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Identity & Law: The conflict between the Liberal Democracy and the Salafi Identity

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Identity & Law

The conflict between the Liberal Democracy and the Salafi

Identity

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Introduction

Liberal democracies are characterised by principles as freedom of speech, freedom of religion and equality. However, religion has been largely neglected within democratic theory, as a relevant causal factor for the birth of democracies as such.¹ Although it can be noted that liberal democracies have arisen in states that have a Christian background, modern day multiculturalism ignites the fire that lies underneath an older debate: the relation between these liberal democracies and the power of religion. Modern liberal democracies tend to give freedom to their citizens, at least on paper, to choose a religion and organize themselves to be able to profess their faith. However, with globalization and the increase of religious and cultural plurality within liberal societies, the modern-day relation between the power of religion and the liberal democracies seem to be dominated by the following questions: how much religious plurality can a liberal democracy handle? What are the limits of religious plurality within the liberal democracy?

To give just one example, the current Western democracies are faced with the question of how to handle the tension between Islam (mainly the extreme religious movements like Salafism) and the free liberal democracy. One of the main arguments that has been made in regard to the relation between Islam and liberal democracies² is the following: "*L'islam est hostile à la laïcité. Or la laïcité est indispensable à la démocratie. Donc l'islam est incompatible avec la démocratie.*"³ In other words, Islam is hostile towards

¹ Minkenberg (2007), p. 888.

² Although I do not agree with the fact that a liberal democracy and liberal democracy *have* to be one and the same thing, for the sake of the argument and the academic debate about the topic that is under discussion here, the relation between identity and law, I will use both of these terms as synonyms throughout this thesis.

³ Filaly-Ansary (2003), p. 5.

secularisation, secularisation is indispensable for democracy, so Islam is incompatible with democracy.

However, it is important to note that different explanations of secularisation can be given. One such example is that secularisation is the absolute separation of Church and State. The separation, in which God is banned from the political arena; a separation in which religion is not allowed to play a role in politics. However, this strict idea of the separation of Church and State is not the only way of interpreting secularisation.

Secularisation can also indicate a specific form of dealing with religion within a state. The Dutch state *does* separate religion (Church) and State, but only to a certain degree. Political parties can be religious in nature. The separation shows itself in the way religion is treated within the Dutch state. The citizens within the Dutch state are free to organize themselves by forming a religious political party. They are free in providing religious education (both primary as well as secondary education) to children and young adults. The separation of Church and State can be found in the absence of “a superior religion” or “state religion”. Christian, Muslim or Jew, they all enjoy the freedoms as have been stated above (which are just two examples).

Islam and the Dutch liberal democracy

Within the Dutch liberal democracy, a political as well as fundamental tension can be felt between the liberal democracy and Islam.⁴ One of the legal examples that can be offered in relation to the tension between the liberal democracy and Islam, is the “Temporary Law on Counterterrorism Administrative Measures”.⁵ This temporary law was put into place in

⁴ I’m referring, for example, to the (political) statements that have been made by Geert Wilders (as part of his political party the PVV).

⁵ Tijdelijke wet bestuurlijke maatregelen terrorismebestrijding.

order to fight threats of terrorism, more specifically, Muslim terrorism (jihadists).⁶ “*The provisions of [this Temporary Law on Counterterrorism Administrative Measures] aim to prevent terrorist attacks primarily by reducing the threats posed by the jihadist movement.*”⁷

This law makes it possible to restrict the freedom of movement of a person through an area ban and / or travel ban based on the possible threat they can become, given their religious beliefs and actions (the fear of radicalisation). The law also makes it possible to refuse or withdraw financial benefits that are given to a citizen by the state.

What makes this temporary law interesting (and possibly problematic), is that the Temporary Law on Counterterrorism *is not* a criminal law, but an administrative law. Given the fact that administrative measures can be used in cases that navigate along the borders of criminal law, it has important implications for the legal protection the individual in question enjoys. The legal protection for a criminal suspect is far more extensive, than for the individual that is being submitted to these administrative measures. The Dutch liberal democracy is pushing the limits of administrative law versus criminal law.⁸

⁶ Van der Steur, 2015.

⁷ Van Gestel et al., 2019, p. 61.

⁸ In order to illustrate the more invasive nature of criminal law versus administrative measures, let’s consider the following example: a group of activists have organized a big demonstration in the centre of Amsterdam. The demonstration will take place in less than a week from now and roughly a thousand people are expected to show up. However, before the demonstration will take place, it becomes clear that violent outbursts are likely to occur.

From a criminal law perspective, sanctions can only be put in place against those individuals who *actually* engage in violence (either violence against other people or against someone else’s property). This means that the violence cannot be prevented, by using criminal sanctions. Administrative measures, however, could provide an answer: if it is clear in advance that violence is likely to occur during the demonstration, the state (in this case the Mayor of Amsterdam) can relocate the demonstration to a different part of the city, or in an extreme cases, forbid this demonstration outright.

The question is where to draw the line between protecting society in relation to national security and restricting one's freedom, based on religious beliefs that go against (some of) the principles of the liberal democracy. The main question of this thesis will therefore be the following: *Is it justified for a liberal democracy to enforce administrative sanctions upon its citizens, based on their religious identity?*

The question can be raised how Islam, or Salafism, relates to the jihadi movement. Is it fair to say that someone's religious beliefs and actions are enough for the liberal democracy to enforce administrative measures? Islam, as a religion, is just as diverse as Christianity: Catholics, Protestants (and all the different denominations within Protestantism) are all part of Christianity, however, they can be considered as completely different religions. The same goes for Islam. Therefore, it is important to note that in this thesis, when discussing Islam, I am referring to Salafis. What is meant within this thesis with 'Salafism' will be further discussed in chapter one.

In this thesis the main focus will be on Salafi Muslims. This does not mean, however, that the main question raised above (and the answers to this question), could not possibly be applied to orthodox Jews, Catholics and others as well.

In order to answer the main question, this thesis will start with defining the philosophical landscape in which the debate takes place, by discussing the concepts of the liberal democracy, identity and Salafism. In the second chapter, the (in)compatibility of the Salafi identity and the liberal democracy will be explored in light of the current discussion about religion and state compatibility. The conclusion will be, that the Salafi identity is not compatible with the principles of the liberal democracy. In the final chapter, the consequences of this incompatibility will be discussed, including if and *when* the liberal democracy is justified in enforcing sanction upon its citizens based on their (in this case Salafi) identity.

Chapter 1: Defining the landscape

In this chapter I will lay the foundation of this thesis. Before any relation between identity and law can be understood or explained, it is important to have a clear understanding of both *what* the liberal democracy entails and what is meant by identity. It is important to note that “the liberal democracy” is a contested concept within the philosophical debate. Therefore, the goal of this chapter is to create a clear definition of both the concept of the liberal democracy as well as identity, as it will be used throughout this thesis.

In this chapter, a brief description about Salafism will be provided as well, in order to create a clear understanding about which religious group is being discussed.

1.1 What is a liberal democracy?

The liberal democracy is thought of as an ideal that can provide an answer to questions that arise within society due to its multicultural nature (like the Dutch society).⁹ As has been noted in the introduction, in liberal democracies *“citizens are granted certain basic rights and duties, such as the freedom of religion, freedom of speech and the pursuit of happiness and the corresponding duties of religious tolerance and avoidance of harm to others. In addition, citizens have political rights [...] It is crucial in a liberal democracy that citizens do not only have these rights against one another, but also against the state”*.¹⁰ In other words, freedom seems to be the central ideal, which is to say, freedom within limits in so far that citizens can exercise their own freedom without infringing on someone else’s freedom, just as the state should accept the freedom of its citizens as such.

⁹ Verbeek, 2013, p. 176.

¹⁰ Verbeek, 2013, pp. 176-177.

It has to be noted, however, that providing a general definition of “the liberal democracy” is a nearly impossible task. Many different conceptions of what “the liberal democracy” is (or is supposed to be), are being discussed within political philosophy. In this thesis, I will argue for a “liberal democracy” conception that is also known as the perfectionist approach on liberalism.¹¹ Furthermore, the ideas central to the liberal democracy are many (protection of certain freedoms, the ideal of the Good Life, the separation between the private and public sphere, tolerance, the value of autonomy, rule of law and so on). However, in this thesis the scope will be limited to three of these central ideas: (the protection of) certain freedoms (as has been noted above), the ideal of the Good Life and the separation between the private and public sphere.¹²

One of the concepts that is attributed to the liberal democracy (according to the perfectionist approach) is the notion of “the Good Life”.¹³ It is, within certain limits, entirely up to individuals to define what “the Good Life” is or consists of.¹⁴ Hartmut notes that “*society as a whole should let them [= the individual] make their choices in as free and unhindered a manner as possible, i.e., society should safeguard individual ethical autonomy.*”¹⁵ It is the liberal democracy that offers the legal framework to guarantee the freedom and capacity to pursue one’s personal conception of the Good Life.¹⁶ It is the state that is responsible for creating laws that confer to the comprehensive doctrines of society,

¹¹ Wall, 2019, paragraph “1. Perfectionism and Value Theory”.

¹² This is not to say that the other central ideas of the liberal democracy are not or less important for the discussion at hand. The choice to limit the scope is a practical one: if all the central ideas would be incorporated within this current discussion, it would require a lot more time and words to present a cohesive essay about the (in)compatibility of Islam and the liberal democracy. This thesis is one step into this direction, but definitely not the final station.

