Cultural ventriloquism in staging God.  
Law and faith in ancient Israel and in modern democratic statehood: sacralisation and secularisation as search for socio-political wellbeing

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On being society
One of the problems when theologians pronounce themselves on “The Bible and...” topics, is that a covert kind of moralism often goes along with the exercise, namely that in some way the Bible is meant to teach us something for today. Such a kind of moralism, akin to when little lessons for edification are extracted from tales for children, is objectionable in engagements with the biblical texts for many reasons, not the least of which is what has become known as the problem of history (cf. le Roux 1993:35-63). The latter includes that the vast differences between the ancient and modern worlds are such that “der garstig breite Graben”, already formulated as such by Lessing in 1777 (1979:13), is so dramatic as to bedevil any kind of modern “application” of these ancient texts. What Joas (2013:3) calls “the interleaving of genesis and validity” remains a road which, like the one to hell in the famous aphorism, is paved with good intentions. It is no wonder that the discipline of philosophical hermeneutics (cf. Thiselton 1992 for a foundational historical overview) finds to a substantial extent its cradle of birth in the theological problem of the heartfelt necessity to bridge this “frighteningly expansive trough of history” (to offer a loose translation of the Lessing 1777 / 1979:13 quote above) – the eternal problem of relevance. This inducement is present already within the Bible texts themselves, leading to intense redactional activities, namely of both a revisionary (expanding or truncating the texts) and a contestatory nature (texts answering texts by means of re-editing). However, the nature of the historical contingency of our human existence is such that the modern contextualising optimism which differentiates between an understanding of the past and an application to the present holds to a fully impossible distinction (le Roux 1997:410-416, 419): the one implies the other, always, immediately and inherently.

This kind of historical approach to the texts of the Bible disallows any easy moralisms, lessons or messages for our time. So, fear not: no sermonising tonight!

However, an overtly historical approach to the Bible does enable cultural-phenomenological comparisons, in which similarities and differences between parallel occurrences in disparate contexts may be noted, and perhaps historical influences traced. These relate as much to the phenomenon of faith as to any other aspect of the human condition, namely with religiosity as part of the collective evolutionary armory of homo sapiens (cf. van Huyssteen 2006). Insights gained from such comparison may well prove instructive, but then not in any moralistic sense. Rather, perspective may be gained on historical, sociological, legal and

1 Faith has been a much-neglected aspect of the human condition in social scientific investigations. However, the post-secular turn which is currently taking place, affords matters religious a normalised place intellectual endeavours – neither privileged nor marginalised as in previous eras, but as much a part of personal and social existence as any other aspect of what might make us human. Cf. Habermas 2008:17-29 ; Lombaard 2016:1-6 & Lombaard 2015:82-95.

2 The influence of historical consciousness on matters of faith is thus not the impulse to turn inward only, “into the soul”, as it were, in an attempt at escaping our intellectual reality – cf. Boer 2007:402. Other possibilities exist too, one of which is argued here.
other contingencies in which we find ourselves immersed. Such relativising perspectives may lead to insecurities (which are intellectually and spiritually healthy, yet which entrenched institutions tend to dislike, as received truths become infirm), and for that reason may well lead us to search for different, one hopes better ways of being society.

One way in which being a society that works well, namely one that facilitates sustainable measures of harmony and happiness (Atherton, Graham & Steedman 2011; Csikszentmihalyi 1990), may be promoted, is to further “wellbeing”. As vague a term as many in the Humanities are (cf. Gullone & Cummins 2002:5-6), here that term3 is intended to refer less to its oft-employed individual senses (as in e.g. Dodge, Daly, Huyton & Sanders 2012:222-235), and more to socio-political co-existence. Wellbeing on such a socio-political niveau is therefore here understood as a sense (perhaps always elitist, and hence enforced) of how a society may best function as a relatively peaceful whole in the face of its constituencies and adversaries. At least a broad, though always imprecise, shared sense of identity and some measure of cohesion on basic levels of assumption are implied. A measure of solidarity between the leadership elites and wider society must exist to ensure the perceived social validity of the positions that take dominance within that society. In the current world, that would in our shared political heritage, post World War II, extend most naturally to liberal democracies4. This remarkable political system, one of the most successful in human history in number of geographies covered and in number of people affected, has as its twin core standards (cf. van der Ven, Dreyer & Pieterse 2004:11-378 for a substantial historical overview),

- freedom of choice, to as great an extent as is socially feasible; and
- the protection of the rights of the individual against any encroachment, with the source of such encroachment that may be other individuals, groups, and importantly in history and for this presentation, the state.

