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VEIT BADER

SECULARISM, POST-STRUCTURALISM OR BEYOND?

A RESPONSE TO MY CRITICS

Krisis, 2008, Issue 1

All three critics raise important issues but also show that the complexity of my approach is prone to many misunderstandings. Apart from responding to the critical charges, this piece also serves to explain to the readers why I did things as I did in order to prevent some of these misunderstandings. I start with Anton Van Harskamp's sociological refutation of my criticism of the secularisation-thesis and its implications for my political theory before addressing the objections by Anders Berg-Sørensen and Irena Rosenthal, which are both inspired by post-structuralist, post-modern or post-colonial theories of secularism - (for reasons of simplicity I refer to these different branches as 'post-structuralism'). They invite me to learn from these positions in order to avoid weaknesses in my own approach to political theory generally, and to secularism and/or democracy in particular. I'm not content with pleading 'not guilty' to these charges so finally I try to outline the main reasons why, indeed, I had "not been very praiseworthy of the merits of poststructuralist interventions" (Rosenthal, further as R 39), and have bracketed most of these contributions in my book.

Van Harskamp focuses on the extremely brief sociological and historical considerations on secularisation in chapter 1 of my book, where I introduce a general concept of religion and criticize different varieties of the secularisation thesis. He seems to have some trouble to understand

my claim that my *political theory is neither secularist nor 'religionist'* but just morally minimalist or, more demandingly, liberal-democratic. He cannot resist to ascribe to me things that I explicitly refute (e.g. the claim that my theory would have 'strong roots' in Catholic and Protestant corporatism (199), where I explicitly criticize this tradition of institutional pluralism). He also seems to think that I defend two incompatible positions at the same time: that it is impossible to provide any sensible *definition of religion* in general, and, 'strangely', to do so anyway, neglecting my reasons why I think we have to do so in practice as well as in science (see 36-9).¹

The core of his objections, however, deals with my treatment of *secularisation*.² I do not pretend to do anything spectacular or original in this section but I do oppose the charge that I would reproduce "de wijsheden van de dag". I distinguish three versions of the thesis: (i) decline of religion(s); (ii) change or transformation of religion(s): individualisation, subjectivisation, and privatisation; (iii) minimal or complete differentiation. In opposition to the many sweeping statements on the first meaning – *decline, return, revival* or what have you – that mark this debate right from the start to the present (Peter Berger on both opposite poles) I indeed only repeat well-known criticisms by Bruce and many others insisting that all depends on contexts, situations, socio-economic conditions etc. In this regard most arguments (but not the predictions) mobilized by Van Harskamp to demonstrate strong 'secularization' in 'the West' can already be found in my text. When it comes to *transformation*, the second meaning, Van Harskamp follows the long but unhappy tradition not to distinguish *subjectivisation* – 'expressivist' (Taylor) and 'spiritualist' religious practices, 'identity without belonging' – from '*privatization* (both rejected with excellent reasons by Luhmann, Casanova and others) and from *individualization* in the sense that religious belief and practice are increasingly seen as a matter of (contingent) choice, not of fate. Furthermore, he subscribes to an over generalized version of ever growing 'spirituality'³ so fashionable nowadays also in (French) Islam-studies. However, he seems to accept my criticism of the *differentiation*-thesis as 'strict separation', and this is the only one I really need for the purposes of my own political theory. Whether recent state-societies in the West or in the Rest further secularize or de-secularize

in the first and/or second meaning of the thesis is irrelevant when the question is what kind of state is morally and legally appropriate to all of them: the state has neither to be a ‘secular’ nor a ‘religious’ state but a state that is beyond the secular/religion divide, that is equidistant or ‘relationally neutral’ to religious and secular views and ways of life and, above all, a polity that respects the two autonomies: the relative autonomy of the state from (organized) religions and the relative autonomy of (organized) religions from the state (49, 62-4).

Hence I seriously disagree with Van Harskamp’s central thesis that my attempt to “demythologize the secularization thesis” would form “the legitimizing basis for a theory of governance of religious diversity” (H 26). Contrary to what Van Harskamp thinks, I do not have to disagree with his refutations of the first and second meaning of the thesis – “religious diversity implies a less and less intriguing societal problematique which would have to be regulated via governance” (4) or “the relativization of the societal and political urgency of religious diversity” (4) – overdramatized as they are. If, and to the degree in which these statements would be true, religions would increasingly ‘subjectivize’ and ‘privatize’, if believers/practitioners would lose, lack, or voluntarily give up any organisational capacity and the will to be politically present and represented even if institutional opportunities were available and fair, so be it.

