reformation” she explores a counter terrorism strategy used by the U.S. State Department by targeting Islam fundamentalism from within. This program includes “training Islamic preachers, establishing Islamic schools that counter the teachings of the now notorious fundamentalist madrassas, reforming public school curriculums, and media production.”⁷² In this article she seems, without taking a position for or against, trying to outline a particular understanding of secularism that underlies contemporary American discourses on Islam, an understanding that is also deeply shaped by U.S. security and foreign policy concerns in the Muslim world.⁷³

In this case the question is whether such an approach is an appropriate state intervention. Given the two operative modes of secularism, being separation between church and state and the

⁶⁹ Mustafa Akyol. “„Secular“ doesn’t mean „liberal“” Daily News and Economic Review. September 21, 2010.

www.hurriyetdailynews.com/n.php?n=8216secular8217-doesn8217t-mean-8216liberal8217-2010-09-21 (Accessed May 20, 2012)

⁷⁰ North Korea defines itself as a democratic nation but in practice there is only one political party and the country is ruled by the Kim dynasty. See: <http://www.korea-dpr.com> (Accessed May 28, 2012). Also, “autonomous religious activities have been severely restricted since 1945,” according to the US State Department. See <http://www.state.gov/r/pa/ei/bgn/2792.htm#profile> (Accessed May 28, 2012).

⁷¹ Saba Mahmood. “Secularism, Hermeneutics and and Empire: The Politics of Islamic Reformation.” p. 335. <http://iiss.berkeley.edu/files/2011/06/mahmood.secularism.pdf> (accessed May 17, 2012)

⁷² Idem, p. 331.

⁷³ Idem, p. 323

neutrality of the state towards religion,⁷⁴ should the state be involved in funding and staffing campaigns to make a particular religion more congruent with liberal political rule? Perhaps such an approach is justified in cases where religious fundamentalism and terrorism are synonymous and such an approach aims to protect the value of freedom of religion. Since, liberal-democratic constitutions do not require a strict wall of separation between the state and religions, as Veith Bader indicates, it seems plausible to have state intervention in religious matters for the sake of religious freedom. Because, presumably the distance required, by secularism, between church and state is instrumental to guarantee freedom of religion and other important moral values and human rights. Nonetheless, in this paper, I take militant secularism to mean a negative attitude towards religion which tends to violate one or both of the principles of equal respect and religious freedom. For that reason, militant secularism is considered the negative extreme as the worst protector of the principles on which secularism rests.

2.4.2. Liberal secularism

At the other extreme I place liberal secularism, because of its attitude of aspiration to be all inclusive, even though not always possible in practice. This form of secularism is also called “open” or “liberal-pluralist” secularism.⁷⁵ Jocelyn Maclure and Charles Taylor describe liberal-pluralist secularism as recognizing the need for the state to be neutral, meaning that laws and public institutions should neither favor any religion nor any comprehensive non-religious views. Liberal-pluralist secularism, “acknowledges the importance that the spiritual dimension of existence holds for some people and, as a result, the importance of protecting individuals’ freedom of conscience.”⁷⁶ In this account, liberal secularism refers to an attitude that promotes religious diversity and does not restrict religious practice unless there is a compelling reason to do so. This attitude seems to be informed by and encourage public debates capable of furthering progress in human affairs. It seems to allow itself to be informed by John Rawls and Jürgen Habermas, who both came to the conclusion that “religious perspectives are important sources of ethics that can contribute significantly toward furthering democratic culture.”⁷⁷ Thus, liberal

⁷⁴ Maclure and Taylor in *Secularism and Freedom of Conscience*. p. 20.

⁷⁵ Idem, p. 58.

⁷⁶ Idem

⁷⁷ Idem, p. 110.

secularism is a political trend and/or state tendency to accommodate and/or facilitate religious beliefs and practices as much as possible. In this account it involves giving legal status to organized religions, allowing for full autonomous status of churches and religious communities, regulation and financing of faith-based educational, care giving and social service institutions. While militant secularism may aim to be neutral by excluding and/or ignoring religion altogether, liberal secularism seems to be neutral by supporting all religions equally. Evidently, both approaches have their limitations and eventually tend to be a threat to either the principle of equal respect and/or freedom of religion. One of the limitations of liberal secularism is, for instance, how to accommodate and/or protect religious beliefs and/or practices that oppose religious freedom itself or those beliefs and/or practices that deny the concept of equal citizenship.

As I try to articulate a working definition for secularism I am compelled to agree with Maclure and Taylor that there is no pure model of secularism. Meaning, there is not an ideal (fixed) defined concept of secularism. Each context requires a different way of balancing the way the state protects the principles of equal respect and religious freedom (or freedom of conscience). Perhaps, the idea to come with a particular definition for secularism is a failed project from the outset. For, any attempt to protect and reconcile the principles of equal respect and freedom of religion will always vary with the specific context.⁷⁸ Furthermore, secularism, being such a flexible concept may be less important than the values it aims to protect. Consequently, the focus may have to be on the irreducible and immutable values that secularism aims to protect. The question that should be asked may be, how may Curaçao as a nation better protect the values of equal respect and freedom of religion? For that reason, I will now turn to the main functions of secularism as a normative political concept.

2.5. The core purpose of Secularism

Even though secularism as a concept is so hard to define, it is often invoked as the solution to protect the principles of equality of respect and freedom of religion. This point of view assumes

⁷⁸ *Idem*, p. 53.

a quick definition of secularism as “separation of church and state” and/or “state neutrality” towards religions. But Maclure and Taylor argue:

If respect for equal moral value of citizens and the protection of freedom of conscience are the *ends* of secularism, and if the separation between the political and the religious and the state’s religious neutrality are *means* that make it possible to achieve a balance between those ends, it follows that the most rigid conceptions of secularism, quicker to set aside protections for freedom of religion, sometimes come to grant a preponderant importance to the operative modes of secularism, which are elevated to the rank of values, often at the expense of its ends.⁷⁹

In order for us to find a way to address the apparent threats to religious freedom in Curaçao, I will now explore the ends of secularism. As already stated, these are the principles of equal respect and freedom of religion.