The historical roots of these two standards may be traced, respectively, to the Athens and the Jerusalem of antiquity (cf. Lombaard 2011:74-93). Natural as these ancient strands of still present liberal-democratic standards seem to us who thrive within them, and imbued with such a sense of worth that lives could be sacrificed in keeping them, two, no three5 sources

3 Studying aspects of wellbeing is certainly in vogue at present, as the recent six-volume Wiley Blackwell series demonstrates:


4 Certainly this “Western” sense is currently under substantial ideological, political, economic and military pressure from quite different Islamic spheres, and less overtly, from the East. (Such regional terminology requires in our global civilisation serious revision.)

5 This rhetoric is appropriated from Proverbs 30:18, in which the intent is that the last in the list is the item carrying the greatest weight in the argument currently being built.
may influence us towards less unqualified thought on these matters:

- The recent insistence amongst theorists of decoloniality that human rights are not universal in any hard sense (cf. e.g. Barreto 2012:1-29);
- The insight among development theorists that the sense of what a good life is cannot with any legitimacy be prescribed (cf. e.g. Sen 2005:3-16); and
- The perspective proposed here, that in distinctive historical contexts parallel intent, namely the wellbeing of society, may be sought by – discomfiting – diametrically opposing cultural strategams. In this particular case, such diametrically opposing cultural strategams relate to the role of religion in relation to the laws of a society seeking its wellbeing.

In preparation for developing this last aspect, some free theologising on the relationship between religion and law provides greater context for the insight that will later unfold.

**To C or not to c: Religion and Law (Or: codes and codices as abodes and bodices)**

Religion and law as expressions of human life show, despite their differences, some notable socio-phenomenological overlaps. These include that the wellbeing of those who share their existence in space and time (geography and temporality) is sought, albeit in at first glance seemingly separated ways. Historically, the influences and circumstances that steer religion and law, respectively, to develop in the ways they had, are traceable, rendering these two human phenomena, as is the case with everything else about us, conditional and provisional. Such contingency is however rendered close to the point of imperceptibility to the broader populace these two expressions of life aim to serve, namely by elevating certain aspects of their composition to proportions approximating the supreme, such as “the church” in certain religious instances or “the constitution” in certain legal instances. In some sense symptomatic of this amplification of status is the intermittent *symbolic* capitalisation of the spelling of these nouns, respectively as Church and Constitution.

Such elevation is not undertaken for the sake of power, as critiques of ecclesial and legal systems would have it. The implied authority that comes along in such cases is rather a corollary of the social importance of the matters concerned. The stakes are high: protection against injustice and against damnation; the intentions are noble: to be of benefit to society. A stark this-worldly – otherworldly distinction between these aiding orientations should however not be inferred here, since the salvation religion may offer is rarely intended to exclude the present, and the justice law may offer is rarely intended to be transitory. In the temporal outlook of religion and law, the transcendent and the immanent meet. Moreover, historically law has often and variously deferred to God as a final sanction, and in the inverse religion has often relied on law to ensconce its sanctity and intentions.

Within Christianity, the intricacies of ecclesial law demonstrate at times painstakingly how the Body of Christ ought according to legal logic carry itself – at least in principle – in love (cf. Jonker 1965). More foundationally, in the New Testament the Pauline distinction between law

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6 “Develop” is not here meant in the optimistic sense of progress, but in the systemic sense of coming into being and adapting to circumstances.

