

Freedom from Religion?

On the Individual's Sphere and Public Reason

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To what extent is it legitimate to claim freedom from religion? The object of this study is to establish a theoretical formula that enables us to deduct a democratic procedure that answers the proposed question. Not only does this procedure aim to test the legitimacy of secular individuals' claims for negative religious liberty; it also tries to provide for practical solutions for conflicts between religious and secular individuals in modern democracies. My contribution to the debate tries to tackle this task by means of normative political theory. I develop my methods on the basis of recent "new realism" studies.

Usually, political theorists discuss matters of negative religious liberty within the framework of public reason liberalism. Whether a public justification for coercive laws may contain religious arguments is a question that has been passionately debated for years. The first half of my study leads to the conclusion that public reason liberalism systematically ends up in a trilemma: Trying to solve questions of legitimacy of negative religious liberty with public reason liberalism always leads to some kind of democratic fallacy. Instead, in the second half of the study, I propose a solution coined the "individual's sphere". This figure is not anchored in virtue or civic ethics – as it is the case in most of public reason liberalism. Rather it is an interplay of individual freedom, autonomy and decisional privacy that is (or can be) warranted by political institutions. This theory does indeed still depend on the idea of public justification, but it protects religious as well as secular individuals from encroaching majorities.

The last chapter examines ways of applying the individual's sphere. Based on standard situations in the private sphere, in the informal public sphere and in formal politics, I discuss where the limits of the individual's sphere lie. In other words, the context-sensitive application of the individual's sphere to empirical religious-secular conflicts (such as euthanasia, same-sex marriage, burkas in public) generates suggestions as to where to draw the lines between legitimate individual and popular ruling. Furthermore, I examine whether my theory is compatible to German constitutional law concerning the separation of church and state as well as matters of equal liberty.