If the processes of societal and cultural secularisation and *glocalisation* would not only undermine the rigid ‘corporatist’ systems of selective co-operation but also the minimally required collective, organisational capacity, as some sociologists predict (see sect. 1.2), this would also undermine associative religious governance. Yet this is not a problem for AD, because it is justice-based and not about perfectionist conservatism. (chapter 8, note 22, page, 339)

Van Harskamp clearly has trouble with my perspectivist, multi-dimensional discussion of secularization and my basic contention that we can bracket both the perspective of religions and the perspective of

sociological secularization when discussing the normatively urgent issues of how states with liberal-democratic constitutions should deal with religions of all sorts.

A very uneasy relationship between normative theorizing and critical social sciences is, in my view, also characteristic for the contributions by Berg-Sørensen and Rosenthal, though from a completely different angle. Both papers are inspired by post-structuralist criticism of ‘liberalism’, ‘secularism’ and any ‘universalist morality’, however modest and contextualist. They invite me into a dialogue with “another influential strand in the contextual and multidimensional understanding of secularism; a strand that focuses on the constitution of subjectivities and identities in the political processes of secularism rather than the reconceptualisation of a value-based point of view” (BS 30), suggesting that I may learn from the analysis of power in ‘governmentality’-studies which promise, in their view, to provide a more adequate vocabulary also for my own aims of a normative theory of governance of religious diversity.

The core question distinguishing two strands in recent attempts to develop a multi-dimensional and critical understanding of secularism, according to Berg-Sørensen, “concerns the conception of *the political*” as a “theoretical concept and analytical perspective”: “its modes of operation and the use of power in democratic politics”. In a *strong sense*, characterizing the positions of Hobbes, Carl Schmitt and all post-structuralists, “it is all politics”, “it’s all power”; and this, it seems, is a logical consequence of the contextual turn in political theory advocated by myself (BS 30). On the other hand, this sense of ‘the political’ seems inevitably *weakened* by my, and by any other attempt, to ‘regulate’ and ‘constrain’ (democratic) politics by context-transcendent conceptions of morality, however minimalist they may be, and of law: “the ambition of articulating a principled platform in terms of a minimal morality seems to weaken this [...] strong sense of the political” (BS 32). In Berg-Sørensen’s view, as in that of all post-structuralists, we have a clear choice between two and only two options (*tertium non datur*): either we acknowledge

that not only democratic policies, politics, and polities (institutions), but also all principles of law and morality (minimal, liberal, democratic, pluralist) are contested and contestable and, in the last instance, a matter of ‘power’, ‘violence’, ‘force’. Then all is up for grabs all the time. Or we limit this contest and contestability by morality and law and this can then be debunked as just another – arbitrary, contingent – use of force masked as ‘universal morality’.

The latter method is then applied to criticize my attempt to defend a ‘moderate’ instead of a ‘strong contextual approach’ and to substantively elaborate a conception of a moderately universalist, differentiated morality. *Minimal morality* requires the guarantee of basic rights to security, subsistence, due process, and collective and individual toleration; *liberal morality*, minimally understood, requires more demanding equal-respect and non-discrimination rights; *democratic morality* adds equal political rights (see 72, table 2.1). Unfortunately, Berg-Sørensen conflates these important distinctions, particularly the tensions between minimal morality and more demanding moralities (and also neglects the importance of my non-infringement proviso), and between liberal and democratic, and more demanding ‘pluralist moralities’.⁴ He also does not discuss or disagree with the substance of my proposal but focuses exclusively on methodological and meta-theoretical issues, most importantly the following:

moderate universalism and the claim that we are able to discern context-transcending principles and rights of minimal morality are seen only as a new version of the old ‘power’-strategy to universalize or ‘absolutize’ the particular (time, society, culture);

“the articulation of a minimal morality within a more or less *deductive* system of principles, institutions and policies weakens the sense of the political and the implied use of power” (BS 33, 2x, my italics);

even if minimal morality would not be seen ‘within a deductive system’, minimal morality and law would, and has to, serve as “obligatory

constraints of democracy” (BS 31) to constrain “the political processes of democratic negotiations and deliberations”;

by this, it would place minimal morality “beyond democratic contest and contestability”. (See also BS 32 above: “how contested and contestable this idea of a minimal morality is”; “To what degree are the liberal principles of a democratic regime contestable as part of the democratic political processes?” “The Achilles heel [...] is when the democratic pragmatism aimed at is suspended by the articulation of a minimal morality superior to the concrete democratic politics. One could question why think in principles at all rather than just focusing on the political processes of producing political order and social cohesion with reference to the constitutive norms and principles of a liberal-democratic regime”). It is “more plausible just to let the democratic negotiations and deliberation of religion and politics go on” (BS 34);