7 Such critiques are often fairly accurate in their indications of power and its use or abuse, but are as frequently naïve in assuming that a proposed alternative would be free from parallel exercises of power.

8 Such serving sentiments, along with protection against ill health in the case of medicine, lie classically (i.e., is shortsightedly often overlooked in modern times) at the heart of the establishment of the most enduring of the church’s creations, the institution of the university – cf. Wethmar 1996:473-490.

9 If that over-simplification by Ferry 2011:3-5 may be kept to for a moment.
and grace (cf. Dunn 1998:128-181) as both fully religious categories in living rightly *coram Deo*, indicated highly influentially the entwinement of rules and faith. Picking up this distinction as it comes to the fore most prominently in the history of the church, the very language of “justification by faith” (cf. e.g. Reid 1992:204-221) in the Reformation heritage\(^{10}\) show a particular confluence of lawyerly and ministerial ways of thinking, not infrequently still coming to the fore in ministers’ formulations of something akin to freedom *from* law but, then, freedom *unto* law. This gives satiated expression to the image of God as judge, anew and altered, but already in some ways thematically present in the Judeo-Christian theological stream from exilic Israel onwards (thus, post 586 BCE – the date of the forced exile of the elite of Jerusalem to Babylon). These ancient sources namely include the deuteronomistic lines of historical-theological understanding, also concretised under Persian influence in the drama of the book of Job, that God judges acts strictly, namely in history (see below).

As these diverse though neither thematically nor historically unrelated instances illustrate, God and law in such religious constructs become related to one another provisionally, namely now as a *duo* of belief and life. The ensuing dialogue of Decalogue\(^{11}\) and existence signifies as a poignant and widely-applied instance the ultimate split infinitive: to be faith-full may now no longer comprise only to be a divine adherent (as is the case for instance with the patriarchal and wisdom strands of faith in post-exilic Israel; cf. e.g. Albertz 1992:51-54). Religion now also includes the possibility, in a from then onwards\(^{12}\) always present and at times strongly dominant strand of religious expression, that this relationship of faith is essentialised as adherence to legitimated practices\(^{13}\). Divine will becomes a category of life; to live with God becomes in such thinking predicated on doing rightly by God. *Duty* is religion; law becomes salvific; statutes become the mediators through which God is encountered; intimate religious living becomes distanced; codes and codices become the abodes and bodices of faith.

The strength of influence of this manner of being religious is difficult to overestimate, and persists as a Dawkinsian meme (Dawkins 1976\(^{14}\)), perpetuating itself across various cultural instances. The stage had in post-exilic Israel been set for religion and legislation, for faith and law, to be placed over against each other in the ensuing Judeo-Christian cultural stream. This plays out most clearly in modern Western/ised democracies in the legislative imperative to separate church and state. The latter socio-political project is namely undertaken for what is understood to be to the benefit of the societies concerned: for the wellbeing of liberal democracies and their citizens. An alternative within such societies is hardly imaginable – apart from repressive impulses within such societies, in which it is thought that forms of fanaticism seek (as some clearly do) distinctly illiberal societies. In healthy modern democracies, faith is to be marginalised. Matters religious are excluded from affairs of state; this, for the sake of the good (harmony and/or diversity) of society. The instrument for such a wholesome separation is law. – Such is the implied reflex in modern democracies, widely

\(^{10}\) In other church traditions this connection is less prominent, e.g. in Roman Catholicism’s placement of salvation within the church (*extra ecclesiam nulla salus*), in the Lutheran two kingdoms worldview, in the charismatic / Pentecostal traditions’ less rationalist and more emotive sense of a future full inheritance of the cosmos, etc.

\(^{11}\) Decalogue = the famous “Ten Commandments”, related most recognisably in Exodus 20 and Deuteronomy 5.

\(^{12}\) I.e., from the time that the Decalogue is in post-exilic Israel promoted as a defining way of expressing adherence to YHWH, some time during the exilic – early post-exilic period, i.e. between ± 550 BCE and ± 500 BCE.