¹³ Verbeek, 2013, p. 177.

¹⁴ Hartmut, 1998, p. 201.

¹⁵ Hartmut, 1998, p. 201.

¹⁶ Hartmut, 1998, pp. 201-202.

meaning, the law has to comply with “a set of beliefs affirmed by citizens concerning a range of values, including moral, metaphysical, and religious commitments, as well as beliefs about personal virtues, and political beliefs about the way society ought to be arranged.”¹⁷ A liberal democracy according to the perfectionist approach, therefore, is a state that supports its citizens in achieving “the best things in life”.¹⁸

The ideal of “The Good Life”, is posing an interesting problem for the freedom of religion, when it comes to enacting one’s religion both in theory as well as in practice. It can create an interesting discussion between defining the Good Life in terms of religious tolerance versus the avoidance of harm to others. How so? There is a difference between practicing a religion within the comfort of one’s own home (the private sphere) and the practice of one’s religion within the public sphere.

One of the questions the liberal democracy has to answer in the pursuit of freedom within a multicultural society, is the limit that can be placed on religion in the public sphere. As Rawls notes in his *A Theory of Justice*: “The aim of a well-ordered society, or one in a state of near justice, is to preserve and strengthen the institutions of justice. If religion is denied its full expression, it is presumably because it is in violation of the equal liberties of others.”¹⁹

A couple of notes have to be made about the separation of the public and private sphere within liberalism. The public-private debate within liberalism, can be roughly divided into two different views. First of all, the public-private view as the distinction between the political and the social, and second of all, the public-private view as the distinction between the social and the personal.²⁰ The first public-private distinction concerns the relationship

¹⁷ Voice, 2014, pp. 126-129.

¹⁸ Parfit, 1986, pp. 161-162.

¹⁹ Rawls, 1999, p. 325.

²⁰ Kymlicka, 2002, p. 388.

between the civil society (social sphere) and the state (political sphere).²¹ The civil society is regarded as the privileged sphere, in so far that liberalism “*involves a ‘glorification of society’, since it supposes that the private (non-state) associations which individuals freely form and maintain in civil society are more meaningful and satisfying than the coerced unity of political association*”.²² However, this first view is insufficient in the discussion in this thesis: critics have noted that, within this first distinction of the public-private sphere, the domestic life (the household) does not seem to have a place.²³ Pateman notes that this division of the private and public sphere, is a mere division “within the world of men”, in which woman were assumed to be at home in the domestic sphere, where they ‘naturally’ belong.²⁴ Someone’s identity, his *being*, does not end at the front door (and therefore the (in)compatibility of this identity with the liberal democracy, does not either); the division between the private and public sphere, has to include the domestic sphere. In order to debate about how far the arm of the law reaches (within the discussion about the (possible) dangers certain identities can form for the liberal society), it is important that all spheres within society are accounted for within this debate.

This is why, in this thesis, the second view on the distinction between the private and public sphere will be followed. This second distinction, the one that separates the personal from the public, which is derived from the Romantic thinkers, has been adopted by modern liberals.²⁵ State and civil society, are to be regarded as part of the public sphere, whereas the private sphere has to be regarded as the “personal” sphere, where the emphasis lies upon the individual.²⁶

²¹ Kymlicka, 2002, p. 388.

²² Kymlicka, 2002, pp. 388-389; Wolin, 1960, p. 363.

²³ Pateman, 1987, p. 107; Kymlicka, 2002, p. 389.

²⁴ Pateman, 1987, p. 107; Kymlicka, 2002, pp. 389-390.

²⁵ Kymlicka, 2002, p. 394.

²⁶ Kymlicka, 2002, p. 394.

Kymlicka notes that *“Private life, for Liberals, now means both active involvement in the institutions of civil society, as classic liberals emphasized, and personal retreat from the ordered social life, as Romantics emphasized.”*²⁷ This retreat from social life is often discussed, by legal scholars and others, as the “right to privacy”.²⁸ However, feminist critics have noted that separating the personal sphere as a private sphere where the state is not allowed to interfere (since it has to respect the right of privacy of its citizens), immunizes those actions that take place “behind the front door” (like unequal treatment, marital rape and domestic violence).²⁹

Based on the discussion above, the concepts of private- and public sphere will be explained throughout this thesis as follows: the public sphere contains the domain of the state (politics) and civil society. The private sphere contains the personal sphere: the sphere that exists ‘behind the front door’. In principle, the state is allowed to regulate all interactions within the public domain; it has to stay away from interfering within the private domain. However, depending on specific circumstances, it could be justified for the state to intervene within the private domain, even if this infringes on the ‘right of privacy’. Which circumstances justify state intervention, will have to be judged from case to case. However, some general rules about when the state is allowed to interfere within the private sphere, could be laid down in laws, based on the set of beliefs about the Good Life, as are being held by the citizens of the state. The importance of the private versus the public domain, within the debate about religion and the liberal democracy, will be further discussed later on in this thesis.

²⁷ Kymlicka, 2002, p. 395.

²⁸ Kymlicka, 2002, p. 395.

²⁹ Kymlicka, 2020, p. 395.

In discussing how the liberal democracy should cope with religion as such, there are still different dominant views to be mentioned. Within some liberal democracies there are prominent scholars of church-law who insist that the proper functioning of democracy (i.e. the liberal democracy) does not only rest on the cultural legacies of Christianity (which will be discussed further in section 2.1), but also on the particular constitutional arrangement of church-state relations.³⁰ On the opposite side of this debate, there are liberal theorists, like John Rawls, that opt for the separation between Church and State in order to provide a clear division between the public and private sphere (which is essential for a liberal democracy as such).³¹ Both views are essential in providing an answer to the question, whether the liberal democracy should be allowed to enforce (administrative) sanctions upon its citizens based on their religious identity. However, before we are able to dive deeper into this question, it is essential to put some thought into what this identity actually entails.

1.2 What is (religious) identity?

In the previous paragraph the concept of religious identity was already touched upon in relation to the pursued of the Good Life. In order to answer the question, why a liberal democracy would be justified in forcing sanctions upon citizens based on their religious identity, it is inevitable to have a clear idea about what this identity entails. In this section the identity theory of Erik Erikson will be briefly discussed, after which the identity theory will be put into perspective with religion as such.

³⁰ Minkenberg, 2007, p. 889.

³¹ Minkenberg, 2007, p. 889; Rawls, 1993, pp. 227-230: *“The public place of religion archetypically falls under the ‘constitutional essentials and matters of basic justice’, which, according to Rawls, are to be subjected to the constraints of public reason.”* See Laborde, 2011, pp. 69-70.

1.2.1 *The identity theory*

In his psychosocial development theory, Erik Erikson has pointed out different stages of identity development.³² It is the phase of puberty and early adolescence, where the individual has to distance himself from the child identity that has been formed by the identification of the child with his parents.³³ The development of one's own identity comes with answering questions like "who am I?", "What do I want to do in life?", "What do I believe?" and "Which groups do I want to be part of?" The answers that have been given to questions like these by the parents, will have to be tested, corrected and new answers have to be added, until a sense of continuity and sameness arises.³⁴ This will be the start of one's personal identity.

It is important to note, that what (personal) identity entails or *is*, is a hotly debated topic within philosophy.³⁵ This is why, in this thesis, I will stick to the psychological explanation (or definition) of personal identity, as it is used within the literature about the psychology of terrorists.³⁶ Personal identity is being summarized as an answer to the question(s) that are stated above. The most important one being: "Who am I?".³⁷

One's personal identity is not something one develops on one's own completely. Humans, as social animals, will develop their own individual identity in relation to a collective identity or a group identity.³⁸ This question "Who am I in relation to others", is also known as the question about one's social identity.³⁹ The personal identity develops as

³² Erikson, 1982, pp. 55-82.

³³ Zock, 2000, p. 24.

³⁴ Erikson, 1963, p. 235.

³⁵ For example, see the extensive work (especially chapter 9 about Personal Identity) of Williams (1989) on this subject.

³⁶ For example: Meertens & Prins, 2010, p. 157; Victoroff & Kruglanski, 2009.

³⁷ Olsen, 2019, paragraph "1. The Problems of Personal Identity"; Meertens & Prins, 2010, p. 157.

³⁸ Erikson, 1963, p. 371. Zock, 2000, p. 24.

³⁹ Meertens & Prins, 2010, p. 157.

an identity, by being part of a bigger identity: I become me, through us and we. This also implies the existence of “others” or other groups, also known as the in-group (the group that the individual belongs to) and the out-group (the “other” groups). The “bigger identity”, also known as the group identity, can play an important role in the development of the personal identity.⁴⁰

Due to the increase of plurality (of cultures and religions) within society, it can become more difficult for some individuals to reconcile their personal identity (that has been developed in accordance with their cultural background and / or religion) to connect to the principles that the Dutch liberal democracy stands for (principles like the different freedoms discussed in paragraph 1.1, the separation between private and public sphere and the interpretation of “the Good Life”). If in this relation, the Dutch liberal democracy, and all the ideas and principles it stands for, are perceived as being *too* different from the personal values that make up one’s identity, the Dutch liberal democracy can be perceived as being incompatible with one’s personal identity. What does this mean?