finally, it would serve to hide the fact that all these activities, including the encouragement to use ‘argument and good example before using force’ are “a matter of mere use of power”: “And at what point will the argument and the good example become inadequate so the use of force is the only means left?” (BS 32); “the bottom-line of establishing political order with reference to liberal principles in a pluralist and democratic society is the use of power in order to sanction these principles. What is left of the value-based point of view for democratic governance of religion and politics other than the hope that people will treat each other with mutual respect and fairness, but without any moral obligatory guarantees except ‘the threat of legal violence’ (81)” (BS 32); “does not have any other guarantees than what can be sanctioned by the legitimate violence exercised by contingent institutional arrangements of a democratic society”.⁵

Space prevents a detailed criticism of these issues. I have to confine myself to some minimalist remarks:

Ad (i) Instead of debunking minimal morality as just “one of several possible *subjective* perspectives” (BS 34, my italics) it would at least have been fair to demonstrate why my claims are implausible, or failed altogether, and that we are able to find independent sources for moral minimalism in a wide variety of ‘cultural and religious traditions’ in a broadly conceived dialogue, freed from the remnants of ‘rationalism’ and exclusivism even in Rawls’ later version of an Overlapping Consensus (70, 90, 107f, 115ff). Minimalism, because it is so thin, has much better chances in this regard than e.g. Connolly’s ‘ethos of pluralism’ praised by Berg-Sørensen.

Ad (ii) Instead of suggesting that I would stick to an old-fashioned foundationalist, (transcendental, quasi-transcendental, contractualist etc.) ‘deductive’ system, it would at least have been fair to acknowledge (a) that I nowhere privilege deduction in general compared with induction, abduction and analogy, particularly when it comes to finding and justifying ‘new principles’; and (b) that I make extensive use of a wide, reflexive disequilibrium when it comes to justification and application of principles: we (implicitly always, but preferably explicitly) have to go ‘back and forth’ between principles – ethoi/virtues – institutions – practices and ‘moral intuitions’ (91f 179f).

Ad (iii) First of all, we have to acknowledge that liberal-democratic constitutions contain a trapped system of legal and moral constraints of democratic negotiations + deliberations. They do not only guarantee freedoms of political communication but constrain these freedoms by other basic rights. Furthermore, we usually apply some minimal principles of fairness before we speak of ‘democratic’ negotiations and deliberations. Also, obviously, ‘democratic deliberation and decision-making’ does not rule supreme because ‘democracy’ in constitutional states is constrained by ‘liberal’ guarantees of basic rights, by limits to majority-decisions, by minority-protection, etc. Democracy without such constraints is a nightmare and all this stands completely independent from my attempts to find a minimal morality that should not only confine liberal and democratic states, but all minimally ‘decent’ states.

The construction of ‘minimal morality’ as the bad guy opposed to ‘democracy’ makes us forget all this.⁶

Ad (iv) That all and everything is contested and contestable is not a supreme, arcane insight of post-structuralists but serves as the first lesson for students in my political philosophy classes. In chapter 2 of my book I hasten to highlight this also for my attempt to outline the contours of minimal morality (73f). Yet not everything is always contested in the same way and at the same time. In ordinary ‘democratic negotiation and deliberation’ we take the validity of constitutional norms for granted, knowing perfectly well that our constitutional norms are open for contestation as well, and also include qualified majority procedures for constitutional change. The idea of an incontestable ‘absolute’ (cognitive or normative) knowledge is a non-starter after all, (see 68 with Fogelin), and I just do not understand which elements of my theoretical approach would imply that my minimalist morality would be incontestable, (instead of stating this obvious claim it would have been better to contest it substantively).⁷ Reasonable pragmatism, however, is clearly distinct from moral ‘subjectivism’, ‘strong contextualism’, ‘ethno-centrism’ or ‘relativism’ as becomes clear by Putnam’s defence of the idea “that there is such a thing as the *situated* resolution of political and ethical problems ... that can be more or less *warranted* without being *absolute*” (quoted 307, note 6). We need no ‘absolute’ guarantees apart from the fact that we cannot get them, but guarantees by minimal morality and law are clearly more ‘warranted’ than an unqualified praise of ‘democracy unbound’ and the repetition of ‘all is politics’. And by the way, why should we normatively refer to “the constitutive norms and principles of a liberal-democratic regime” (quoted above) instead of more autocratic regimes preferred by Hobbes, Nietzsche, Schmitt?⁸