2.5.1. Equality of respect

The principle of equal respect is grounded in the concept of the moral status of human beings. For many and perhaps diverse reasons it is universally accepted that human beings deserve moral considerability. Respect to fellow human beings is protected by the law in all civilized nations and is present, even though in different forms, also in cultures where cannibalism has been practiced.⁸⁰ Apparently, the concept of equality for all human beings can be found in the thinking of the Stoics⁸¹ (B.C.E.) and in the writings of Saint Paul in C.E. 52.⁸² Seventeenth-century

⁷⁹ *Idem*, p. 28.

⁸⁰ Caroline Aubry. “Consuming Grief: Compassionate Cannibalism in an Amazonian Society” (review) in *Anthropological Quarterly*, Vol 75, No. 2, Spring 2002. p. 433-436.

⁸¹ Matha C. Nussbaum *Liberty of Conscience: In Defense of America’s Tradition of Religious Equality*. New York: Basic Books, 2008. p. 78 – 79.

⁸² Galatians 3: 26 – 29: “So in Christ Jesus you are all children of God through faith,²⁷ for all of you who were baptized into Christ have clothed yourselves with Christ. ²⁸ There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus. ²⁹ If you belong to Christ, then you are Abraham’s seed, and heirs according to the promise.”

literature about religion and the state also focused on the concept of equality.⁸³ Also, consider the writings of John Locke, Jean-Jacques Rousseau and Immanuel Kant that came after. Even though, the concept of equality proposed by these different authors may considerably diverge from one another, it was perhaps, the influence of this body of literature and thought that may have influenced the abolition of slavery in the Americas in the midst and close of the nineteenth century. After the Second World War with the establishment of the United Nations together with the adoption and proclamation of the Universal Declaration of Human Rights, the concept of equal respect and dignity became universally promoted. We may safely assume that the concept of equal respect has also played a role behind the women emancipation process.⁸⁴

The recognition that “all human beings are born free and equal in dignity and rights,”⁸⁵ seems like a reasonable low common denominator to curb religious oppression in a given society. Next to the fact that equal respect is a human right, it seems to include a widely accepted moral obligation. We tend to ascribe moral considerability not only to fully developed autonomous human beings, but also to those whose autonomous capabilities have not yet been fully developed and those who once had it but have lost it. Consider the debates about abortion and euthanasia of moral patients and the “argument from marginal cases.”⁸⁶ It seems intuitive that all human beings in spite of his/her gender, race, religious persuasion etc. deserve equal respect. The end is to make sure that all citizens are equally treated in the same circumstances. The means may be secularism, as long as the end is realized. Thus, whatever form secularism may take in Curaçao it has to protect and promote the value of equal respect by all means.

The equality of respect that is hereby required is within the context of respecting the moral status, and the dignity of each individual citizen. Martha Nussbaum refers to this notion as “an independent idea of the worth of liberty of conscience.”⁸⁷ It is true that a militant secular state that restricts freedom of religion of all citizens is still treating them equally. But, equal respect, here means that the state “recognizes the sovereignty of the person in his or her choices of

⁸³ Nussbaum, p. 73.

⁸⁴ http://www2.hu-berlin.de/sexology/ATLAS_EN/html/the_emancipation_of_women.html

⁸⁵ Article 1 Universal Declaration of Human Rights

⁸⁶ “This argument begins with the observation that if we hold that the capacity for moral agency is a necessary condition for having inherent value, then we are forced to deny that infants, young children, and mentally disabled human beings have inherent value.” (See: Mary Ann Warren, *Moral Status: Obligations to Persons and Other Living Things*. Oxford University Press, Oxford 1997. p. 110)

⁸⁷ Nussbaum, p. 21.

conscience.”⁸⁸ Religious freedom then, means “a special respect for the faculty in human beings with which they search for life’s ultimate meaning.”⁸⁹ Equal respect for that matter might involve treating people different in different circumstances, especially within a pluralistic context, by making accommodations. Consider for instance, where the norm required businesses to close on Christian holidays but have no obligation to do so on Jewish and Muslim holidays. It might be that a Jew or a Muslim working for a Christian enterprise need to be accommodated and given a day off unlike the rest of the workers so that he/she can practice his/her religion without having to violate his/her own conscience. Thus, applying the principle of equal respect also requires the use of judgment and consideration of the cases by themselves, with the relevant facts within each particular context.

2.5.2. Freedom of religion

Freedom of religion is an extension of freedom of conscience whereby each individual citizen is allowed to search for life’s ultimate meaning in the way he/she sees best for him/herself. This involves among other things to have the religion of his/her choice, freedom to change his/her religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his/her religion or belief in teaching, practice, worship and observance.⁹⁰ Freedom of religion has been articulated by several entities and legal documents like article nine (9) of the International Covenant on Civil and Political Rights⁹¹ and the U.N. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,⁹² to mention two of them. Perhaps freedom of religion means more that can be said in this paper. Also, religious freedom is a complex concept that may not be un-differentiated and/or uni-dimensional.⁹³ For simplification sake we may distinguish between negative freedom of religion and positive freedom of religion. Negative freedom refers to the freedom from and positive freedom refers to freedom to.⁹⁴

⁸⁸ Maclure and Taylor in *Secularism and Freedom of Conscience*. p. 58.

⁸⁹ Nussbaum, p. 19.

⁹⁰ Heiner Bielefeldt, “Freedom of Religion or Belief: A Human Right under Pressure” *Oxford Journal of Law and Religion*, January 11, 2012, p. 1–21.

⁹¹ <http://www2.ohchr.org/english/law/ccpr.htm> (Accessed June 13, 2012)

⁹² <http://www.un.org/documents/ga/res/36/a36r055.htm> (Accessed June 13, 2012)

⁹³ Bader, p.130.

⁹⁴ Bader, p.129 - 136.

2.5.2.1 Negative freedoms of religion

Given the overlapping and conflicting nature of freedom of religion, it is of necessity to have some legitimate external control and state intervention. Thus, freedom of religion is like all other freedoms, to a certain extent, morally and legally constrained by two other considerations, first, by reference to some compelling state interest (order, safety and health), and secondly, by the protection of equal rights of others.⁹⁵ The negative duty of not interference is not only directed against the state, but also against all other illegitimate interference by other agents (other religions and/or secular groups and organizations). For that reason, according to the U.N. Declaration on Religious Discrimination, the state has the positive duty to protect all religions from such interference.⁹⁶ Also, the state has the positive duty to interfere when the right of an individual to exit religion is threatened by the organization and/or fellow believers. The same is expected from the state when collective religious practices and laws come into conflict with other important human rights of both members and non-members of such religious organization. All such arrangements are set in place to protect the individual freedom of conscience which is the basis for religious freedom. Evidently, state interference (*the means*) is hereby justified for the protection of one of the basic secular *ends*, freedom of conscience/religion.