\(^{13}\) This includes what *ought* to be done and what ought *not* to be done – two sides of a coin succinctly captured by the Afrikaans expression “doen en late”.

\(^{14}\) Dawkins proposed that cultural constructs – memes – replicate themselves over long periods of time, analogously to the way genes do biologically.
shared in different countries; implemented in quite diverse ways.

However, as a diametrically opposing cultural stratagem to this modern socio-political reflex, from the early coming-into-being of the Pentateuchal writings of the Hebrew Bible, a historical instance presents itself as a case in which, for the sake of liberty, religion is *inserted* into the foundational documents of society.

To take note of such a possibility is not only historically interesting, but in some ways also helps to lay bare the current assumptions in liberal democracies that only without public religious expression may societies function well, that is, to the benefit of the maximum freedom of the members of that society. Such a realisation in the currently dawning age of post-secularism (cf. Habermas 2008:17-29; Lombaard 2016:1-6 & Lombaard 2015:82-95) is in itself an impulse towards greater liberalism (meant here, as above, in its classic sense, rather than in the negative sense in which it is often employed within broader religious circles), thus intended to serve the greater wellbeing of modern democracies and their citizens.

**Rite Right of passage**

In a much more subtle way than is usually drawn from the Hebrew Bible by liberation theology, the sentiment of a “Let my people go” wish for freedom finds expression in the politically foundational chapter from mid-7th century BCE Jerusalem, Deuteronomy 13. It is here that we find one of the “seminal ideas” (Ska 2004:146) that had by long-term cultural continuance – the Dawkinsian meme referred to above, although Max Weber’s understanding of the influence of ideas (cf. Otto 2004:181-188) here applies equally strongly – in/formed the current human rights culture of Western(ised) societies. Namely: by receiving the enforced neo-Assyrian imperial legislation not in an uncritical way, but by translating it in a

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15 Exodus 8:1.

16 The stretch of that neo-Assyrian empire can be seen here (note the very minor role that can be expected of Jerusalem, a city on the fringes of the empire):

![The neo-Assyrian Empire, 650 BCE, is indicated in the darker shade; from Assyrian International News Agency, www.aina.org/maps/historic/650bc.htm](https://www.aina.org/maps/historic/650bc.htm)
refined, foundationally subversive way, the mid-7th century Jerusalem scribes succeeded with a cultural rite of passage to a new understanding of the inherent worth of human beings.

The enforced, empire-wide Assyrian loyalty oath\(^\text{17}\) had namely made clear that the merest murmur of betrayal was punishable by death (below, taken over from from Parpola & Watanabe 1998:34).

Some explanatory notes on the text that follows are in order. The left column contains the cuneiform text transliterated into the Latin alphabet. The small sections between square brackets indicate parts of words that had to be reconstructed, because of the poor quality of the original. In the Parpola & Watanabe English translation in the column to the right, the square brackets parallel these absences, with the normal brackets reserved to include phrases required for the English language metaphor to reflect the intent of the cuneiform writing. The content is the prohibition of any act of rebellion or even encouragement of rebellion against emperor Assurbanipal, mid-7th century ruler (and one of the last) over the neo-Assyrian empire headquartered in Nineveh, and with Palestine and thus Jerusalem under its power.

\[\begin{array}{c|c}
\hline
130 \text{šum-ma me-me-ni a-na } & \text{§ 12 Action against Those Suborning Treason} \\
131 \text{Du-um-₄aš-Su-D₄-U } & \hline
132 \text{a-šu bar-t₄a ša } & \text{If anyone should speak to you of} \\
133 \text{u-a₄-kis } & \text{rebellion and insurrection (with the purpose) of} \\
134 \text{ša } & \text{killing}, assassinating, and eliminating} \\
135 \text{ša } & \text{Assurbanipal, the [great crown] prince} \\
136 \text{ki₄-ba₄-te ša } & \text{designate, son of Esarhaddon, king of} \\
137 \text{ša } & \text{Assyria, your lord, concerning whom he has} \\
138 \text{ki₄-₄-ba₄-te ša } & \text{concluded (this) treaty with you, or if you} \\
139 \text{ša } & \text{should hear it from the mouth of anyone, you} \\
140 \text{ša } & \text{shall seize the perpetrators of insurrection,} \\
141 \text{ša } & \text{and bring them before Assurbanipal, the} \\
142 \text{ša } & \text{great crown prince designate.} \\
143 \text{ša } & \text{If you are able to seize them and put} \\
144 \text{ša } & \text{them to death, then you shall destroy} \\
145 \text{ša } & \text{their name and their seed from the land. If,} \\
146 \text{ša } & \text{however, you are unable to seize them and} \\
\hline
\end{array}\]