Ad (v) That ‘all is politics’, all is ‘power’ and, eventually, all is backed by the threat or use of ‘violence’ is, in a sense, trivial, but the endless, unqualified repetition of such trivialities has non-trivial and non-innocent consequences, to put it mildly. If ‘liberal democracy’, in the last instance, is backed by (the threat or use of) ‘legal violence’, it would be a

good idea to compare different forms of ‘violence’, e.g. ‘legal violence by states’ with violence by rivalling warlords in the absence of or in ‘weak’ states; or ‘legal violence’ by states that is more or less evidently morally ‘illegitimate’ with ‘legitimate’ state violence in order to protect basic rights and liberties. If ‘all is politics’, it would be a good idea to compare violent with non-violent politics. If all policies, politics, and politics are based on and constituted by ‘power’, it would be a good idea to compare normatively preferable policies, politics and institutions with normatively bad ones. If ‘exclusion’ and ‘domination’ are inevitable and everywhere (e.g. not only characterizing ‘states’ but also all private and semi-private institutions of governance and also ‘markets’) what might we normatively learn? If all varieties of ‘secularism and democratic politics’ use power and ‘constitute subjectivities and identities’ we might want to know which varieties for what reasons are normatively preferable? Finally: the characteristic phrases ‘eventually’ and ‘in the last instance’ always mobilize the ‘state of emergency’ in which, presumably, only brute or raw ‘violence’ or ‘force’ can decide. Yet, the ‘debunking’ of liberalism (and also of ‘democracy’) as ‘just based on violence as all other political regimes’ is far from innocent because it (a) tends to undermine all institutional and legal safeguards developed in the liberal tradition to tame the Leviathan, and (b) actively contributes to create states of emergency, and to produce rapidly escalating, internecine friend/enemy conflict dynamics.⁹

All these questions demonstrate that one cannot easily avoid normative issues or replace a ‘value-based point of view’ by a type of poststructuralist criticism that tends to hide its own implicit normative commitments and masquerades as pure ‘social science’. The uneasy transformations or replacement of normative questions into social science questions is characteristic for both Berg-Sørensen¹⁰ and Rosenthal: “the political questions of today are perhaps not whether the state ‘should or should not’ intervene in core issues of faith [...] but rather which kinds of discourses the state – directly and indirectly – helps to produce and which ones it discourages” (R 39); (see 39 “finding out which networks of truths the state explicitly or implicitly partners up with”). Before addressing this

core of her criticism – the state and the production of religious truths – I respond to three other issues that are raised earlier in her comments:

1.

According to Rosenthal I “somewhat *exaggerate my radical departure from secularism*” (R 36, my italics) because “a differentiation between state power and spiritual or religious authority remains a core feature of his conception of liberal-democracy”. Yes indeed, but with three major qualifications: (i) this is characteristic not only of liberal-democratic, but of any decent state (and certainly not specific to ‘the West’); (ii) I am at pains to explain that and why the ‘two autonomies’ are only very misleadingly called ‘secularism’ (48f, 95-7, see 2008a); Rosenthal herself also points at core ambiguities of ‘secularist terminology’ (R 35); (iii) indeed, there is no “complete escape from the difficult and value-laden task of having to demarcate and separate distinct religious and political domains”, the reasons why I do not refrain from defining ‘religion’ (see above). Next, she asks whether “it is perhaps not so much secularism *tout court* but rather secularism’s alliance with political liberalism that hampers a democratic engagement with religion” (R 40) suggesting that I myself would be some kind of political liberal, “still animated by the political liberal injunction to take ‘the truths of religion off the political agenda’” (R 36f). (i) Indeed, I am not an unqualified democrat, but defend ‘liberal-democracy’ with all its inherent tensions and also its restraints to an unqualified ‘democratic engagement with religion’ (see above for my criticism of the neglect of these tensions by Berg-Sørensen; ‘liberalism’ is not just the bad guy). (ii) I don’t understand the charge that I myself would plead for Rawlsian or any other liberal reason-restraints. In fact I have criticized them right from the start as incompatible with an extensive interpretation of the constitutional freedoms of political communication (Bader 1999:612-19), have repeated this in the book (109-11, 115-17) and elaborated my criticism in 2008. Religions are allowed to enter debate and politics on all levels, including foundational meta-narratives or ‘comprehensive doctrines’. The restrictions are that their ‘truths’ – as the truths of all other philosophical, scientific or scientific