2.5.2.2 Positive freedoms of religion

Positive freedom of religion involves, both collectively and individually, in private or in public, the freedom to believe, freedom of individual conscience, the freedom to practice religion in worship, ritual, teaching and observance. Positive freedom requires aid from the state, from the basic services like police intervention and/or protection when necessary, to financial aid for education, healthcare and other social services. In the Netherlands, for instance, positive freedoms means that “once authorities subsidise (sic) or support certain activities, religious counterparts cannot be excluded”⁹⁷ just for being religious. One might also argue that this is not

⁹⁵ Bader, p. 132.

⁹⁶ <http://www2.ohchr.org/english/law/religion.htm>

⁹⁷ Bader, p. 133.

so much a matter of positive freedom of religion, but simply of equal respect. However, equal respect would also mean to equally negate them the privilege of receiving subsidy. Instead the state does give subsidy to both types of organizations equally, because the concept of positive freedom involves the requirement of the state's equal aid. Freedom is hereby predicated on the principle of equal respect. According to the Dutch constitution, public authorities shall be neutral towards the various religious and non-religious denominations. This seems a plausible way to bridge the false dichotomy between the secular and religious. It also, thereby "rejects the assumption often made in the US that religious organizations have a bias ..., while non-religious secular organizations are neutral."⁹⁸ Neutrality in this sense means to aid and subsidize both religious and non-religious organizations equally. The state will not be interested in the content of the philosophical views or beliefs on which the organizations operate. Institutional activities are then "left to the equal playing field of religious and cultural markets and the healthy working of free competition."⁹⁹

2.6. Secularism at its best

Perhaps the ideal form of secularism is the one that can strike a perfect balance between the principles of equal respect and freedom. A "perfect" or "pure" concept of secularism may imply a hundred percent protection of both principles simultaneously. Arguably, such an approach is not feasible. Recently, in their effort to protect and/or promote the principle of equal respect, the Obama administration has passed a rule that would require all colleges and hospitals, including those affiliated with churches, to have their employees and students covered by health insurance that would include contraception and family planning services.¹⁰⁰ Evidently, this rule is contrary to Catholic church teaching and doctrine and thereby would violate the religious freedom of Roman Catholics.¹⁰¹ Likewise, the state's recognition of equal respect for all religions might restrict the religious freedom of those who are non-religious if the state demands respect for all religious holidays equally. Thus, even a "perfect" approach to the protection of both principles

⁹⁸ Bader, p. 134.

⁹⁹ *Idem.*

¹⁰⁰ Nicholas P. Miller, April 25, 2012

¹⁰¹ <http://www.nytimes.com/2012/05/22/us/catholic-groups-file-suits-on-contraceptive-coverage.html> (Accessed June 12, 2012)

will lead to conflicts. For that reason, I conclude that there cannot be any fixed (one size fits all) concept of secularism as a political principle.

2.7. Religious freedom, religious tolerance and religious emancipation

Maybe the concept of religious freedom can be captured in a teleological definition of freedom, in the words of Sakae Kubo: “As long as the train remains in its tracks it is free to reach its destination. Only fishes that remain in the water are free to swim and to live. Only birds that remain in the sky may fly without restrictions.”¹⁰² The state and religion are two different entities with different purposes and goals and with their own autonomies. While they relate to one another they should remain in their own tracks, water and sky. They must do so deliberately and thoughtfully, always keeping in mind that the goal is to protect the equal respect of individuals and freedom of religion.

Another important distinction that should be made at this point is the difference between religious freedom and religious tolerance. In this account, when the state officially recognizes a particular religion or when the state tends to identify with a particular religion in her activities, even though not official, we may identify such a situation as one of freedom of religion for the one recognized and/or favored by the state, and can speak of religious tolerance towards the rest who do not enjoy the same privileges from the state. Religious tolerance is appropriate and necessary only at individual citizens’ level and among religious organizations, because individuals and religious organizations, in order for them to preserve their identity and/or integrity, may have to identify themselves with a particular religion, religious beliefs and/or practices. Conversely, the state, by virtue of being a normative system to preserve peace, harmony and security, cannot afford to identify itself with a particular religious belief or group. The state is a system created to protect, among other things, the identity and integrity of individual citizens and people groups. An asymmetric relation among religions¹⁰³ in a given society with state support is not freedom of religion but actually religious tolerance, even if, and

¹⁰² Sakae Kubo. *Vrij*. Alphen aan den Rijn / Brussel: Uitgeverij “Veritas.” 1984, p. 64.

¹⁰³ There is an asymmetric relationship among religions, when some religious groups have political power or are systematically assisted by the state while others are not. Also, when there is a majority religious group that enjoys certain privileges that the minority does not, even though entitled to these privileges we can speak of an asymmetric relationship among religions.

only if the state aims, in spite of the absence of secularism, to protect the principles of equal respect and freedom. Furthermore, it is in light of political religious tolerance that religious emancipation becomes necessary.

2.7.1. Religious emancipation

In Curaçao there seem not to be any legislation that directly restrict religious practices. However, as has been pointed out in chapter one (1), the reference to God in the constitution and the assumption made by the bishop (and is often made by some other individuals and organizations) about the religious majority, suggests religious inequalities. There seem to be a power imbalance among religious groups in the new country. Consequently, the concept of religious emancipation becomes important for Curaçao. Consider the involvement of the Catholic bishop in state funded and organized activities (see example 4 in chapter 1) which seem to suggest that the bishop is the religious head of the state. Often religious emancipation is understood as the liberation of individuals from religions and religious beliefs, or the privatization of religion.¹⁰⁴ In this account, the concept of emancipation involves the leveling of an asymmetric relationship among moral agents. It involves efforts to obtain political rights or equality, often for a specifically disenfranchised group. A relevant example might be the long road towards emancipation of the slaves in Curaçao. The slaves' rebellion took place in 1795¹⁰⁵ but slavery was legally abolished until 1863.¹⁰⁶ The same can be said about women emancipation, it took long before the world acknowledged women's equal standing in society. Emancipation is a progressive notion of freedom, a path towards the recognition of someone's equal standing within the polity. Karl Marx described the term emancipation as "equal status of individual citizens in relation to the state, equality before the law, regardless of religion, property, or other "private" characteristics of individual people."¹⁰⁷ In this account emancipation also means the elimination of religious hierarchies' because of state support and/or cultural heritage. Furthermore, the state's obligation to promote positive freedom demands the state's support to the marginalized religious groups.