This loyalty oath is namely the text received by the scribes of Deuteronomy 13:2-10, as follows below (following the New Jerusalem Bible translation, but edited according to Otto 2002b:175, indicated in italics in the English translation below; cf. Lombaard 2011:86).

On this next text, quite some explanatory effort is required to place it within its historical and textual contexts, making it easier to follow below. Deuteronomy 13 namely forms part of the

\(^{17}\) Cf., more broadly, Parpola 1987:161-189.
core text of Deuteronomy 12-26 (an intensely edited text), the latter associated with a surprise temple find relayed in 2 Kings 23-24. Historically, this surprise find was rather a document constructed as a kind of tractate or confessional or constitution (an easy parallel with modern times eludes us) during the reign of king Josiah, whose reign stretched across a substantial part the second half of the 7th century BCE. The Deuteronomy 12-26 text preserved in the Hebrew Bible is an extended version of this core document, expanding the contents of this core document “find” through redactional activity, thus reapplying its intent in various later contexts, as had been the practice with all important ancient texts.

In outline, the coming-into-being of this text of Deuteronomy may be placed within its historical-developmental process, broadly, as follows (Otto 2012:248):

During this period of textual development, the book of Deuteronomy and its theology (the deuteronomistic theology) also became demonstrably influential, though not consistently so, across the body of writing, particularly in the creation and redaction of two larger textual corpora of the Hebrew Bible:

- the Torah, or Pentateuch, to which Deuteronomy forms in the canonised version of the Bible text the conclusion: Genesis – Exodus – Leviticus – Numbers – Deuteronomy; and
- the Deuteronomistic History, a theological interpretation of the history of ancient Israel based upon the core Josiahnic reformation ideal of fealty to YHWH alone; this religious loyalty rather than, as had been the usual Ancient Near Eastern practice, adherence to other gods too (i.e., polytheism). This historicised theology had strong political

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18 The text of 2 Kings 23:1-3 reads:
Then the king sent, and all the elders of Judah and Jerusalem were gathered to him. And the king went up to the house of the LORD, and with him all the men of Judah and all the inhabitants of Jerusalem and the priests and the prophets, all the people, both small and great. And he read in their hearing all the words of the Book of the Covenant that had been found in the house of the LORD. And the king stood by the pillar and made a covenant before the LORD, to walk after the LORD and to keep his commandments and his testimonies and his statutes with all his heart and all his soul, to perform the words of this covenant that were written in this book.

19 Apart from the Writings of the Hebrew Bible – including for instance the Proverbs and Song of Songs collections – a key feature of ancient Israel’s theology had been its historical
implications too – but as will become clear below, that holds some truth for all political orientations to religion, including those on which modern democracies have been built.

With Deuteronomy as Archimedean point\textsuperscript{20} of the Enneateuch – the first twelve and theologically the most influential books of the Hebrew Bible, stretching from Genesis to 2 Kings\textsuperscript{21} – the importance of these central chapters in the self-understanding of ancient Israel becomes more evident. Given the cultural-historical influence of the Hebrew Bible through the Christian Western/ised history, and this includes the nominally non-religious late-Western developments from this heritage\textsuperscript{22}, the influence of these texts (albeit implicit) on our time ought to be recognised.