If the gap between the own group and the Dutch liberal democracy becomes too wide, a (personal) conflict will arise. Meaning that the individual will either try to adjust to the “public” life (meaning the life as it is lived within the public sphere and to a certain extend in the private sphere, as is governed by the state), or will actively resist the authority of the state. An example, in which this conflict has arisen between the Dutch liberal democracy and individuals (including Dutch citizens), is the example of the group of “Salafis”.

Erikson notes, that if the identity (either individual or collective) is being challenged (and becomes unstable), for example by values that conflict with one’s own, the *need* to

⁴⁰ Zock, 2000, pp. 24-25.

react against, in this case the liberal democracy, becomes more prominent.⁴¹ The central ideals (or values) of the liberal democracy have been discussed in paragraph 1.1. The ideals of Salafi Muslims (and what is meant by “Salafi Muslims” within the scope of this thesis) will be discussed further in paragraph 1.3.

What makes an identity a religious identity? Although the explanation of identity and its conflict with the liberal democracy can be applied to all sorts of identities (for example individuals who identify themselves with the Nazi-ideology), religious identities are based within faith in God; one’s personal religious identity, is imbued with the belief in higher (i.e. holy) principles and worship of a higher deity. The actions that are inherent to one’s religious identity can be found in the pursuit of great devotion and a particular system of worship to the higher deity. In this thesis the focus will be on the identity that is imbued with the religious principles and beliefs of the Salafi Muslims. However, much of what will be discussed in this thesis, can also be applied to other religious groups (which consist of individuals, whose *Being* is inherent to the religion they subscribe to).

1.2.2 The danger of identity formation in relation to “home-grown terrorists”

Identity formation is a complicated process, which can have different outcomes. One of the dangers of identity formation, is that the individual finds himself, his identity, within a group that is violent (in terms of ideals) in relation to the liberal democracy.⁴² Certain “triggers” in the life of young-adolescents, can create what is called a “cognitive opening”, meaning that an individual becomes receptive to new ideas and different worldviews.⁴³ These triggers can be caused by, for example, a confrontation with death, problems growing up and at home, problems with the authorities and direct experiences with discrimination, racism and

⁴¹ Zock, 2000, p. 26

⁴² De Leeuw, 2020, pp. 19-21.

⁴³ Feddes, et al., 2016, p. 23. See also: Wiktorowicz, 2004.

social exclusion.⁴⁴ These other worldviews, including Salafism, *can* be an answer to the question where the young-adolescent can finally feel “at home”. Like Jason Walters, one of the members of the former Hofstadgroep noted: *“Ik had het gevoel dat ik thuiskwam, ik had voor het eerst het gevoel dat ik op mijn plek was. (...) dat eindelijk de existentiële vragen beantwoord waren. Dat die structuur en die ordening die je eigenlijk altijd zocht, dat je die gevonden had.”*⁴⁵

The conflicts that the liberal democracy is facing with religious groups that deny the liberal ideals, like freedom of speech and freedom of religion, could be considered as partly of their own making; a liberal democracy that does not fight discrimination, racism, social (including financial) inequality and exclusion, will be serving the receptiveness of violent worldviews (like Salafism) to the identity-developing youth on a golden platter. This is extremely important in the struggle with so called “home-grown terrorists”. Dutch nationals who were born and raised there, but during their identity development have radicalised and joined the Salafi movement.⁴⁶

At the same time, it has to be noted that the identity as such, will be strengthened by the struggle it finds itself in with the central ideas and values of the Dutch liberal democracy. The identity will be strengthened, if it meets conflict with the liberal democracy.

1.3 Salafism

Salafism is grounded in Sunni Islam, with devotion as one of the key concepts. According to Salafism, Muslims have to imitate the first three generations of successors of Mohammed, as strictly as possible and in as many aspects of their life as possible.⁴⁷ In

⁴⁴ Feddes, et al., 2016, p. 26 onwards.

⁴⁵ De Leeuw, 2020, pp. 19-20.

⁴⁶ De Leeuw, 2020, pp. 21-22.

⁴⁷ Wagemakers, 2017, p. 59.

following in the footsteps of these devoted ancestors (*al-salaf al-salih*), the emphases is placed on the unity of God (*tawhid*) and the rejection of religious novelties (*bid'a*).⁴⁸ At the same time, Salafis hold specific ideas about the content of belief (*Iman*) and non-belief (*kufr*).⁴⁹ The exact interpretation of these concepts, depends on the specific Islamic legal scholars and Islamic preachers. These interpretations are too diverse and extensive to fully grasp within the scope of this thesis. The term Salafism will therefore be used as a catch-all word for the orthodox and more conservative schools within Sunni Islam.⁵⁰

How the catch-all concept of Salafism can be understood for the purpose of the current discussion within this thesis, it is important to ask the question *how* the orthodox and conservative views of Salafism manifest themselves within (the Western or Dutch) society. In order to understand Salafism and its relation to the Western societies, it is important to look into the strategy Salafists use in order to fight the conflict that has arisen with the Western states. This has to do with the fact that, although Salafis share the same religious perspective, *“divisions have emerged as a result of the inherently subjective nature of applying religion to new issues and problems. (...) although Salafis share the same approach to religious jurisprudence, they often hold different interpretations about contemporary politics and conditions.”*⁵¹ This is why looking at Salafism from the perspective of a (political) strategy, can provide a better answer to if the liberal democracy can put sanctions into place against its citizens based on their religious identity, than creating a thorough understanding of the clash between Salafist religious perspectives and knowledge of Islamic law.

⁴⁸ Wagemakers, 2017, p. 59.

⁴⁹ Wagemakers, 2017, p. 59.

⁵⁰ Berger, et al., 2018, p. 3.

⁵¹ Wiktorowicz, 2006, p. 208.

What is the division that can be made, based on the strategy of Salafis? According to Wiktorowicz, Salafism can be divided into multiple groups based on the relation they have with politics and society.⁵² The different contextual readings within Salafism have resulted in three different communities: the purists, the politicians, and the jihadis. As Wiktorowicz describes, *“The purists emphasize a focus on nonviolent methods of propagation, purification, and education. They view politics as a diversion that encourages deviancy. Politicians, in contrast, emphasize application of the Salafi creed to the political arena, which they view as particularly important because it dramatically impacts social justice and the right of God alone to legislate. Jihadis take a more militant position and argue that the current context calls for violence and revolution. All three factions share a common creed [‘aqīda] but offer different explanations of the contemporary world and its concomitant problems and thus propose different solutions. The splits are about contextual analysis, not belief.”*⁵³

It is important to note that the difference in strategies is important in the debate about the coexistence of the Salafi identity and the liberal democracy. Although the Salafi belief can be considered anti-democratic and conflicts with the liberal democracy (as will be shown in chapter two), it could (and maybe even should) be argued that the liberal democracy has to react differently to jihadis than to purists. Berger et al. note that, although certain beliefs, values and ideas of Salafis can be considered unwelcome within non-Muslim or non-Salafi states, this could also be said for orthodox Christians and conservative Jews.⁵⁴

Throughout chapter two, the term Salafi will be used to include all three groups as have been described above. In chapter three, we will see the reaction of the liberal democracy towards the Salafi

⁵² Wiktorowicz, 2006, p. 208; Wagemakers, 2017, p. 59; Wagemakers, 2009, p. 283.

⁵³ Wiktorowicz, 2006, p. 208. See for more information: Croes, 2017, p. 79; De Graaff, 2016, pp. 10-11.

⁵⁴ Berger, et al., 2018, p. 3.

identity will be discussed, the distinction between purist, politicians and jihadis will be taken up again. This distinction could prove to create different outcomes when it comes to the liberal democracy dealing with Salafism, more specifically citizens with a Salafi identity.

Chapter 2: The place of religion within Liberal Democracies

In the previous chapter the concepts of the liberal democracy, identity and Salafism have been discussed. It has been noted that the identity (in this case the Salafi identity) will be strengthened even further if it meets resistance from the Dutch liberal democracy. The conflict between the two does not merely take place on paper (in principle, in theory), but also “out there”, in violent outbursts, terrorist attacks and so on. It is important to dive deeper into the practical implications of this clash between “principles and identities”.⁵⁵

In this chapter the relation between religion and the liberal democracy will be discussed, with the focus on the *practical* implications. The central question of this chapter is: *Is it possible for the liberal democracy to accept a religious identity within its borders, if this identity cannot be part of, or coexist peacefully with, the ideals that are inherent to the liberal democracy?*

In order to provide an answer to this question, first the history of democracy, in terms of the relation between the church and state will be discussed. Secondly, the current discussion about the relation between religion and the liberal democracy will be laid bare. Afterwards, the outcome of this discussion will be put into perspective in relation to the public and private sphere within liberal society.