knowledge-regimes – are treated as opinions when it comes to final democratic decision making. (iii) She also suggests that I would be “indebted to classical liberal dualisms and depoliticizing techniques” (R 39) whereas she acknowledges at the same time that I have extensively criticized all of these dualisms (see 1999: 598-603 and book 307, note 1), particularly the famous ones of ‘private’ = voluntary and free of ‘power’ and ‘authority’ versus ‘public’ = democratically legitimate domination. Her charge, hence, has to be qualified and is rephrased as pertaining to my insufficient treatment of the ‘distribution of intimacy’ (point 2), of ‘governance’ (point 3) and, particularly, of the ‘state’s role in the production of religious truths’ (point 4).

2.

“Intimacy for whom?” or “how does AD distribute religious intimacy?” (R 37f). In chapter 4 ‘Religious freedoms and other human rights, moral conundrums and hard cases’ I discuss the need as well as the limitations of state-interference with religions and faith-based organisations. Negative religious freedoms should prevent state-intervention into the core of religious beliefs and practices except in cases when basic rights of practitioners (vulnerable minorities and dissenters) or outsiders are violated (4.4 and 4.5). Positive religious freedoms require legally equal treatment of all religions and may require also more substantive equal or even-handed treatment (4.1). Then I address conflicts between individual freedoms and associational or collective religious freedoms proposing to distinguish between different types of religious majorities and minorities, and between issues (4.2). In more detail, I claim that any discussion has first to acknowledge these tensions: that an unqualified shield of ‘privacy’ or an unlimited claim to ‘deference’ and ‘Free Exercise’ – preventing any state-intervention – is an uncritical and untenable ideology; that we have to distinguish between religious core-organisations, faith-based organisations, and religious political parties (and also between FBO’s in education, in care and healthcare, in social and welfare services); and that the following criteria allow a more productive discussion of the relevant tensions: (i) religious or economic organisations? (ii) central versus

peripheral activities to faith? (iii) whether outsiders are unduly disadvantaged? Furthermore, one has to be quite explicit about the dangers of public scrutiny and financing (4.3). Rosenthal picks up my criticism of an unqualified ‘shield of privacy’ (142f; see note 9 for feminist references), sharing my argument that religious practices need some “protection against overly ambitious states” (and, I may add, also other non-state actors) and rightly focuses on one crucial issue: “Which believers can enjoy the benefits of non-infringement (or better, because my non-infringement-proviso refers to a completely different problem, of non-interference – VB) of this way of constructing the religious domain?” (R 37). If I understand her correctly, two issues are pressing: First, the well-known majority-bias in definitions of religions – strengthened by corporatist regimes that massively privilege old and large over new and small religions – but also at stake in my proposed associational governance. Second, the “exclusionary tendencies of associative democracy” (R 37). Rosenthal admits that I acknowledge the problem, that I resist utopian talk about full equality and complete inclusiveness (though she does not refer to my extended realist discussion of functionally necessary thresholds for representation and increasing selectivity in chapter 8, 226f, 238-44), and that I put a lot of weight on “institutional remedies to counter such biases” (R 37). What I do not understand is her wondering “whether his analytical framework is rich enough to render up these exclusions for debate and contestation” (R 37). She gives no substantive arguments, but her worry clearly has to do with my concept of religious governance.

3.

‘Governance’ and the implicit, unacknowledged reproduction of power-asymmetries? Rosenthal acknowledges that a governance-perspective has many advantages, but raises two concerns: first, whether I would reproduce ‘libertarian’ ideologies about complete voluntarism: and, second, the absence of power-asymmetries on ‘the religious super-market’ (R 37f): “too easily identifies power with state action and fail to bring into view power-relations that structure the ‘free associations’ in the

supermarket” (R 38). This criticism is a bit self-contradictory because one of the advantages of the governance-perspective, according to her, is “its focus on a wide variety of power relationships” (R 37) among much more actors than ‘the state’ and ‘religions’. It is also evidently at odds with my analysis of structural power-asymmetries between religious majorities and minorities on these ‘markets’ and my related criticism of American Denominationalism, with my criticism of what I have dubbed the ‘sociologic of power-asymmetries’ (45) more generally, and also with my analysis of power-relations in all types of ‘regulation’ in governance-arrangements. So I do not see why all concepts of a market and of governance, nor why my own versions of these concepts would be prone to these charges.¹¹ The “shortcomings in the analytics of governance” (R 39) then would have to be limited and focused on Rosenthal’s major point of criticism:

4.