The fact that this core part of the Western canon of influential literature is in some sections directly derivative of a neo-Assyrian loyalty oath imposed on an ancient empire, yet interpreted anew within Deuteronomy as will become clear below, casts new light on the contingency of our human existence: how we are determined in often unknown ways by our human heritage, current and ancient. With the text of the neo-Assyrian loyalty oath above kept in mind, the at first glance exclusively religiously-intolerant Deuteronomy 13 text gains a new legal hue:

inclination: the belief that divine involvement in the past had been foundational in its constitution and continuance. However, here with “historicised” is implied also the narrativist understanding of historiography: that history is always relayed, and such a telling of the past can never recapture the past, but could at best be a partial reconstruction retold in some ways.\textsuperscript{20} “Archimedean point” is the language of, classically, Eissfeldt 1934:188 (with an unexpected early South African positive reception in d\textsuperscript{u} Plessis 1947), which has since come into relatively wide use, e.g. in Otto 1997:321-339, all in the wake of the foundational insight related to 2 Kings 23 (quoted above) in this respect by de Wette 1805.

\textsuperscript{21} Part of this train of influence may be sketched as follows (Otto 2012:256):

\textsuperscript{22} From various sources it is now being said ever more often that atheism in its political and sociological expressions is in at least some way part of the Christian heritage: it is only this form of religious expression that allows for the possibility of atheism. This includes the tolerance to let such an expression bloom even to the point of it marginalising Christianity, as a kind of Oedipus-event allowing also for matricide.
Deuteronomy 13:2-11
(Biblica Hebraica Stuttgartensia)

2 And if a prophet or a dreamer of dreams arises among you and gives you a sign or a wonder,
3 and the sign or wonder that he tells you comes to pass, and if he says, 'Let us go after other gods,' which you have not known, 'and let us serve them,'
4 you shall not listen to the words of that prophet or that dreamer of dreams. For the LORD your God is testing you, to know whether you love the LORD your God with all your heart and with all your soul.
5 You shall walk after the LORD your God and fear him and keep his commandments and obey his voice, and you shall serve him and hold fast to him.

Deuteronomy 13:1-10
(English Standard Version translation23)

1 If a prophet or a dreamer of dreams arises among you and gives you a sign or a wonder,
2 and the sign or wonder that he tells you comes to pass, and if he says, 'Let us go after other gods,' which you have not known, 'and let us serve them,'
3 you shall not listen to the words of that prophet or that dreamer of dreams. For the LORD your God is testing you, to know whether you love the LORD your God with all your heart and with all your soul.
4 You shall walk after the LORD your God and fear him and keep his commandments and obey his voice, and you shall serve him and hold fast to him.
5 But that prophet or that dreamer of dreams shall be put to death, because he has taught rebellion against the LORD your God, who brought you out of the land of Egypt and redeemed you out of the house of slavery, to make you leave the way in which the LORD your God commanded you to walk. So you shall purge the evil from among you.
6 If your brother, the son of your mother, or your son or your daughter or the wife you embrace or your friend who is as your own soul entices you secretly, saying, 'Let us go and serve other gods,' which neither you nor your fathers have known, some of the gods of the peoples who are around you, whether near you or far off from you, from the one end of the earth to the other,
7 you shall not yield to him or listen to him, nor shall your eye pity him, nor shall you spare him, nor shall you conceal him.
8 You shall stone him to death with stones, you shall not yield to him or listen to him,
9 but you shall kill him. Your hand shall be first against him to put him to death, and afterward the hand of all the people.
10 You shall stone him to death with stones, because he sought to draw you away from the LORD your God, who brought you out of the land of Egypt, out of the house of slavery.

23 The verse numbering differs in various renderings, and have here for the sake of ease of reading been aligned.
The way in which here the neo-Assyrian political system is received, is by replacing reverence for the emperor with reverence for God. With this, for the first time we are aware of in history, the direct relationship of power between ruler and subject is broken, namely – important for the argument here – by reference to the divine. That means (Lombaard 2011:86), not to the king, the verse states in its ancient context, nor to the king’s patron deity, as was the case in Mesopotamian royal ideology, but to YHWH the royal loyalty oath is due. ... [As is] the case in Genesis 1:26-27, the direct bond between God and citizen is established – a radical political concept for its times...