¹⁰⁴ Maclure and Taylor, p. 29.

¹⁰⁵ <http://www.tulalives.org/slavery/45-history/58-slavery-and-resistance-in-curacao-the-rebellion-of-1795> (Accessed May 29, 2012)

¹⁰⁶ <http://www.tulalives.org/about> (Accessed May 29, 2012)

¹⁰⁷ <http://www.philosophicum.de/emanc.htm> (Accessed May 29, 2012)

But how could the state give support to the less powerful religious groups without violating the principles of equality and neutrality? This question will be addressed in the following chapter.

2.8. Conclusion

In this chapter I have aimed to articulate a working definition for secularism. However, I came to realize that there is no fixed model of secularism, as a political principle, but that reasonable secularism involves striking the balance between equal respect and freedom. Secularism is a political attitude that is “always colored by history and context, by the web of facts and meanings specific to each society.”¹⁰⁸ Then I have focused instead on the core function of secularism which made it clear that secularism is a means to realize the end of protecting the values of equal respect and religious freedom. In the analysis and description of the concepts of equal respect and freedom of religion, I end up making the concept of religious emancipation explicit. I think this last concept might be significant for the further treatment of the topic of religious freedom in the context of the struggles identified in chapter one (1) that might be leading to direct/indirect threats to religious freedom in Curaçao. The next and final chapter will do just that. What are the implications of the notions of equal respect, religious freedom and religious emancipation for the current relationship between state and religion in Curaçao? This question will be the burden of the next chapter.

¹⁰⁸ Maclure and Taylor, p. 53.

Chapter 3

Implications for Curaçao

Fortunately, Curaçao has never appeared on the watch list of the U.S. Commission on International Religious Freedom (USCIRF), let alone on the list of Countries of Particular Concern's (CPC).¹⁰⁹ Nevertheless, this does not mean that there are no challenges and concerns as far as religious freedom is concerned in Curaçao. In chapter one (1) I have presented five (5) examples of how Curaçao struggles with the concept of separation between church and state and how these struggles sometimes lead to direct and/or indirect threats to religious freedom. Given the nature of the struggles presented in chapter 1 and my analysis of the concept of secularism in chapter 2, what are the implications of implementing the principles of religious freedom in Curaçao? The main claim of this paper has been: “the present circumstances pertaining to the concept of secularism in Curaçao, demands religious emancipation, meaning the leveling of the asymmetric relationship among religion and religious groups in Curaçao.” In this chapter I aim to show that promoting the concept of religious emancipation should lead to two important actions. Namely, proper legislation and the establishing of religious liberty institutions in Curaçao to guarantee the long cherished values of tolerance, mutual respect and social acceptance for the years to come.

3.2. Proper legislation means constitutional reform

One of the actions to be taken based on my previous analyses is proper legislation. In the first example I have pointed out that the reference to God in the constitution of Curaçao seems more like a *nomination dei* and may have been intended to challenge the state through the reference to an assumed common value. The assumed common value here, as explained in chapter one, is belief in the God of the Bible. But, indirectly and unintentionally such a reference does in fact express the state's support for a particular religion. In view of the empirical data available and the fact that even a “nonsectarian” reference to God obviously excludes atheists and less

¹⁰⁹ [http://www.uscirtf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirtf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf) p.2, 3. (Accessed June 4, 2012)

obviously excludes polytheists, members of non-theistic religions, and perhaps many other groups of people, such a reference to God poses an indirect threat to religious freedom in Curaçao. Also, because the current preamble clearly makes a distinction between citizens who are believers, enjoyers of protection, belonging to the Lord and blessed as oppose to citizens who are unbelievers, non enjoyers of protection, non-belonging to the Lord and not blessed.

Also, there seem to have been some wisdom in the idea for not having such a reference in the “Statuut,” neither in the “staatsregeling” of the former Netherlands Antilles. Given the trend towards decolonization in the state’s structure, one might assume “progress” at all levels and sectors of the nation (education, work sector, religion, etc.) in terms of freedom, emancipation, self-determination and the like. Arguably, a status quo, in this case, would have meant progress in relation to the preamble of the constitution of the new country. In view of this trend, and if Curaçao is truly committed to “justice as our highest good,”¹¹⁰ a constitutional reform is required to make the constitution of Curaçao more inclusive by removing the statement about God in its preamble. The exclusion hereby proposed is not the same exclusion aspired by “militant secularism.” While militant secularism rally for the exclusion of God and religion from the public sphere, because of her commitment to a different metaphysical claim, this proposal for exclusion of the phrase about God stems from a commitment to protect one or both of the main values of secularism: equality of respect for all, and/or freedom.

For the sake of “justice” (distributive justice), which Curaçao claims to be her highest good,¹¹¹ and is one of the principles on which equal respect is based, a constitutional reform is required to eliminate the distinction made in the constitution and to avoid the creation of categories of citizens. Also, experience have shown that establishing of categories leads to stereotyping, typecasting leads to demonizing, demonizing leads to hate, and hatred leads to violence. This line of reasoning seems like a slippery slope argument. The slippery slope argument is a type of argument that usually is used to maintain the status quo. Status quo, in this particular case, is exactly what should have been aimed at when drafting the constitution of this new country; however, there is more than slippery slope in my argument. Usually, the slippery slope line of

¹¹⁰ <http://www.gouverneurvancuracao.org/pdf/Staatsregeling.pdf> (Accessed June 6, 2012)

¹¹¹ Idem

reasoning is from a less negative action to a worst case scenario. Consider the fact that the law of Curaçao supports the concept of equal respect as far as religious freedom is concerned.¹¹² Also, article three (3) of that same constitution states that: “All those who are in Curaçao, are equally treated in equal circumstances. Discrimination on account of religion, life convictions, political orientation, race, gender or on any ground what so ever, is not allowed.”¹¹³ Furthermore, consider the fact that “the constitution is the most important governance tool in any country since it is the mother law upon which all the other laws derive their authority and existence. It provides the framework for the rest of the laws to be expanded and derived. It defines the people’s most fundamental values, and protects their most cherished freedoms.”¹¹⁴ It follows that by establishing inequality among citizens in the preamble of the country’s constitution, we end up corrupting the most important point of reference for the upholding and protecting of the citizens’ most basic human and moral rights.¹¹⁵ If the “most important governance tool” is corrupted, and if “the mother law upon which all the other laws derive their authority” is polluted, then the law has reached its climax of degeneration. Thus, if and when we corrupt the constitution, we arguably, start at the worst negative action and I presume that to be the opening of the floodgates of evil. For that reason a constitutional reform seems imperative.