‘The alliances between the state and religious truth’ (R 38ff). Rosenthal, rightly, states that I did not pay much attention to the question of ‘how’ states are directly or indirectly involved in the ‘production of religious truths’ though I start my book with references to the role of the American Supreme Court in defining ‘religion’ (36f) and also address the role of scientists and professionals quite explicitly (99f). She also claims that my approach would lack an appropriate vocabulary to analyse this and recommends ‘governmentality’ approaches as an alternative (R 39f). Let me first address the *substantive questions* at hand. There can be no doubt that “a state that wants to accommodate religion has to legally (or at least administratively – VB) define religion, determine which religions will be recognized and, apart from legal practice, inspection and negotiations have some effects on the shaping of religious practice and doctrine” (R 6f; see book 8.3 for the dilemmas of institutionalisation for religions). I also frankly admit – and state myself explicitly – that “state-neutrality’ and “even-handedness” do not ameliorate this problem, a problem that is, again, sharpened the more ‘institutionalized’ religions become. What I’m mainly interested in is not ‘how’ states do this, but in

the normative issue of how they should do this. The Refah-case is a particularly miserable example, because the judges of the Turkish Supreme Court and of the ECJ (under the new presidency of the French republican Costa) massively violated any reasonable interpretation of both freedoms of religion and of freedoms of political communications. What judges should do is: (i) apply or develop as relationally neutral definitions of ‘religion’ without blurring any boundaries by too-latitude concepts untenable in exemption-cases (37); (ii) not interfere (as ‘alternative, external theologians’) in matters of religious beliefs and practices. If these norms and practices are contested and if there is an internally accepted decision-making procedure and hierarchy, they should not be overruled (examples of church-property disputes, 145f). This all should not be mistaken for ‘absolute deference’ because judges have to interfere in all cases of grave violations of basic rights of vulnerable minorities such as minors and women, and dissenters (no ‘full church autonomy’ but only within the constraints of minimal morality). If internal conflict resolution mechanisms and hierarchy is also challenged from within – if churches or FBO’s vie for/accept public money or recognized representation in negotiations and deliberations – then dissenting voices should also be represented (if they do not exit and/or form alternative organizations) and also publicly financed. (iii) If certain beliefs or practices are claimed to represent the hard core of religions and this is contested by others, then judges may also (have to) rely on alternative internal and external expertise, as is often done in cases such as those concerning whether physical punishment belongs to the normal, non-degrading or humiliating practices of tribes or should be seen as torture (see for the Columbian case: Hoekema 2001), or in cases of ‘honour killings’ (see Maris/Saharso 2003 and Renteln 2007). If they seek resort to e.g. ‘theological’ or ‘anthropological expertise’ they should stick to two principles: to hear voices from within and from the outside, and to the adversarial principle to listen to expectable contradictory or oppositional views. In addition: the judgement is theirs and they can and should overrule such advice if they have good reasons to do so.¹² It may or may not be the case that associational governance would lead to a proliferation of conflicts inside organized religions (though easier exit may

help to reduce such conflicts) and between “citizens and FBO’s”(R 39) and that “some of these citizens will end up in courtrooms where judges and experts have to decide whether religious norms have indeed been implemented in a consistent manner” (R 39), but I don’t see why the state would “become a lot ‘thicker’ in terms of religious knowledge production” compared to existing regimes. Relational neutrality and the representation of adversarial stake- and knowledge-holders, however, promise to contribute considerably to challenge illegitimate expertocracy both by judges and scientists. By the way, it still makes an enormous difference whether these issues are decided by different, rivalling branches of ‘the state’: administrations or by legislation and/or jurisdiction. Yet the main charge then would be that ‘governance’ “from the perspective of governmentality [...] is a project through which the state ‘acts on distance’: a type of government [sic! VB] that, first, constructs an autonomous domain outside of politics, such as the religious supermarket, and, secondly, manages this domain through coalitions between the state and truth practices of spiritual authorities and scientific expertise” (R 38, with Rose). This charge massively overestimates the ‘powers’ and ‘intentions’ of ‘the state’ – as if ‘shifts to governance’ would be the result only of voluntary and intentional state-policies – and calls all and everything ‘government’ instead of looking at the various ways and means of non-governmental regulation (amongst them ‘self-regulation’ by religious communities), and ends up with the typical anarchist distrust of all forms of regulation (‘disciplining’, ‘normalizing’) and all institutions, not only ‘the state’ who is, obviously, always the bad guy. When it comes to ‘vocabularies’ and ‘analytics’ of power-knowledge itself, I still happen to think that my approach to analyze discourse/articulation, structural power-asymmetries and strategies, is by far more detailed than anything you can find in the governmentality-literature, even compared with James Scott’s ‘Domination and the Arts of Resistance’.