2.1 The history of democracy: Jerusalem or Athens?

In his article “*Democracy and Religion: Theoretical and Empirical Observations on the Relationship between Christianity, Islam and Liberal Democracy*” Michael Minkenberg poses the question to what extent culture (in terms of religious traditions and institutions)

⁵⁵ Brouwer, 2010; Diekstra Van der Laan Advocaten, 2020; NOS, 2014; NOS 2018.

affects the functioning of democracies.⁵⁶ This question is an important one, mainly due to the fact that Minkenberg notes, later on in his article, that liberal democracies mainly seem to have emerged in countries that have a Christian heritage.⁵⁷ Some theorists have argued that the Christian rooting of modern democracies lies in the (both Christian as well as democratic) values like freedom, equality and tolerance.⁵⁸ Others, like Huntington, have argued that it is the liberal-secularist principle of a separation of religion and the state, that has formed the foundation for democracy, is a prerequisite for democracy as such.⁵⁹

What does this imply for the relation between democracy and Islam? Anderson notes that a study of religious freedom and pluralism in transitional societies in Southern and Eastern Europe found that 'holistic visions' of society, like Islam⁶⁰, tend to result in restrictions of civil liberties such as minority rights.⁶¹ Holistic visions, like the terminology already implies, don't recognise church (religion) and state to be separate. It is this separation however, that seems to be a prerequisite for democracy as such.

2.2 Current discussion

In answering the question where the authority lies within liberal democracies, there seem to be limits on religious authority. Liberal democracies provide as much freedom as

⁵⁶ Minkenberg, 2007, p. 889.

⁵⁷ It has to be noted that, just like Islam, Christianity collective name for different religions, like the Catholic Faith and different Protestant movements. This is not a separation that I will make within this thesis. More on this subject see Minkenberg, 2007, pp. 890-895.

For numbers on democracy and world regions, see Brungberg & Diamond, 2003, p. 3.

⁵⁸ Záborská, 2007; Minkenberg, 2007, p. 893. Although it could be argued that the values of freedom, equality and tolerance are interpreted as having a much wider range in modern day democracies, than that they have (or at least had) within Christianity.

⁵⁹ Huntington, 1996, p. 70.

⁶⁰ But also Christian orthodoxy! Anderson, 2003.

⁶¹ Anderson, 2003, Minkenberg, 2007, p. 889.

possible for their citizens to pursue their ideal of the Good Life.⁶² Following the summary of Verbeek, four different approaches to the clash between religious ideals and the liberal democracy, will be discussed.⁶³ The main question being, *can different worldviews exist within a liberal democracy?* These four approaches are the *communitarian consensus, state neutrality, human nature and overlapping consensus*.

2.2.1 Communitarian consensus

Communitarian theorists are of the opinion that a genuine plurality of worldviews within one and the same political community is undesirable.⁶⁴ It is important that consensus can be reached between members of a society on the most fundamental principles to which all citizens can appeal in case of conflict. Therefore society has to agree on the basic features or principles of the Good Life.⁶⁵ It is the common morality, within this consensus, that forms the basis of building this implicit consensus that is available to and reaffirmed by the shared reflections of the citizenry.⁶⁶ According to Kuczewski (2009), "*Communitarianism is about the fundamental importance or ontological priority of the community in regard to human flourishing. Some kind of common morality (some way of living together) must be a precondition for or partially constitutive of that flourishing.*"⁶⁷

This communitarian consensus can be recognised in the Dutch society as well. Although different groups exist within society, in the end they (or at least most of them) adhere to the rules set by the (democratic) Dutch government. However, within the Dutch society many different identities do exist; what these different identities have in common,

⁶² Verbeek, 2013, pp. 176-177.

⁶³ Verbeek, 2013.

⁶⁴ Verbeek, 2013, p. 178.

⁶⁵ Verbeek, 2013, p. 178.

⁶⁶ Kuczewski, 2009, pp. 45-46.

⁶⁷ Kuczewski, 2009, pp. 45-46.

is that they acknowledge (or at least follow) the principles of the Dutch liberal democracy as such. As has been noted in the previous chapter, it is there, where if the values of the Dutch liberal democracy are too far off from one's own identity (like the Salafi identity) that a problem arises: it is there, where it seems to be impossible to reach consensus about the basic features of the Good Life. There is no "shared common understanding", "shared hierarchy of goods" or "shared vision of the Good Life", between the Salafis and the liberal democracy.⁶⁸ According to this communitarian consensus, the Salafi identity and its religious worldview cannot coexist with the liberal democracy and its liberal worldview. If there is no shared foundation to build upon, the plurality of these worldviews will create an ongoing conflict within society.

2.2.2. State neutrality

The second approach is known as state neutrality. The reasoning behind state neutrality in relation to the clash between religion and the liberal democracy is as follows: "*The idea is that a liberal democracy is the only institutional arrangement that is completely neutral with regards to the Good. It does not prescribe any form of Good Life or make any assumptions about it. Therefore, so the proponents argued, it should be acceptable to all - including those with a religious worldview.*"⁶⁹ However, it is important to know what the liberal democracy has to be neutral about in the first place.⁷⁰ As Rawls pointed out, the state could strive for neutrality of effect; in other words, that none of the actions of the liberal democracy have the effect that it promotes or suppresses specific worldviews.⁷¹ On the other hand, the state could also be neutral in its aim, meaning that the state does not justify

⁶⁸ Kuczewski, 2009, p. 46. Also: Kuczewski, 2004.

⁶⁹ Verbeek, 2013, p. 180.

⁷⁰ Verbeek, 2013, p. 180.

⁷¹ Rawls, 1988, p. 262; Verbeek, 2013, p. 180.

its policies with an appeal to the superiority or inferiority of a particular conception of the Good.⁷² The sort of ‘neutrality’ that Rawls presents here, seems to be more limited than the idea of the state being neutral ‘in general’. Both the neutrality of effect as well as the neutrality in its aim, are focused on the intrinsic merits of different (justice-respecting) conceptions of the Good Life.⁷³ The role of the state is to protect the capacity of individuals to judge for themselves *how* they want to live and what the worth of different conceptions of the Good Life is.⁷⁴ The state needs to provide a fair distribution of rights and resources to its citizens, in order to enable them to pursue their own conception of the Good.⁷⁵ The state is obliged to enable their citizens to do this, as long as the conception of the Good Life that these individuals hold, is one that respects the principles of justice.^{76 77}

As Rawls puts it: the state has to regard *“all conceptions of the Good as equally worthy, not in the sense that there is an agreed public measure of intrinsic value or satisfaction with respect to which all these conceptions come out equal, but in the sense that they are not evaluated at all from a [public] standpoint”*.⁷⁸

How would these two conceptions (aim and effect) of state neutrality work in relation to the debate about Salafis? It seems to be impossible for the liberal democracy to strive

⁷² Rawls, 1988, p. 262; Verbeek, 2013, p. 180.

⁷³ Kymlicka, 2002, p. 217.

⁷⁴ Kymlicka, 2002, pp. 217-218.

⁷⁵ Kymlicka, 2002, pp. 217-218.

⁷⁶ Kymlicka, 2002, p. 218.

⁷⁷ The principles of justice are, according to Rawls, as follows:

“(a) Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

(b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle).”

Rawls, 2001, pp. 42-43.

⁷⁸ Rawls, 1982, p. 172.

for neutrality of effect. Whenever a “moral question” is at hand, which concerns the “Good”, different worldviews will play a role in how this conception will be put down in law. It has to be noted that liberalism (more specifically, liberal egalitarianism) is a deeply moral theory in itself.⁷⁹ *“It is premised on fundamental principles of the intrinsic moral worth of individuals, racial and gender equality, justice as fairness⁸⁰, equality of opportunity, individual rights and responsibilities, and so on.”⁸¹*

To illustrate the impossibility of state neutrality of effect, one only has to think about the hotly debated view on equality between men and women.⁸² If the liberal democracy strives for laws abolishing the inequality between men and women, in order to pursue the conception of the “Good” for all its inhabitants, it will already, consequently, go against the general Salafi conception that women are the servants of men.⁸³ So why does the liberal democracy choose to follow the conception of equality for and between men and woman? Because this is another (dominant, and according to liberal egalitarianism, a liberal) worldview within society. In other words, being neutral towards the outcome of one’s laws, seems to be challenging, if not impossible for multicultural societies including the Dutch society.⁸⁴ Even if the legislator strives for full neutrality towards the outcome of its laws, it

⁷⁹ Kymlicka, 2002, p. 217.

⁸⁰ See footnote 75.

⁸¹ Kymlicka, 2002, p. 217.

⁸² Wagemakers, 2016.

⁸³ Although even these conceptions are challenged by different authors and writers, who argue, based on the Qu’ran and Sunna, that men and woman should be treated equally. For example: Muzaffar, (2010, October 14); Muzaffar, (2010, October 18); Aba I-Khayl, (2009, October 3).

See also: Wagemakers, 2016. Munir, 2002.

⁸⁴ Remember that, according to the perfectionist approach on liberalism, it is the state that is responsible for creating laws that confer to the comprehensive doctrines of society, meaning, the law has to comply with *“a set of beliefs affirmed by citizens concerning a range of values, including moral, metaphysical, and religious commitments, as well as beliefs about personal virtues, and political beliefs about the way society ought to be arranged.”* See: Voice, 2014, pp. 126-129.

is inevitable that certain worldviews will be treated unequally (as has been shown in the example above). Within the liberal democracy, the emphasis will always be on being as neutral as possible towards different worldviews, *as long* as the worldviews fit within the liberal framework of “respecting justice”. State neutrality with the focus of being neutral towards the outcome of one’s laws, therefore, does not form a solution within a pluralistic or multicultural society.