This translation-with-reinterpretation by the Hebrew scribes in ancient Jerusalem is a fine, delicate move, but highly significant when read within its mid-7th century BCE socio-political context. Deuteronomy 13 as a (to modern sensibilities, but for different reasons than in its context in antiquity) disquieting text had the effect of placing the power in the hands of the religious rather than the political leadership. The orientation of the citizenry becomes not towards the emperor in the first instance, but to God. God is – as it were – inserted between ruler and citizen by the translation-with-reinterpretation strategy in Deuteronomy 13. This is not democratic in the ancient Athenian sense that the vox populi becomes a determinative part of political process. However – relating to the second main standard of modern liberal democracy as formulated above, “the protection of the rights of the individual against any encroachment” – Deuteronomy 13 is the beginning of the end of despotism: political power is relativised.

Noteworthy, God is here a mediating character on the political stage. By God taking front stage, politics become more humanised. Liberty is served by including a religious dimension into the founding document of a society in transition.

The impulse here is the precise opposite of what we find in modern liberal democracies, in which the divine is reflexively excluded from political life for the sake of the greater wellbeing of the citizenry. In our time, secularisation – in the sense of the purposive exclusion of the religious from public life – is the manner in which the same is sought: the greater wellbeing of the citizenry. In Deuteronomy 13, in reinterpreting the loyalty treaty to Assurbanipal, the divine is however brought into the picture, namely for the sake of the greater wellbeing of the citizenry. Here, the monarch is not the fidei defensor, as is the case with the British crown since the dawn of Anglicanism; rather, God is the populi defensor – an almost unimaginable state of the affairs of state in modern liberal democracies. The politics of ancient Israel is deliberately sacrilised for the sake of the common good.

As an aside, this difference between ancient Israel and modern societies finds a philosophical parallel in questions on the existential meaning of life. Namely, when in the Hebrew Bible wisdom book of Qohelet the destructive power of death and the meaninglessness which that renders human existence is contemplated, God is kept fully in the picture. When modern existentialist philosophy had taken that same route, God had to be removed from the scene: only with atheistic assumptions can in modern philosophy such meaninglessness be faced (cf. Lombaard 2009:4). These are remarkably different cultural moves.

In ancient Israel, when law and faith come into interaction, God is put front-stage. This, for the sake of the socio-political wellbeing of the society concerned. In modern liberal

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24 The reference here is to the formulation “in our image, in our likeness”, which established a link between normal humanity and the deity, thus replacing the then-current idea that the ruler alone stood in such a relationship of identity with the deity.
democracies, for the same motivation, when law and faith meet, God is placed backstage. Respectively, and diametrically opposed, sacralisation and secularisation characterise the quest for socio-political wellbeing.

This reflexive difference in cultural strategy can be well understood within the respective socio-historical circumstances. The moment of the realisation of this difference is however substantively disarming. As much as the intent here was not to “draw a lesson from the Bible for today”, and even less to imply naively that this example from the Bible should become a model of sorts to which to “return”, the insight into this seeming inconsistency in how religion is treated does stimulate reflection. It relativises perhaps unconsidered notions of what the “right” way is for law and religion to relate to one another within different political systems.

This kind of philosophical and political reflection also opens a next question, namely on wherein the liberal element of laws lie that would marginalise religion politically. Is some unexamined value perhaps at play here? – Some as yet unrecognised core which determines why it would be liberal (again, in the sense of seeking greater freedom) to have as little as possible of this phenomenon of religion around politically? This, whereas with all other aspects of human life, sensitive or not, exclusion of the phenomenon concerned is not the preferred political option by legal means, but rather the inclusion of diversity… Are we perhaps puppet masters on stage, ventriloquists25 throwing a voice from somewhere, unknowingly saying things the audience members hear, but they do not know whence the voice comes?

And neither do we?