Let me end with some more general remarks:

(i) Do we have to “develop metaphysical or ontological meta-narratives that might offer alternatives to predominant theistic, classical-liberal or

libertarian ontologies” (R 40) in political theory and, if so, which ones? (see also BS 31 and 32). Is my strategy of non-foundationalism a ‘liberal’ “strategy of avoidance with regard to contentious issues”? Is my proposal to “displace secularism as a meta-narrative of democratic politics” not only, for sure, a “political intervention” but is it also “belying non-paternalist theorizing”? I don’t think so because, firstly, debates on ontologies and epistemologies are certainly not informative enough – the same ‘meta-narratives’ allow for quite competing political theories – and, most importantly, contests on this level might rather distract from instead of focusing on the important issues.¹³ A perfectionist praise of ‘pluralism and diversity’ or Connolly’s immanentist metaphysics, furthermore, is welcome in the choir of competing meta-narratives but is certainly too ‘thick’ and ‘contested’ to serve as a ‘foundation’ we all are supposed to agree with. Everybody is free to develop all kinds of metaphysics but it might be a good idea to focus contest on our understanding and interpretation of minimal, liberal, and democratic morality and the most adequate institutions and politics/policies because these are the most urgent issues and, sometimes and in this regard, ‘economizing disagreement’ is not such a bad thing. Displacing ‘secularism’ by ‘priority for liberal democracy’ is altogether different from introducing another ‘meta-narrative’; it is an attempt to get rid of a highly misleading one and, more radically, to redirect our debates away from meta-narratives. It cannot be against anti-paternalism but challenges philosophical paternalism, and it most certainly does not pretend a position of “the theorist as a spectator of politics” (R 40).

(ii) Do I “rely too much on a strategy that the theorist Rancière termed as ‘para-politics’: the attempt to solve exclusions that arise as a result of institutional government through institutional remedies”? This question leads right into the core of my disagreements with post-structuralism.

Isn’t there still something wrong with post-structuralism of all sorts?

Post-structuralism as a *political theory and strategy* still bears all the marks of anarchist ambiguities. It seems as if it is still opposed to ‘disci-

pline’ and *‘regulation*’ as such. If we acknowledge that we cannot do without discipline, wouldn’t it be a good idea to distinguish and discuss whether we ‘discipline ourselves’ or are disciplined by others? Do the different forms and mechanisms of discipline not matter normatively? Post-structuralists seem still to be opposed to ‘the *state*’ and all *state-institutions* in particular. Wouldn’t it be a good idea to discuss whether the state is not only one of the main causes of ‘our unfreedoms’ but also, as a possibility and in certain degrees, the guarantor of our freedoms? (see Lamba 2008 with Scott 1998). Is the absence or weakness of states preferable and not the ultimate nightmare? Do the huge differences in the structure and mode of operation of state-institutions and politics not matter in a normative perspective even if all ‘regulate’, ‘discipline’, ‘normalize’ and ‘exclude’? Poststructuralists, it seems, are also *opposed to all alternative institutional designs* and proposals as well,¹⁴ including all varieties of democratic governance that recommend high degrees of voluntarism, of democratic self-governance etc, because they also ‘regulate’ and ‘exclude’ and are, in the final instance, backed by ‘violence/force’. Shouldn’t we distinguish between morally legitimate, always contestable, forms and mechanisms of regulation, exclusion and violence/force? If they don’t, the actual practices they – implicitly or explicitly – propose are in danger to remain *submissive politics*. Unconditional trust in ‘civil society’, in NGO’s and SMO’s does not even see that they need ‘governance’ and ‘government’-institutions in order to be effective and partly realize their aims. It is also self-contradictory because ‘unorganized’ movements are also rife with internal, often democratically quite illegitimate power-asymmetries, and individuals that do not join movements are condemned to powerlessness (‘individual voice is noise’) and movements that do not build SMO’s and NGO’s are not only fluid and in permanent change but also highly ineffective.