So, what about the state neutrality with regard to the aim of the policies and laws of the liberal democracy? This conception seems just as impossible as the neutrality of effect, as has been discussed just now. In aiming to be neutral in making policies for society, moral questions (and all policies and laws concerning moral questions, for example the case of equality between men and women as discussed above), will be a problem. In making policies for regulating the equality between men and women, policymakers (i.e. the liberal democracy) have to take a stand about what they are promoting with the law: inequality or equality. Whatever they choose as being the conception of the “Good”, one or the other worldview (the liberal worldview or the religious Salafi worldview) will “suffer”, meaning it will be deemed *inferior* in relation to the (moral) question at hand.⁸⁵ In practice, it will be the Salafi worldview that will “suffer” in this case, due to the argument of liberals that this worldview, with its conception of the Good Life, does not respect (the liberal interpretation) of justice.

To summarise the impossibility of a neutral state: *“a truly neutral state is not possible because most if not all conceptions of the Good Life have a social dimension: they require a certain social environment to flourish.”*⁸⁶ Within a liberal democracy, it will be the liberal values that will dominate the social environment; all conceptions of the Good Life are

⁸⁵ Although, when asked, the liberal will probably shy away from using the term “inferior”.

⁸⁶ Verbeek, 2013, p. 181.

welcome, if they can meet the prerequisite of respecting (the liberal interpretation) of justice and the moral premises that are the foundation of the liberal society.

2.2.3. *Human nature*

The third approach that is being discussed in relation to the conflict between religion and the liberal democracy, is the human nature approach.⁸⁷ If it is impossible to reach a consensus about the most important principles within society (the consensus approach) or stay neutral as a state when making laws (state neutrality), maybe some “common ground” can be found in the foundation that all humans have in common: that they are, first and foremost, *human*. Following Kant, humans can be thought of as rational beings with the capability for autonomy.⁸⁸ Liberal or not, Salafist or not, both are rational beings with this same capability. But would Salafi accept this? Man is God’s perfect creation, with the ability for both *Good as well as Evil*;⁸⁹ it is with man’s free will that he determines his own path.⁹⁰ So even when one wants to live his Good Life according to religious principles, *he* is the one who decides, how he serves God and his religious principles. He has the autonomy, the *free will*, to choose his path (and therefore it is up to him, to choose the right one).

So how can this human nature approach be applied to the conflict between religion and the liberal democracy? Noting that humans are all rational beings who want to live their version of the Good Life, “*implies that a truly Good life has to be regarded as such by those who aim to live it. (...) a Good Life necessarily is one that is seen as such by those who (aspire to) live that life.*”⁹¹ This Good Life has to be endorsed by the people who live it.⁹² A

⁸⁷ Verbeek, 2013, p. 182.

⁸⁸ Verbeek, 2013, p. 182.

⁸⁹ Zaman, 1986, p. 326.

⁹⁰ Zaman, 1986, pp. 326-327.

⁹¹ Verbeek, 2013, p. 182.

⁹² Dworkin, 1989, p. 486.

Good Life is only good, when it is *“lived from within”*.⁹³ This means that citizens should be free to choose their own conception of the Good Life, and the state should not (and according to Dworkin, can’t) force them to live a specific life.⁹⁴ Since humans are rational beings, they are supposed to pursue those ideals of the Good Life they regard correct (Allah has given them free will to choose between Good and Evil).⁹⁵ According to Islam, humans are born a blank slate (in contrast to some Christian traditions who believe in the original sin as being carried on through generations)).⁹⁶ Since humans are rational agents, and have to choose their own path, they are also capable of choosing the wrong one (and in so far make mistakes, about what the Good Life entails). In order to be able to choose, and if necessary, revise their chosen path, the state has to create an environment in which citizens can actually achieve this; in which they have the freedom to change their ideals based on rational reasons.

How does the state create an atmosphere in which this freedom can be found? It seems that it is necessary for the state to guarantee the freedom of religion and freedom of speech. This also means that the state should allow citizens to proselytise others (since, as rational beings, one has to be able to have a debate about religious principles, since *“the Good life is lived from within and is revisable by reasons”*).⁹⁷ It seems obvious that the ideals, that seem to be the logical consequence of adhering to human nature, and describing humans as rational beings, are the same principles as can be found within liberal democracies. *Seems*, since what human nature *actually is*, is not as obvious as it was made out to be in the section above.

⁹³ Verbeek, 2013, p. 182.

⁹⁴ Dworkin, 1989, pp. 486-487.

⁹⁵ Zaman, 1986, p. 327.

⁹⁶ Zaman, 1986, p. 326; Holy Quran, Soera 30: al-Rūm, verse 30.

⁹⁷ Verbeek, 2013, p. 183.

In the case of Islam, noting that humans are born with free will, is not the same as the conception of rational beings as has been presented by liberal scholars. There is more that can guide a man on his path, with his free will and the capability of Good and Evil, than just reasoning alone. It seems we have touched upon one of the most fundamental parts of religion here: that *faith* is not the same as *rationality*; it is a strong conception, a strong motivator, a part of one's identity (that could even be preceding the reasoning that will follow from one's identity, and how one's identity was formed in the first place). If *faith* is being thought of as a fundamental part of one's identity, its reasoning will be fully guided and coloured by it. This means that, although rational, both parties (the liberal scholars as well as the Salafis) will start their inquiry about what the Good Life is and how the state should accommodate in fulfilling this Good Life, from different premises. Therefore, starting from one's own conception of what human nature entails, does not guarantee an outcome where different worldviews can agree on how to live within society. The human nature approach, therefore, does not provide a sufficient answer to the discussion at hand.

2.2.4. Overlapping consensus

The fourth, and final approach, that will be discussed in this chapter, is the overlapping consensus approach. The difference between this approach, and the previous approaches, is that the overlapping consensus approach does not try to solve the conflict between religion and the liberal democracy by looking for a common starting point for the foundation of liberal institutions. Instead, it is focusing on the common end points of our justification of the liberal democracy, according to different worldviews.⁹⁸ The approach looks for a political agreement, rather than a metaphysical justification of the liberal democracy.⁹⁹ As

⁹⁸ Verbeek, 2013, p. 184.

⁹⁹ Rawls, 1984, pp. 223-251.

Rawls puts it: *“In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view. Social unity is based on a consensus on the political conception; and stability is possible when the doctrines making up the consensus are affirmed by society’s politically active citizens and the requirements of justice are not too much in conflict with citizens’ essential interests as formed and encouraged by their social arrangements.”*¹⁰⁰ If the different worldviews within the liberal democracy can agree on its institutions, this wide diversity of different views on the Good Life seems possible.¹⁰¹

However, this is where a problem comes in when considering the Salafi worldview. When considering (jihadi) Salafis, there is no distinction between religion and state.¹⁰² According to different Salafi movements (like IS) a literal interpretation of the Quran and Hadith is required.¹⁰³ The Sharia is the only acceptable law that can regulate the state. It is this Sharia law that cannot be brought in line with the liberal democracy, or in this case it’s institutions. To illustrate this with an example: Salafis find Islam to be incompatible with democracy.¹⁰⁴ Although different kind of critiques of Salafis on democracy exist (including extensive works that engage with democratic theory and experience, apart from the ancient Hadith texts), they do have in common that Islam cannot be brought in line with democracy.¹⁰⁵ In short, the arguments that are used to show the incompatibility of Islam (as Salafism) and democracy, are that, first of all, the notion of divine sovereignty with the sovereignty of the people or the legal sovereignty contradict the actual powers of the

¹⁰⁰ Rawls, 2005, p. 134.

¹⁰¹ Verbeek, 2013, p. 184.

¹⁰² Wiktorowicz, 2006, p. 208.

¹⁰³ Croes, 2017, p. 79-80.

¹⁰⁴ Also, please take note of what has been said about the origin of democracies and holistic visions on church and state in paragraph 2.1.

¹⁰⁵ Anjum, 2016, pp. 24-25.

modern state and its reigning institutions.¹⁰⁶ Secondly, Salafis hold that, among other things, party pluralism, the democratic spirit of scepticism and unbelief and the expansion of non-Muslim rights, cannot be reconciled with their convictions.¹⁰⁷ Furthermore, the Salafis seem to be unwilling to make concessions to modern political institutions. Anjum notes, however, that this unwillingness is not necessarily theologically determined, but *“rather is the result of an unwillingness toward a foreign institution, which in turn is influenced by the common sense fact that whereas the best democracies are irreligious, the states that most stably endorse socially conservative Islam are non-democratic.”*¹⁰⁸

This implies, that according to Rawls’ definition of overlapping consensus, one of the doctrines that would make up the consensus, is not affirmed by society’s politically active citizens, since the majority of the politically active citizens are, at least within the Dutch liberal democracy, not people with a Salafi identity (i.e. do not have a Salafi worldview), but are more likely to subscribe to the liberal principles like (just to name a few) freedom of speech, equality and so on. Since Salafis make up a (small) minority within the Dutch liberal democracy, it can be argued that their requirements for justice, will be in conflict with the essential interests as formed and encouraged by the social arrangements of most of the citizens.

In our current discussion, the overlapping consensus approach can, therefore, not provide an answer to the problem at hand.

¹⁰⁶ Anjum, 2016, p. 24.

¹⁰⁷ Anjum, 2016, p. 24.

¹⁰⁸ Anjum, 2016, p. 24.