As mentioned before, the inclusion of a statement about God perhaps has been based on an assumed common denominator among the citizens of Curaçao. Perhaps, this assumption is also present in the bishop’s appeal to the government to respect the religion of the majority, as described in the third example presented in chapter one of this paper. Assumptions like these are risky, because by assuming Curaçao to be a nation who believes in the God of the Bible, we run the risk of ignoring some citizens who do not necessarily share those beliefs. Empirical data suggest that some citizens of Curaçao are excluded by such a reference to God (see appendix – A on page 55). Ignoring someone’s right is almost synonymous to denying someone’s right. The difference, perhaps, is that the former is unintentional while the latter might be deliberate. A country’s constitution is supposed to protect the people’s most cherished freedoms¹¹⁶ from both

¹¹² Staatsrecht van Curaçao, chapter 8, article 123, section 2.

¹¹³ <http://www.gouverneurvancuracao.org/pdf/Staatsregeling.pdf> (Accessed June 6, 2012)

¹¹⁴ <http://eacj.org/component/content/article/22-no-campaign/1-the-constitution-review.html> (Accessed June 4, 2012)

¹¹⁵ See Waldron’s use of the slippery slope argument against the legalization of torture in: Jeremy Waldron, “Torture and positive law.” *Columbia Law Review* 105:6 (2005), 1687.

¹¹⁶ <http://eacj.org/component/content/article/22-no-campaign/1-the-constitution-review.html> (Accessed June 4, 2012)

unintentional and deliberate infractions and should do so for all citizens. For that reason, I argue, that it becomes imperative to make amendments to the current constitution of Curaçao so as to make it recognize all citizens' equal standing within the polity.

Also, I have stated in chapter two that the principle of equal respect is grounded in the concept of the moral status of human beings. The society is composed of moral agents and/or moral patients who deserve equal moral considerability by virtue of being either a framer of the social contract or a recipient of the benefits thereof. Perhaps it is in that sense that article one (1) of the Universal Declaration of Human Rights (UDHR) states: "All human beings are born free and equal in dignity and rights." Freedom and equality in dignity and rights belong to every human being, none should be excluded. The current reading of the preamble of the constitution of Curaçao excludes some citizens and thereby suggests an asymmetric relationship among religious groups. Religious emancipation, for which I hereby argue, means a leveling of this asymmetric relationship among religious groups in Curaçao. It means the eradication of all legal, social, cultural or psychological hierarchies among religions, and I think implementing the principle of equality which is one of the main ends of secularism, in the constitution is the best way to guarantee religious freedom in Curaçao. Because, if and when citizens' right to freedom and equal treatment are being ignored in other settings, the constitution would be an authoritative point of reference for the protection of this fundamental human and moral right. Furthermore, given the ends of secularism as described in chapter two, the state has the positive duty to protect the freedoms of her citizens. In view of this duty it is necessary to have a mechanism in place so that the state may systematically fulfill this obligation. The most fitting mechanism to do so is the country's constitution. For this reason too I think that a constitutional reform is necessary.

3.3. Public school and state neutrality

The struggle among the Ministry of Education the school teachers and the Curaçao Council of Churches (CCC) is a typical example of the fact that Curaçao is not immune from religious oppression. Consider the threat to curtail the salary of the teachers who left the room when they felt their conscience being burdened by the New Age concepts being imposed upon them during

a government organized and funded program. Similarly, consider the imposition of religious views on the part of some teachers at public schools and their seeming attempt to proselytize on the job. This example makes it clear that sometimes in spite of a legislation that is favorable to religious freedom, there might still be some tensions at individual and institutional level. This means that proper legislation alone is not enough. For that reason I argue that while proper legislation is necessary to offer legal protection, there is still need for an independent body to deal with the process of emancipation. Some way or another people should be made aware of these important principles that need to be protected by all. This discussion leads to the second action I aim to explore in this chapter.

3.4. Establishing of religious liberty institutions

The second action I mentioned to be necessary, next to proper legislation, to promote the concept of religious emancipation, is the establishment of religious liberty institutions. The reason for establishing religious liberty institutions is because proper legislation does not guarantee the absence of tensions among individuals and institutions, neither does it guarantee against violation of these important human and moral rights. For instance, the fact that the law prohibits the crossing of the road when the traffic light is red does not guarantee that everyone abides by the law of traffic lights. This reality has led to the establishment of a foundation for the continued promotion and education on safe traffic and for policy advice to the state on safe traffic. Likewise, several nations have a religious affairs department to coordinate policy in the sphere of religious affairs. Some may do so from a theocratic or militant secularism perspective. But, I hereby argue that in Curaçao it should be for the state to fulfill her obligation to promote religious freedom and thereby religious emancipation as the current circumstances in Curaçao seem to require.

The main purpose of the religious liberty institution is to take in hand the process of religious emancipation. The main tasks thereof might be to review and report the facts and circumstances of violations of religious freedom locally, and to make policy recommendations to the Parliament. Other tasks may include the receiving of complaints from individuals who feel their

religious rights have been violated. Furthermore, this institution may intervene to negotiate accommodation when individual religious views are burdened and practices are restricted by a third party. The promotion of religious freedom and appreciation for religious diversity in general, in schools and through the media may also be included in the tasks of this institute.

It was as a consequence of proper legislation that the United States of America has established the U.S. Commission on International Religious Freedom (USCIRF) as an independent, bipartisan commission to review the facts and circumstances of violations of religious freedom internationally and to make policy recommendations to the President, the Secretary of State, and the Congress.¹¹⁷ The government of Curaçao may establish a similar institution for local purposes; however such a decision may have to be a political decision and may not be seen as a priority given a tight state's budget. Also, questions may be asked as to how sufficiently distant from the state this institute can be. For that reason my proposal is not without limitations. But perhaps a religious liberty institution can take the same legal and social form as the safe traffic foundation and be completely independent from the state.