**Oh come go, all ye faithful?**

To recapture some of the earlier thoughts and steer them towards their conclusion: the Judeo-Christian-Western cultural stream is unimaginable without a strongly legal component. To a substantial extent, the reverse is as intricately indicated: Judeo-Christian impulses had in Western/ised law practices found expression greatly and variously prior to the Enlightenment and the dawn of the secular age (on the latter, cf. influentially Taylor 2007), with vestiges in modern practice still remaining in for instance official oaths or in a *force majeure* being described as an act of God.

Still, the political history of Western/ised societies within the age of modern democracies, marked most clearly by the French and United States constitutions as starting points, has been characterised by a deliberate project of excluding from public life, be means of law, religion. Although contestation between law and religion is not new, the deliberate use of one of these phenomena to marginalise the other had never in human history been attempted on such a grand scale, nor so successfully, as had modern democratic statehood. This is different from earlier ages, when by proclamation a particular expression of religiosity could be repressed (as for instance early Christianity had at times been prior to Constantine) or promulgated as state religion (as Christianity had been from Constantine onwards, in many regions). Neither is this the same as the ideologically enforced non-religiosity under restrictive societies such as Soviet Communism. In modern, Western/ised democracies – open societies in many respects – the impulse had been that by means of law and state, religion ought to be put on the margins of public life.

In this, the respective French and American constitutions had been most influential, summarised by the respective concepts of *laïcité* and the separation of church and state.

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25 This metaphor had in somewhat parallel context been used in comparing pro-apartheid and anti-apartheid readings of the Bible, in Lombaard 2001:69-87.
Article 1 of the French constitution (1958) namely reads:

La France est une République indivisible, laïque, démocratique et sociale. Elle assure l'égalité devant la loi de tous les citoyens sans distinction d'origine, de race ou de religion. Elle respecte toutes les croyances. Son organisation est décentralisée.

France shall be a Republic indivisible, secular, democratic and social. It shall ensure the equality before the law of all citizens without distinction of origin, race or religion. It shall respect all beliefs. Its organization shall be decentralised.

The First Amendment to the Constitution of the United States on its part reads as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The way these foundational documents had played out with respect to religion in these two societies, and had been followed in some ways in wider contexts, had neither been an inclusion of diversity, in the French case, nor neutrality towards religion, in the US case, as had been the respective intentions. Rather, in time, both documents had been employed towards the exclusion of religion from as many instances as possible of public life. To this end, these two foundational documents had been interpreted, and legal steps taken.

The case could thus strongly be made that, despite their intentions to the contrary, these two influential states had not broken any earlier special bond between state and church. Rather, the direction of the special bond had simply been reversed, namely from reflexive inclusion of religion in matters of governance to reflexive exclusion. Religion had remained a special case, a human phenomenon amongst all others that had been singled out for special treatment. Such special treatment indicates that a particular bond exists; such a connection has been retained.

Two further aspects could be brought into consideration here, although they are less interesting than the argument just put forward. The first is namely the realisation that an orientation that seeks to be free of all religiosity, is in practice a religious orientation. In a similar way as that one cannot fight for pacifism, or a closer example: that one cannot state that to be value-free is value-free, one cannot be a-religious (or stronger: anti-religious) in order to be free of a religious commitment. A-religiosity, or differently put, official atheism, is as much a religious orientation as any other, privileging a certain view on religion above all others. Second, historically certain earlier thoughts on the separation of church and state had been developed by Martin Luther into practical politics; in breaking the ancient linkage of royalty and the divine, Luther founded a non-theological politics on theological grounds (Malan 2011:56-57). This insight implies at the very least that any a-religious political orientation within the Judeo-Christian-Western cultural stream has a historical inheritance from religion itself (see again footnote 22 above).

More foundational for this presentation, though, is the conclusion offered above, that governments that systematically exclude by means of law matters of faith from the ambit of public life, have as much a religious commitment as any other. The pretense to be religion-free may be self-soothing, yet the ventriloquist of cross-cultural historical comparison shows up adherence to some religious master’s voice echoing from somewhere.
Bibliography