2.3 Identity and rationality: is separation of private and public religious enactment possible?

In this chapter the relation between religion and the liberal democracy has been discussed, with the focus on the *practical* implications. The central question of this chapter was: *Is it possible for the liberal democracy to accept a religious identity within its borders, if this identity cannot be part of, or coexist peacefully with, the ideals that are inherent to the liberal democracy?*

Based on the different approaches, as have been discussed in paragraph 2.2, the Salafi identity cannot coexist with the ideals of the liberal democracy. According to the communitarian consensus, this is impossible because if there is no shared foundation to build upon, the plurality of worldviews will create an ongoing conflict within society. A neutral state is impossible because in “*a truly neutral state (...) most if not all conceptions of the Good Life have a social dimension: they require a certain social environment to flourish.*”¹⁰⁹ This social environment is the source of conflict when it comes to the Salafi worldview and the liberal worldview. The human nature approach does not offer a “way out” since the concept of *what* human nature is, is unclear: the interpretation of the concept of human nature depends on one’s worldview and convictions. The overlapping consensus approach does not provide an answer to the conflict between the religious worldview and liberal worldview either, since within the Salafi worldview, religion and state are not separated. Sharia law can be considered as anti-democratic, which is incompatible with the liberal democracy.

It is important to note, however, that the inability of the Salafi identity to coexist with the ideals of the liberal democracy, does not necessarily justify the state to intervene (i.e.

¹⁰⁹ Verbeek, 2013, p. 181.

enforce sanctions upon the Salafi citizens). The liberal democracy can accept a religious identity within its borders, if this identity (i.e. the individual who identifies him- or herself with this identity) does not *actively* form a threat to the rest of society.¹¹⁰ In other words, if the individual does not *act* on the conflict that arises between one's own identity and the ideals of the liberal democracy, the liberal democracy can accept this religious identity within its borders. It is when the conflict between the religious identity is being acted upon, for example by violence ((preparation of) terrorist attacks, etc.) or non-violent acts (for example, funding groups who are trying to undermine the state), that the liberal democracy has to step in. This means that if one's identity cannot coexist *peacefully* with others within the liberal democracy, the state is allowed to act. In what way is the state allowed to act?

Before this question will be answered in chapter three, one final point has to be discussed: the relation between the incompatibility of the Salafi identity with the liberal democracy and the private- and public sphere has to be explored.

2.3.1 Separation of private and public religious enactment

As has been noted before, the concept of the Good Life of Salafis is radically different from the liberal concept of the Good Life (as is dominant within Dutch society). Sharia law does not accept a separation between church and state, therefore does not acknowledge a difference between being a Salafi at home and being a Salafi in the public square. Different scholars have argued that religion is a private affair, which should not be promoted and

¹¹⁰ I am aware of the fact that surely not everyone would agree with me in stating this. Some will go further, by stating, for example, that a religious identity (or religion in general) that is incompatible with the Dutch liberal democracy, will have to be banished (or forbidden) within the borders of the Dutch state. Politician Halbe Zijlstra (VVD), who presented a bill to abolish Salafi organizations and the bill presented by Geert Wilders (PVV) and Machiel de Graaf (PVV), that had the goal of criminalizing certain ways of Islamic expression, are just two examples (NOS, 2016; Tweede Kamer der Staten-Generaal, 2018).

stimulated by the state in the public sphere.¹¹¹ However, this seems to be only half of the story. Accepting different (religious) worldviews within one's state, is not only a question about freedom and tolerance, but also a question about identity: who *are* the citizens of a state?

This question about identity, about being, is not as simple to answer by stating that someone can enact their religious beliefs in private, but not in public. It is like saying that the Salafi man can treat his wife as his property in private but has to treat her like his equal in public.¹¹² This separation creates a schizophrenic idea of identity; it is like asking the citizen, in this case the Salafi, to adopt two different identities, instead of adapting one's identity in such a way that it can coexist peacefully with others within the liberal democracy (and the liberal values these "others" live by). So why does the Salafi not adapt his identity to be able to coexist with others within the liberal democracy? Just like different Christian groups within the Dutch society are able to hold on to their beliefs, but still, peacefully (at least to a certain extent), live amongst others within the liberal democracy?

An answer to this question seems to lie in the different approaches that have been discussed in paragraph 2.2. In order to be able to live amongst each other, while having different conceptions and ideas about the Good Life, requires either some common ground or the willingness to reach consensus about certain principles and/or the institutions that govern society. It is here, where the Salafi worldview and the liberal worldview couldn't be more different: a true Salafi, will not be able to accept the Dutch liberal democracy at all. He would be required to wage war against the incredulous Dutch society as such.¹¹³

¹¹¹ Meyerson, 2008, p. 44-71; Martin, 2007.

¹¹² And even if the Salafi can treat his wife as unequal behind closed doors, the question remains if this excludes the state from interfering in order to protect liberal freedoms and rights the wife enjoys. Following the feminist critique as has been presented earlier on in this thesis, the answer will be no: the state will be allowed, in certain cases, to intervene.

¹¹³ De Graaf, 2011, p. 64.

Chapter 3: The Limit of Tolerance: The Militant State

In the first chapter the concept of the liberal democracy as well as the concept of religious identity have been explained. These concepts play a vital role within the discussion about whether the liberal democracy should accept religious views or religious identities within its borders, that go against the values and ideals of the liberal democracy. In chapter two it became clear that, within the public domain, the identity of Salafis and the values and ideals of the liberal democracy cannot coexist as such. Allowing the Salafi to only practice their beliefs in private, creates a schizophrenic situation, in which the Salafi is forced to take on two identities; this seems to be an impossible demand, which will lead nowhere. Furthermore, dividing the public and private sphere does not answer the question, if the state is allowed to interfere within the private sphere under certain circumstances.

The question that remains is: *can Salafis live within a liberal democracy, as long as they do not act on the conflict their identity poses to the values of the liberal democracy.?* This is where the distinction between the strategies of Salafis becomes important. As has been explained in chapter one, the strategies of Salafis can be divided into three groups: the purists, the politicians, and the jihadis.¹¹⁴ This leads to the hypothesis of chapter three: *the liberal democracy is allowed to put sanctions into place for the sake of national security. If the identity of a citizen clashes with the fundamental tenets of the liberal democracy, and the individual chooses to act upon this conflict by either violent or non-violent actions that attribute to undermining the liberal democracy (and its values), it can be justified, for the sake of the safety for all others, to enforce sanctions. If criminal sanctions are not sufficient, administrative sanctions could be an answer to this particular situation.*

¹¹⁴ Wiktorowicz, 2006, p. 208.

3.1 The militant State

In the current literature there is a similar debate as the one we are discussing in this thesis. A debate about the limitation of freedoms within the liberal democracy. This debate, known as the debate about the militant democracy, states that the liberal democracy can enforce a legal restriction on certain democratic freedoms for the purpose of protecting democratic regimes from the threat of being subverted by legal means.¹¹⁵ In other words, the question that is raised is, whether it is permissible for a liberal democracy to limit democracy (e.g., forbid anti-democratic political parties) in name of saving this very democracy?¹¹⁶ Different authors have argued that this is indeed the case; that it is permissible to forbid political parties that use the democratic principles like freedom of speech and freedom of organisation to promote the message of abolishing democracy in favour of an authoritarian regime.¹¹⁷ One of the arguments in favour of abolishing anti-democratic parties, is that democracy has the 'presumption of permanence': democracy is presumed to 'live on'.¹¹⁸ Another (and in my opinion, stronger) argument is the argument of self-correction. The people within a democracy make their *own* decisions, albeit through their representatives.¹¹⁹ This also means that, in a democracy, citizens are responsible for the consequence of their decisions. If a decision does not have the desired effect, the people are able to revoke their previous decision themselves (hence, democracy as self-correction).¹²⁰ If anti-democratic parties use this decision making in order to abolish or replace democracy by a non-democratic alternative, this possibility of self-correction

¹¹⁵ Cliteur & Rijpkema, 2012; Capoccia, 2013; Kirshner, 2014.

¹¹⁶ Rijpkema, 2015, p. 13.

¹¹⁷ Cliteur & Rijpkema, 2012; Capoccia, 2013; Kirshner, 2014.

¹¹⁸ Tyulkina, 2015, p. 115.

¹¹⁹ Rijpkema, 2018, p. 37.

¹²⁰ Cliteur & Rijpkema, 2012, pp. 243-244.

(which *is* democracy) is no longer available to the people.¹²¹ Abolishing democracy, therefore, is final.¹²² Since this decision goes against the very essence of democracy, it is permissible to deny anti-democratic parties entry to the democratic arena.¹²³

However, different critics, like Accetti and Zuckerman have argued that this argument of restricting democratic freedoms to save democracy, is an inadequate response to the problem that anti-democratic political parties are posing. They argue that restricting the freedom of the supposed “enemies” of democracy, makes democracy more prone to authoritarian abuse, rather than less in the long run.¹²⁴ One argument to support this claim, has to do with the legal provisions that political actors can take against so called anti-democratic parties. The ability to use legal provisions to *“ban political parties or other kinds of political actors on the basis of the claim that they constitute threats for the survival of the democratic regime (...) leaves open the possibility that such provisions will be used instrumentally by the enemies of democracy themselves, to arbitrarily exclude competitors from the possibility of participating in the political process. (...) once a provision of militant democracy is included within a legal order it ‘then lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need’.”*¹²⁵

Is this true for the clash between the Salafi identity and liberal democracy, when it comes to taking measures, restricting democratic freedoms of citizens, to ensure national safety? It could be argued that by limiting the freedom of Salafis, it will confirm the Salafis in believing that the out-group (the liberal democracy) is against them. As has been noted in chapter one, if the identity (in this case the Salafi identity) is being challenged, it becomes

¹²¹ Rijpkema, 2018, pp. 37-38.