One of the strengths of such a legal and social construct is that it may solve the issue where the state seems to have to give support to marginalized religious groups (see chapter 2). In chapter two I have stated that “the state's obligation to promote positive freedom demands the state's support to the marginalized religious groups.” But, the state's support to the less powerful religious groups might seem like a violation of the principles of equality and neutrality. One valid reason for state support could be the vulnerable position of these groups. Furthermore, I hereby propose that by working through an independent religious liberty institution and by respecting the judgment thereof the state may give support to the less powerful and vulnerable religious groups without violating the principles of equality and neutrality. This is so because; the state's task is limited to the provision of proper legislation which upholds the principles of equal respect and freedom. Conversely, it is the independent religious liberty institution that does the reviewing and reporting of the facts and circumstances of violations of religious freedom and makes policy recommendations. Thus, judgments on who is marginalized and vulnerable or who

¹¹⁷ http://www.uscifr.gov/index.php?option=com_content&task=view&id=349&Itemid=45 (Accessed June 12, 2012)

is unduly privileged are left to this independent institution and/or the court of law, not to the state.

Again, the religious liberty institution has the responsibility to do the proper promotion of, and education on religious freedom and religious emancipation as the circumstances required in Curaçao. In addition, the establishment of a state initiated and independent religious liberty institution does not exclude the possibility to have a private religious liberty organization initiated by religious organizations themselves. Consider, for instance, the International Religious Liberty Association (IRLA) whose statement of purpose reads:

To disseminate the principles of religious liberty throughout the world.

To defend and safeguard the civil right of all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the respect for the equivalent rights of others.

To support the right of religious organizations to operate freely in every country by their establishing and owning charitable or educational institutions.

To organize local, national, and regional chapters, as well as seminars and congresses.¹¹⁸

Perhaps a local chapter of the IRLA would be very much welcome in Curaçao to assist in the process of religious emancipation as I have earlier proposed.

3.5. Further justification for legislation and religious liberty institutions in Curaçao

In the case involving the Ministry of Education, the school teachers and the CCC, the law seems to provide for an adequate distance between state and religion. But apparently, this concept is not understood by all. Consequently, this blurred understanding of the normative required space between state and the church is violated. Perhaps this reality gives more strength to my argument for a constitutional reform. Even though it is not a guarantee against religious oppression it still serves as an authoritative point of reference and educational mechanism. In view of this reality,

¹¹⁸ <http://irla.org/mission-purpose-and-principles.htm> (Accessed June 13, 2012)

whereby legal instruments are not a guarantee against religious oppression, the state may resort to her expressive capacities to educate. Using of the state's expressive capacities should be understood in terms of state's involvement in transforming religious views because of her commitment to protect the normative values of equal respect and freedom. Even though the state is not promoting a metaphysical claim against religion, her involvement in transforming religious views albeit for reason of her commitment to protect ethical normative principles may be seen as violating the principle of neutrality. For that reason it is important for the state to work with a religious liberty institution.

When the Ministry of Education threatened the teachers for curtailing their salary she resorted to her coercive capacities. This *modus operandi* is morally problematic, especially because the government in providing an Eastern New Age ritual exercise to the teachers seems to identify with a particular religion. Identifying with a particular religion and then using coercion for failing to submit is a violation of the principle of religious freedom. This case in point shows that sometimes the state itself might be involved in violating the principle of religious freedom. For that reason, as well, I argue that it is crucial to delegate the responsibility of reviewing and reporting of the facts and circumstances of violations of religious freedom to an independent religious liberty institution.

Moreover, the issue between the CCC and the government seems far from being settled. For, the law of Curaçao provides for 60 hours per year of religious education for pupils in public schools. The idea is that students whose parents desire for their children to have religious classes may ask their own religious leaders/teachers to give their kids religious classes during school hours, to a maximum of 60 hours a year. The state will not pay the salary of those religious educators.¹¹⁹ Thus, the law seems very clear on the normative distance required between the state and religion. But apparently, the CCC seems to give a slightly different interpretation of the same. Recently, the CCC has put together a committee comprising of three clerics, each from a different

¹¹⁹ “Indien de ouders van de leerlingen wensen dat hun kinderen godsdienst- of levensbeschouwelijk vormingsonderwijs ontvangen, is het bevoegd gezag verplicht daaraan mee te werken. Het bevoegd gezag draagt echter geen verantwoordelijkheid voor de inhoud van dit onderwijs, noch voor de wijze waarop het wordt gegeven en de keuze van leermiddelen, die worden gebruikt. Dit is een zaak van de in artikel 38 genoemde instellingen, die de leerkrachten voor het godsdienst- of levensbeschouwelijk vormingsonderwijs aanwijzen. De door de instellingen aangewezen leerkrachten zijn niet in dienst van de eilandgebieden, zodat de voorschriften betreffende salaris en rechtspositie van het personeel der school op hen niet van toepassing zijn.” (Landsverordening Basisonderwijs – Hoofdstuk II, toelichting artikel 37)

Christian denomination, in order for them to develop the content material to be given in the 60 hours religious education requirement. Now, should the CCC be the one to develop the content of religious education in public schools? Should the government accept the material developed by the CCC as authoritative to be taught in public schools during the 60 hours religious education requirement? I think that the law, in this case, is neutral enough. As long as the parents are allowed to freely choose the religious educator and/or course content there will be no morally relevant issue. The moment the state decides to accept the course content prepared by the CCC it actually identifies with a particular religious group and violates the principle of state neutrality. For that reason abiding by the law as it is and reads seems the safe path to travel, since the law as it reads regulates the proper distance between state and religion.

Another perspective of the CCC's approach suggests that the CCC is violating the autonomy of other Christian churches. As far as the law is concerned, parents are entitled to choose the teacher for the 60 hours religious education. If the parent is restricted by the CCC to choose the lesson provided by the CCC there is a violation of the parent's human and moral right and probably also of the law of the land. Religious emancipation implies that all Christian (and non-Christian) denominations have equal standing within the polity and makes room for parents to have more options from which to choose. In this scenario, a religious liberty institution might protect the interests of the parents and be a balance of power between the government and the CCC, given the fact that the CCC is an organization comprising only and working mainly for the interests of Christian Churches.