As a *social-science analysis* of ‘secularism’ (as an institutional and knowledge-regime) and, more generally, of ‘power’, ‘violence’, ‘exclusion’ or ‘domination’, poststructuralism often remains rather declamatory and lacks sophisticated conceptual and theoretical tools – e.g. in distinctions between exploitation, domination, discrimination, exclusion, marginaliza-

tion and the respective mechanisms of their reproduction in order to be able to describe and explain the overlaps and changes of these structural inequalities or power-asymmetries (see Bader/Benschop 1989). Post-structural studies of *‘truth-power*’, even long after Foucault, seem still not to distinguish clearly between ‘discourses’, ‘institutions’, and actual policies (briefly: Bader 2007). While bringing ‘agency’ back in, they still lack the analytical and methodological tools (see Bader 1991:164-215 and 294ff), and hence detailed empirical studies of the (degrees of) ‘predominance’ of ‘hegemonic discourse(s)’, instead of just assuming predominance and, by this, contributing to make them more predominant than they actually are (Scott and Tully are praiseworthy exceptions).

As a form of *social criticism* poststructuralists still engage in ‘liberalism’-bashing and criticism of all ‘morality’ without ever explicating their own normative criteria. This leads to a constant, unacknowledged shift between empirical and normative arguments, to rampant cryptonormativism and, eventually, also to a self-defeating type of ‘critique’ as either completely ‘immanent’ (a strong contextualism and relativism), or as digesting the moral sources or consuming the roots of the tree from which they try to criticize all and everything.

These are the most general, rudely stated worries and reasons why I bracketted post-structuralism not only throughout my book but also more generally in my writing.

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¹ Luhmann’s code immanent/transcendent is definitively not restricted to ‘monotheistic religions’ and it does not make any sense to replace it by a ‘religion-internal’ code (Peter Beyer) when distinguishing religion from other systems of communication.

² See for the much longer, unpublished version of my chapter 1: <http://home.hume.uva.nl/oz/badery>

³ See Steve Bruce for a sober criticism, but also Linda Woodhead's critical assessment (2007); WRR 2006 for the Netherlands.

⁴ e.g. "Bader reconceptualizes the normative ideals and *liberal* principles of a *democratic* regime in terms of a *minimal* morality" (p. 2 my italics). In my view, states with liberal-democratic constitutions are not only constrained by minimal morality, but also by liberal and by democratic morality, and all three are different from Connolly's morality or 'ethos' of pluralism. Furthermore, "moderate universalism, embedded impartiality, relational state-neutrality and fairness as evenhandedness" are not "four articulated principles of minimal morality": the first two are methodological advices, the second two are second-order principles guiding our interpretations of first order principles and rights.

⁵ Connolly also cannot avoid the strategy of 'replacement' of principles by 'virtues': see my criticism of his "hope of ethical cultivation" (3) at 327f, note 1, neglected by Berg-Sorensen.

⁶ By the way, my claim that "without moral backing, political and legal obligations would inevitably be weak" (80, quoted BS 2) is an empirical claim disconnected from my defense of moral minimalism.

⁷ Particularly, if one takes my 'priority of democracy' over 'theories of democracy', of 'rights' versus 'theories of rights' into account (109f).

⁸ Chantal Mouffe also avoids to answer the question why we should be in favour of 'agonic democracy' instead of agonic other things. Fairly exceptional in this regard among post-structuralists are Tully and partly Connolly, the reason why I deal with their contributions in my book.

⁹ See Bader 1991: 348-54; see excellent criticism of Lindahl and Agamben in Schotel 2008.

¹⁰ *Replacement* of the normative issue whether, and if so how, liberal democracies should be 'secular' by the empirical (descriptive/explanatory) questions of how and why

different knowledge- and institutional regimes of secularism emerge, exist, change in different countries and contexts (as in the studies by Asad, Shakman-Hurd and others referred to in BS note 3). See Rosenthal: "what secularism *does*" (R 1) and the following how-questions.

¹¹ Different from these conceptual and empirical issues, however, are the normative questions whether we should adhere to voluntarism, 'free association' and 'self-organisation from below' (R 8, see chapter 8, 238). In this regard I'm clearly a committed 'libertarian' but also propose to remedy its blind spots by trying to increase actual freedoms of entry, as far as this is possible and, particularly, to provide also meaningful exit-options instead of only exit-rights, as important as these are.

¹² Associative democracy and moderately agonistic democracy provide the best solutions to issues of contested power of expertise and expertocratic knowledge-production more in general, see Bader 2003.

¹³ This is the reason why I do not try to sell my preferred critical realist ontology and epistemology in my book (see Bader 1999: 619, 629f).

¹⁴ This anti-institutionalist bias is also shared by Latour and his Dutch followers Marres 2005 and Dijstelbloem 2008 in their exclusive promotion of 'issue-politics'.