¹²² Van den Bergh, 1936, pp. 9–10

¹²³ Van den Bergh, 1936, pp. 8-9.

¹²⁴ Accetti & Zuckerman, 2017, pp. 194-195.

¹²⁵ Accetti & Zuckerman, 2017, p. 194.; Jackson, 1944, p. 246.

unstable. This instability will ask for a reaction against the out-group. In so far, challenging the Salafi identity by restricting certain freedoms by the liberal democracy, can cause a strong reaction from this group, which will strengthen their own Salafi identity.¹²⁶

This is where the importance between the different strategies of Salafis comes in. As has been noted in the previous chapters, the incompatibility of the Salafi identity with the values and ideals of the liberal democracy is a given. It is the *reaction* from the Salafis upon this conflict, however, that opens up the discussion about how the liberal democracy should (and is allowed to) act, in order to protect its society. In other words, can the Salafis, according to their strategy, coexist peacefully, with the liberal democracy and, more importantly, within the liberal society?

3.1.1 The Purists

The first group (or first strategy) is the group of “purists”. This group is “*primarily concerned with maintaining the purity of Islam as outlined in the Qur’an, Sunna, and consensus of the Companions. (...) the primary emphasis of the movement should be promoting the Salafi creed and combating deviant practices.*”¹²⁷ This group will not engage in any political actions (yet), since “*until religion is purified, any political action will likely lead to corruption and injustice because society does not yet understand the tenets of faith.*”¹²⁸ According to the purists the creed must be implemented through propagation (*da’wa*), purification (*tazkiyya*), and religious education or cultivation (*tarbiya*).¹²⁹ It is believed that making *da’wa* should happen without violence.¹³⁰

¹²⁶ Zock, 2000, p. 26

¹²⁷ Wiktorowicz, 2006, p. 217.

¹²⁸ Wiktorowicz, 2006, p. 217.

¹²⁹ For more information about the origin of this belief (as the strategy for Salafism) see: Wiktorowicz, 2006, p. 217-221.

¹³⁰ Wiktorowicz, 2006, p. 218.

It is important to note that purists do not view themselves as a political movement; however, the West and non-believers are viewed as dangerous for Islam.¹³¹ Purists view any interaction with non-believers, as an opportunity for nonbelievers to infect Muslims.¹³² Therefore, interactions should be kept to a minimum; the exception being to propagate the faith.¹³³ In practice, this group of Salafis try to stay away from the interaction with the West, either physically by moving away from Europe, or by trying to isolate themselves within the state (forming their own enclave communities).¹³⁴

The question is how the liberal democracy should handle this group of Salafis. Based on the strategy the purists employ, it is not likely that they will form an immediate threat to the liberal democracy or its inhabitants. Purists reject the method of the politicians and jihadis, since, just to name one of their arguments, the *“Prophet never launched demonstrations, sit-ins, or revolutions to oppose rulers. He instead propagated and gave leaders advice in private.”*¹³⁵ If purists decide to stay within the liberal democracy, they will retreat within the private (personal) sphere, staying away as much as possible from the public sphere of the Dutch society as a whole.

Based on the strategy of the purists, it is plausible to say that they can coexist peacefully, alongside others within the liberal democracy.

¹³¹ Wiktorowicz, 2006, p. 219.

¹³² Wiktorowicz, 2006, p. 219.

¹³³ Wiktorowicz, 2006, p. 219.

¹³⁴ Wiktorowicz, 2006, p. 219.

¹³⁵ Wiktorowicz, 2006, p. 219.

For more arguments about why the purists reject the methods of the politicians and jihadis, see Wiktorowicz, pp. 219-221.

3.1.2. *The Politicos*

The second strategy or group that can be identified within Salafism is the group of Politicos. Politicos argue that they have a better understanding of contemporary issues and are therefore better situated to apply the Salafi creed to the modern context.¹³⁶

Contrary to the purists, the sense of authority about Salafism, does not stem from a claim of greater religious knowledge, but rather from their political analysis of the situation in the Middle East.¹³⁷ Wiktorowicz notes that, “*contextual analysis is the cornerstone of the politico critique and the fault line of the factional dispute with the purists (...) is not about the creed itself. [Politicos characterize the purists as] out of touch with the concerns of the people and uninformed about the world in which they live. Politicos frame themselves (...) as knowledgeable about current affairs and therefore better situated to interpret context.*”¹³⁸

How should the liberal democracy react to these “political” Salafis? Because the politicos emphasize the application of the Salafi creed within the political arena, since it is the right of God alone to legislate, this group can be considered as a potential danger to the liberal democracy.¹³⁹ Because of the political strategy the politicos employ, it is not unthinkable that they will employ democratic rights, namely the right of organisation, in this case, to create a Salafi political party, and enter the political arena.¹⁴⁰ This is where the

¹³⁶Purists can be viewed as the “older” generation, where politicos have arisen between the 1980s and 1990s (the origin of the Muslim Brothers). Wiktorowicz, 2006, pp. 221-222.

¹³⁷ For a more detailed description, see Wiktorowicz, 2006, pp. 221-225.

¹³⁸ Wiktorowicz, 2006, p. 225.

¹³⁹ Wiktorowicz, 2006, p. 208.

¹⁴⁰ However, as I have argued in my Bachelor thesis (Philosophy), the change that an anti-democratic party (in this case a Salafi party) can change the constitution in order to take out all the fundamental rights and rules that make up our democracy, is highly unlikely. For more information on this subject: De Leeuw, 2016, pp. 19-21.

arguments about militant democracy can be employed as well: Salafism being anti-democratic, and the politicians who have an active desire to act on the conflict between their identity and the liberal democracy, by applying the Salafi creed to the political arena, means that democracy is in danger.

However, as I have argued in my previous thesis, restricting democratic freedoms to save democracy, ensures the death of the pure democracy itself; although the argument about self-correction (alongside other arguments) is persuasive, it does illuminate the voice of the people in choosing a different system that is better suited to the situation a state, a society, can develop into. Democracy has to be able to adjust to changing times, which means leaving the option open to change its system, if a new system is better suited within another time.¹⁴¹

So why should it be possible for the liberal democracy to interfere against politicians, before they establish a political party, while it should not interfere with anti-democratic parties that are not religious in nature? The liberal democracy should be allowed to interfere, because the Salafi politics go further than changing a system alone; the Salafi creed is first and foremost, a way of life, an identity, the essence of one's being. The Salafi identity is more than just a political point of view, it is an entire way of life. An identity that is radically different from everything the Dutch liberal democracy stands for.

Should it be allowed for the state to put sanctions in place, based on the Salafi identity and the politicians strategy? The answer is yes. Since criminal sanctions (in all likelihood) will be inadequate, at least for now (since there is no Salafi political party within the Dutch Parliament at the moment), administrative sanction can be used to protect the Dutch liberal democracy in an early stage.¹⁴²

¹⁴¹ De Leeuw, 2016, pp. 19-21.

¹⁴² I am aware of the fact that this could also be an interesting discussion on province or municipality level; however, in this thesis I will only focus on the State level.

3.1.3. *The Jihadis*

The third faction within Salafi strategies, are the Jihadis. Jihadis support the use of violence to establish Islamic states.¹⁴³ Jihadis attack the character of the purists, which Bin Laden has summarized as follows: “*The fatwa of any official alim [religious scholar] has no value for me. History is full of such ulama [clerics] who justify riba [economic usury], who justify the occupation of Palestine by the Jews, who justify the presence of American troops around Harmain Sharifain [the Islamic holy places in Saudi Arabia]. These people support the infidels for their personal gain. The true ulama support the jihad against America.*”¹⁴⁴ Just like the politicians, the critique that the jihadis have on the purists is not about belief. The critique is about the unwillingness of the purists to put the belief into practice by addressing the injustices of the (American (i.e. Western) and Zionist) regimes.¹⁴⁵

Since the jihadis are prone to using violence to spread the Salafi creed and, therefore, to fight the non-believers (or infidel states), jihadis form a risk for the national security of the Dutch liberal democracy. It is their inclination to violence, which stems from their conflict “within” (the conflict of their identity, their essence, with the liberal democracy and its values), that fuelled by their identity, creates the risk of Islamic terrorism as experienced multiple times by the Dutch society.¹⁴⁶ It is, therefore, justified for the liberal democracy to use sanctions upon this group of Salafis. However, due to their violent nature, the changes are that the sanctions that will be used, will be criminal sanctions, rather than administrative sanctions. However, even before the actions of jihadis become such in nature that they can be brought within the realm of criminal law, administrative measures

¹⁴³ Wiktorowicz, 2006, p. 225.

¹⁴⁴ Osama Bin Laden interview with *Dawn*, as reproduced in Rubin and Rubin, *Anti-American Terrorism*, p. 262., citation retrieved from Wiktorowicz, 2006, p. 227.

¹⁴⁵ Wiktorowicz, 2006, pp. 227-228.

¹⁴⁶ To show some examples, see: Brouwer, 2010; Diekstra Van der Laan Advocaten, 2020; NOS, 2014; NOS 2018.

can be used to prevent the spread of violent Salafi ideas (for example, by using an area ban to prevent a Jihadi preacher from preaching within a certain Mosque).