3.6. Religion and politics in Curaçao

In the third example of how Curaçao struggles with the concept of separation between state and religion, I stated that the bishop would have been right if he meant that opening commerce on Good Friday would have forced committed Catholics to work on a day that is sacred to them. Let's assume that he meant just that. But, if this was the case, I presume that it should have been the workers, whose individual conscience and religious freedom would have been violated, that should have manifested one way or the other that their right is being violated or oppressed. The

bishop addressing the government seems rather paternalistic if he meant that the individual conscience of the Roman Catholic workers has been violated by opening commerce on Good Friday. In Curaçao, the employer seems to have the obligation to accommodate the employees when confronted with the request to work on a particular day that might infringe against the individual's freedom of conscience or religious practice. I hereby refer to the case of Rupert Andries Pietersz vs Refineria Isla (Curaçao) N.V. In this case the refinery (employer) dismissed Mr. Pietersz, an employee who refused to work on Saturday because of his religious persuasion. Mr. Pietersz took the refinery to court but lost the case in the first instance. He, then, appealed to the higher court and won the case. The court ruled that the employee could have been accommodated to have Saturday off, especially because employer knew before hand about the employee's religious convictions and previously consented to accommodate employee as far as possible.¹²⁰ Since each individual worker may appeal to the country's constitution, the UDHR or mutual agreement with his/her employer to be accommodated for his/her religious practice, there is no need for the bishop to appeal to the government to have the entire trade and commerce in Willemstad shut down on Good Friday in order to give honor and respect to the religion of the majority.

The notion of appealing to the state for a religious legislation in the name of the majority seems to me morally problematic. Furthermore, tensions between the Roman Catholic Church and the government of the island of Curaçao are not new. It is well documented how the state feared the growing political power of the Catholic Church in Curaçao.¹²¹ The colonial government belonged to the white Dutch European Protestants, the Jews, businessmen and the like.¹²² In the 1930's Mgr. Verriet established a political party to defend the interests of the Catholic citizens of Curaçao.¹²³ Thus, religion and politics became closely intertwined. This practice has not become out of fashion as until recently there has been a political party representing mainly Christian Evangelicals.¹²⁴ Thus, the interests of the religious groups seemed to have been represented

¹²⁰ Vonnis gewezen door het gemeenschappelijk hof van justitie van de Nederlandse Antillen en Aruba in kort geding in de zaak van: Rupert Andries PIETERSZ tegen de naamloze vennootschap REFINERIA ISLA (CURAÇAO) N.V. no550, burgerlijke zaken 1998, registratie nr. H.411/98, uitspraak: 27 oktober 1998.

¹²¹ Armando Lampe, E.d. Kerk en Maatschappij op Curaçao. 1991. p. 17.

¹²² Valdemar Marcha and Paul Verweel. *De cultuur van angst: Paradoxe ketenen van angst en zwijgen op Curaçao*. Amsterdam: B.V. Uitgeverij SWP, 2003. p. 19.

¹²³ Idem, p. 20.

¹²⁴ <http://www.liveincuracao.com/index.php?p=153> (Accessed June 12, 2012)

through political parties, or by direct presence and influence in the government. In chronological order, first by the Protestants, then the Catholics and lately the Christian Evangelicals have made several unsuccessful attempts to be in the government. This seeming battle for power should perhaps be regulated by proper legislation and the establishment of religious liberty institutions.

On the basis of distributive justice, being the majority or being in the government has no relevance for the requirement of respect, honor and consideration from the government authorities. Respect, honor and consideration are due to all citizens for being, all of them, moral objects deserving of moral considerability. Using “majority” as a point of reference implies power for those in the majority. Just consider the fact that Curaçao is a democratic state whose political leaders and legislators are chosen by majority vote. The “majority” in this scenario stands in an asymmetric relationship to the minority. It is exactly this power imbalance that secularism as a political principle aimed to solve during the religious wars in Europe in the seventeenth century. For Curaçao, I suppose, such a scenario requires religious emancipation, which is equal status of individual citizens in relation to the state, equality before the law, regardless of religion, property, or amount of people groups. Again, this scenario makes my appeal for constitutional reform and the establishment of religious liberty institution more pressing.

3.7. Emancipation from cultural heritage

In chapter two I have described religious emancipation to mean “the elimination of religious hierarchies because of state support and/or cultural heritage.” In chapter one I made reference to practices that have only heritage value and practices that can reasonably be classified as a form of the state’s identification with a particular religion. Religious emancipation, then, may imply the purging of the public sphere from all practices that can reasonably be classified as a form of the state’s identification with a particular religion. Jocelyn Maclure and Charles Taylor suggest that every society needs a common calendar which generally has a religious origin to allow citizens and institutions to coordinate their actions.¹²⁵ In spite of their religious source it might be

¹²⁵ Maclure and Taylor in *Secularism and Freedom of Conscience*. p 51

over demanding “to create a sanitized, de-historicized calendar.”¹²⁶ I hereby, beg to defer with their unfeasibility argument. I think slavery being a lucrative business in those days might have sound very unfeasible to eradicate. Perhaps, there are no morally relevant issues by maintaining the status quo as far as the public calendar is concerned. But, if and when legislating a religious calendar or for that matter a public holiday that favors a particular religious group at the expense of others, the state is required to do whatever it takes to protect the values of equal respect and religious freedom. Take for instance, the bishop’s appeal to the government to have commerce in Curaçao shut down on Good Friday. I do concur with Maclure and Taylor that sometimes the non-moral factors are insurmountable in comparison to the intensity of the moral implications. Then, and perhaps only then, should the state opt for accommodation. E.g. instead of banning the celebration of carnival altogether from public schools, it might be celebrated as an extracurricular activity for which there is no academic requirement for participation. In this sense justice might be done to the concept of religious emancipation meaning; the elimination of religious hierarchies because of state support and/or cultural heritage. The task of reviewing and reporting the facts and circumstances of violations of religious freedom and probably also negotiations for accommodation may rest on the shoulders of the religious liberty institution.

3.8. Decolonization and salary for clerics

The questions left to address in this section are: Should the state assume the responsibility of paying the salary of the clerics or does doing so cross the line of what should be the separation between the state and religion? In the context of Curaçao, should this practice continue, in light of the trend towards emancipation and decolonization? The practice of paying the salary of clerics in Curaçao started with the West India Company and continued by the colonial government.¹²⁷ Perhaps following the Lockian notion of separation between the state and the church/religion,¹²⁸ and given my application of Sakae Kubo’s understanding of freedom in chapter two of this paper, it is not morally appropriate to pay the salary of clerics who serve in the church, since the state and religion are two different entities with different purposes and goals

¹²⁶ Idem.

¹²⁷ Leo Dalhuisen, et al *Geschiedenis van de Antillen*. Zutphen: Uitgeversmaatschappij Walburg Pers, 2009. p. 121, 122

¹²⁸ <http://www.constitution.org/jl/tolerati.htm> (Accessed June 7, 2012)

and each having their own autonomies. Conversely, it may be appropriate, especially from a liberal secular perspective to pay the salary of a hospital and/or school chaplain given the fact that the nature of the service is not solely preaching and caring for the soul (in Lockian terms). Being a cleric who serves a parish or congregation has much more to do with faith and metaphysical commitments, while the work of the hospital and/or school chaplain may have a more neutral dimension as far as faith and metaphysical commitments are concerned. Of course, one may argue that based on the principle of equal respect and from the perspective of positive freedom it may be appropriate to pay the salary of all clerics. However, this approach might involve that the state will have to define what is a religion, which arguably should not be the state's competence.

3.9. Conclusion

The burden of this third and final chapter has been the implications of the concept of religious emancipation, as defined in chapter two, for Curaçao. As seen in this chapter, a commitment to religious freedom and emancipation should lead to two important actions: Proper legislation and the establishing of religious liberty institutions in Curaçao. Given the reputation that Curaçao has been enjoying in terms of religious tolerance, and because of her commitment to democracy and justice, perhaps policy makers of this new country should take a look again at the preamble of the constitution, this time, with an eye to the future of religious freedom in Curaçao. In chapter two I have indicated that the current status can be best defined as religious tolerance. In view of the trend towards emancipation and decolonization, together with the same commitments mentioned above, the state should be vigilant and proactive in implementing measures and encourage all relevant means to promote and protect the values of equal respect and religious freedom. Furthermore, given that Curaçao has an obligation to promote positive religious freedom, proper legislation and the establishment of religious liberty institutions becomes imperative.

Epilogue

It might sound weird that a religious person argues for the removal of the reference to God in a country's constitution. For that reason, it might be opportune to state that such a position is not necessarily incompatible with religion, God or Christianity in any sense. Perhaps, the position taken in this paper is an affirmation of some pertinent Christian and Biblical values. The principles upon which my position, in this paper, has been based are; equal respect, freedom, justice and dignity. Jürgen Habermas, for instance, pointed out that “the egalitarian law based on reason also has its roots in religion.”¹²⁹ Furthermore, I think the Biblical view on these principles offers relevant bases for the reflection on other ethical issues like abortion, euthanasia, and the like. This work has tried to provide an ethical/moral perspective to the issue of religious freedom in Curaçao, and thereby aimed to give its unique contribution to the topic. It is my hope that this work may stimulate public discussion on a topic that seems unmentionable in Curacao. A public discussion might hopefully lead to awareness and awareness to more appreciation for religious diversity. A public sphere that is open and has appreciation for diversity might be capable to foster open public debates that might be for the furthering progress in human affairs. A proper balance in political authority and power might be important for this process. Political authority, also in Curaçao, should be derived from public agreement (social contract), not from God, a particular religion, or any metaphysical concept. The state should facilitate and promote all means to make the public square a space where all citizens may participate on an equal standing and is free to practice and express their views. For, in the end, religious emancipation is part of the process towards decolonization.

¹²⁹ <http://homepage.newschool.edu/~Wilhelm/Fall2005/Faith%20and%20Knowledge.pdf> (Accessed June 7, 2012)

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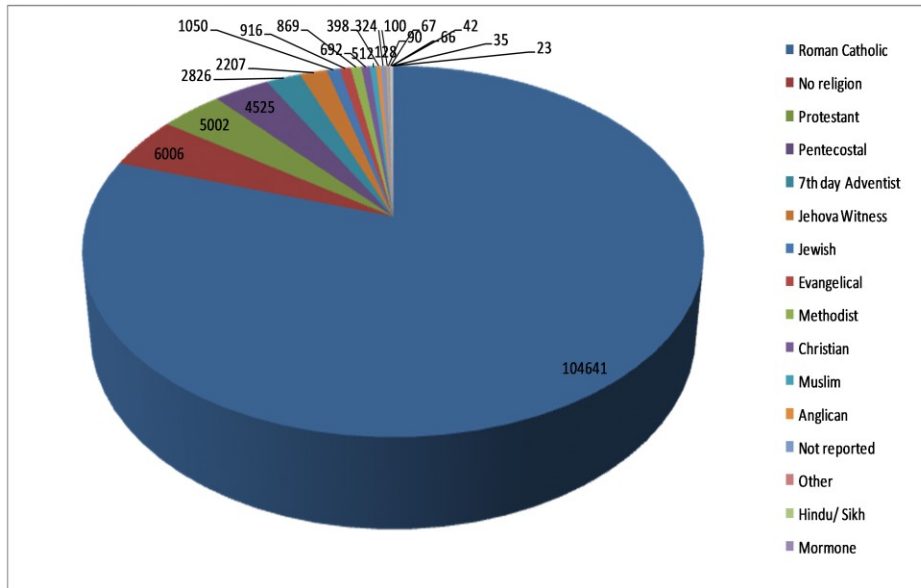
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Appendix – A

Total population of Curaçao by religion – 2001¹³⁰



1 Roman Catholic	104641
2 No religion	6006
3 Protestant	5002
4 Pentecostal	4525
5 7th day Adventist	2826
6 Jehova Witness	2207
7 Jewish	1050
8 Evangelical	916
9 Methodist	869
10 Christian	692
11 Muslim	512
12 Anglican	398
13 Not reported	324
14 Other	128
15 Hindu/ Sikh	100
16 Mormone	90
17 New Song	76
18 Budism	67
19 Iglesia Bida Nobo	66
20 Church of God	42
21 Church of Christ	35
22 Baha'i faith	32
23 Wesleyan/ Moravian	23

¹³⁰ Centraal Bureau voor Statistiek van Curaçao, Census 2001