To conclude this chapter: Should the liberal democracy become militant, by revoking certain liberal (fundamental) rights, if the identity of a citizen conflicts with the liberal values and ideals? Yes and no. As shown in this chapter, the question if the state should become militant depends on the strategy the Salafi chooses; if he *acts* upon the conflict that has arisen between his identity and the liberal values, it can be allowed for the state to apply sanctions; either criminal sanctions or administrative sanctions. If and which of these sanctions are in order, will have to be evaluated from case to case.¹⁴⁷

¹⁴⁷ Which is happening in the case of the Temporary Law Administrative Measures, see Van Gestel et al., 2019.

Conclusion

The current Western democracies are faced with the question of how to handle the tension between Islam (mainly the extreme religious movements like Salafism) and the free liberal democracy. One of the main reasonings that has been made about the relation between Islam and liberal democracies is the following: Islam is hostile towards secularisation, secularisation is indispensable for democracy, so Islam is incompatible with democracy.

One example of this reasoning takes its form in the “Temporary Law on Counterterrorism Administrative Measures”. It is this law that makes it possible to restrict the liberal rights of a person through an area ban and / or travel ban based on the possible threat they can become, given their religious beliefs and actions (the fear of radicalisation). The law also makes it possible to refuse or withdraw financial benefits that are given to a citizen by the state.

The main question of this thesis therefore has been: *Is it justified for a liberal democracy to enforce administrative sanctions upon its citizens, based on their religious identity?*

In chapter one, the liberal democracy and religious identity have been discussed. The liberal democracy, or liberal democracy, has been thought of as an ideal that can provide an answer to questions that arise within society due to its multicultural nature. Freedom is the central ideal, which is to say, freedom within limits in so far that citizens can exercise their own freedom without infringing on someone else’s freedom, just as the state should accept the freedom of its citizens as such. It is the liberal democracy that offers the legal framework to guarantee the freedom and capacity to pursue one’s personal conception of the Good Life.

How does the liberal democracy cope with the tension between religion and its liberal values (the conflict between Jerusalem (Church) and Athens (State)? Before this

question can be answered, it is important to note that the concept of religious identity plays an important role in this tension. An individual's identity, his *being* is most often described (within Psychology) as an answer to the question "Who am I?". This answer could be found in religion; when one's identity is imbued with the religious creed, a religious identity has been formed.

Due to the increase of plurality (of cultures and religions) within society, it can become increasingly difficult for some individuals to reconcile their personal identity (that has been developed in accordance with their cultural background and / or religion) with the principles that the Dutch liberal democracy stands for (principles like the different freedoms discussed in paragraph 1.1, the separation between private and public sphere and the interpretation of "the Good Life"). If in this relation, the Dutch liberal democracy, and all the ideas and principles it stands for, are perceived as being *too* different from one's personal values that make up one's identity, the Dutch liberal democracy can be perceived as being incompatible with one's personal identity. This means that the individual will either try to adjust to the "public" life (meaning the life as it is lived within the public sphere and to a certain extent in the private sphere, as is governed by the state), or will actively resist the authority of the state. An example, in which this conflict has arisen between the Dutch liberal democracy and individuals (including Dutch citizens), is the example of the group of "Salafis".

In chapter two the current discussion about the place of religion within liberal democracy has been discussed. The central question of this chapter was: *Is it possible for the liberal democracy to accept a religious identity within its borders, if this identity cannot be part of, or coexist peacefully with, the ideals that are inherent to the liberal democracy?*

Based on the different approaches that have been discussed, it has to be concluded that the Salafi identity cannot coexist with the ideals of the liberal democracy. According to

the communitarian consensus, this is impossible because if there is no shared foundation to build upon, the plurality of worldviews will create an ongoing conflict within society. A neutral state is impossible because in “*a truly neutral state (...) most if not all conceptions of the Good Life have a social dimension: they require a certain social environment to flourish.*”¹⁴⁸ This social environment is the source of conflict when it comes to the Salafi worldview and the liberal worldview. The human nature approach does not offer a “way out” since the concept of *what* human nature is, is unclear: the interpretation of the concept of human nature depends on one’s worldview and convictions. The overlapping consensus approach does not provide an answer to the conflict between the religious worldview and liberal worldview either, since within the Salafi worldview, religion and state are not separated. Sharia law can be considered as anti-democratic, which is incompatible with the liberal democracy.

It is important to note, however, that the inability of the Salafi identity to coexist with the ideals of the liberal democracy, does not necessarily justify the state to intervene (i.e. enforce sanctions upon the Salafi citizens). The liberal democracy can only accept a religious identity within its borders, if this identity (i.e. the individual who identifies him- or herself with this identity) does not *actively* form a threat to the rest of society. In other words, if the individual does not *act* on the conflict that arises between one’s own identity and the ideals of the liberal democracy, the liberal democracy can accept this religious identity within its borders. It is there where the conflict between the religious identity is being acted upon, for example by violence ((preparation of) terrorist attacks, etc.) or non-violent acts (for example, funding groups who are trying to undermine the state), where the liberal democracy has to step in. This means that if one’s identity cannot coexist *peacefully* with others within the liberal democracy, the state is allowed to act.

¹⁴⁸ Verbeek, 2013, p. 181.

How does the state know when to act? Based on the incompatibility of the Salafi identity and the values of the liberal democracy, it seems difficult to distinguish cases in which the Salafi identity can be a threat versus when it is not. In other words, the question that remains (and which has been discussed in chapter three) is: *can Salafis live within a liberal democracy, as long as they do not act on the conflict their identity poses to the values of the liberal democracy?* The answer is yes. In order to clarify this answer, the Salafis have to be divided into three groups or “strategies”.

The purists are mainly concerned with maintaining the purity of Islam. They do not view themselves as a political movement and reject the methods of the politicians and jihadis. Purists try to minimise the interaction with non-believers, for this can result in the opportunity for nonbelievers to infect Muslims.¹⁴⁹ Since the purists do not openly take part in public debates (within the public domain), they could live among others within the liberal society. Although their identity cannot coexist with the liberal values, they choose to not act upon the conflict between the liberal democracy and their identity.

This is different for both the politicians as well as the jihadis. Both share the same Salafi creed as the purists; however, the politicians view the propagation of Islam as a political matter. If the politicians should form a political party within the Netherlands (and therefore use democratic rights, in order to strive for an anti-democratic regime), the same arguments that are being used within the ‘militant democracy’-debate could be used: revoking certain democratic (liberal) rights, in order to protect the state (and democracy). However, although I am not of the opinion that this is allowed in case of ‘regular’ (i.e. non-religious) anti-democratic parties¹⁵⁰, I am of the opinion that it is allowed to restrict these freedoms when it comes to the politicians. The argument I have presented to defend this

¹⁴⁹ Wiktorowicz, 2006, p. 219.

¹⁵⁰ De Leeuw, 2016.

opinion is that the Salafi politics go further than changing a system alone; the Salafi creed is first and foremost, a way of life, an identity, the essence of one's being. The Salafi identity is more than just a political point of view, it is an entire way of life. An identity that is radically different from everything the Dutch liberal democracy stands for.

Should it be allowed for the state to put sanctions in place, based on the Salafi identity and the political strategy? The answer is yes. Since criminal sanctions (in all likelihood) will be inadequate, at least for now (since there is no Salafi political party within the Dutch Parliament at the moment), administrative sanction can be used to protect the Dutch liberal democracy at an early stage.

A short answer to the question if the liberal democracy is allowed to put sanction into place against jihadis will suffice. Jihadis have the inclination to violence, which stems from their conflict "within" (the conflict of their identity, their essence, with the liberal democracy and its values), that fuelled by their identity, creates the risk of Islamic terrorism as experienced multiple times by the Dutch society. It is, therefore, justified for the liberal democracy to use sanctions upon this group of Salafis. However, due to their violent nature, the changes are that the sanctions that will be used, will be criminal sanctions, rather than administrative sanctions. However, even before the actions of jihadis become such in nature that they can be brought within the realm of criminal law, administrative measures can be used to prevent the spread of violent Salafi ideas.

In conclusion: *Is it justified for a liberal democracy to enforce administrative sanctions upon its citizens, based on their religious identity?* Yes and no. The incompatibility of one's identity is not enough to put sanction in place. The liberal democracy has to ensure that its rights to freedom, equality and the ability for citizens to live their own version of the Good Life, are ensured as much as possible. However, in the case of the incompatibility of the Salafi identity, *in combination with* a strategy that is either political or violent, the liberal

democracy is allowed to withdraw certain rights, that these citizens otherwise would have enjoyed, in order to protect all others. Where this line between being justified in using sanctions and being unjustified in doing so lies, is a discretion reserved for the (criminal or administrative) judge.¹⁵¹

¹⁵¹ As a jurist, I am aware of the impossibility of making laws that can apply to all cases of conflicts with the Salafi identity; this is why, this power has to be checked accordingly by the judge.

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Finishing this thesis, is a second step (my Master thesis in Law being the first) on a road of great interest in liberal philosophy and the current discussion within society about (de)radicalisation and Muslim extremism. I hope to continue on this path; not only to benefit my own interest in this discussion, but most of all to attribute to the (political and philosophical) discussion that is of such a great importance for all of the Western societies.

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