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Interview with Cécile Laborde
Anna Blijdenstein

Political theorists have only quite recently started to reflect on their use of the concept 'religion'. They often do so in response to critiques pointing out liberal theory's unsatisfactory and partial construal of this concept. The liberal secular approach to religion is, these critiques argue, strongly influenced by its use of a specific *definition* of religion as something that is 'private, voluntary, individual, textual, and believed' (Sullivan 2005, 8). Many critical scholars draw attention to the specifically western European historical trajectory in which a modern notion of religion took shape. Reflecting on the concept of religion has thus led to an interest in the genealogy of that concept and in that of related liberal ideals such as 'freedom of religion' and 'separation of church and state' (See for example the works of Asad 1993, 2003; Mahmood 2015; Sullivan 2005, Hurd 2015; Danchin 2008).

In *Liberalism's Religion* (2017) Cécile Laborde presents a profound and nuanced response to these challenges. Laborde, who currently holds the Nuffield Chair of Political Theory at the University of Oxford, was previously a Professor of Political Theory at University College London where she founded UCL's Religion and Political Theory Centre (RAPT). RAPT was the home of the research project 'Is Religion Special? Secularism and Religion in Contemporary Legal and Political Theory,' (2012-2017) funded by the European Research Council. Her most recent

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book is a result of that project and a thorough reflection on the project's main questions regarding the unique status of religion in western law and politics.

Western states and legal systems single out religion as something that deserves special treatment. States grant special protections to religious beliefs which are not granted to non-religious commitments – e.g. rights to worship or legal exemptions from certain general laws. On the other hand, religion is also treated as something that needs to be contained. The constitutional principle of non-establishment identifies religion as something the state should keep itself separate from – e.g. by not subsidizing religious organization or banning religious signs in government buildings. While the principles of religious freedom and non-establishment can be interpreted in many different ways, western states and transnational legal systems generally treat religious beliefs, organizations, and individuals in a way that differs from the manner they treat political opinions, soccer clubs or art enthusiasts.

In her book and other recent publications, Laborde contributes to the active debate in which legal scholars and philosophers question whether religion's special status is compatible with the state's equal treatment of religious and non-religious citizens (e.g. Boucher and Laborde 2014; Dworkin 2013; Laborde 2014; Leiter 2013; Nussbaum 2005; Schwartzman 2012). Laborde builds on the work of liberal egalitarian scholars who argue that religion should only be protected as 'a subset of a broader category of respect-worthy beliefs and activities' (Laborde 2017, 42), but is critical of the way these authors analogize religion using broad and vague categories such as 'comprehensive doctrine' or 'system of personal ethics'. She instead aims to 'to revise the liberal egalitarian theory of religion and the state, providing a more complex picture of what religion is *like*, by identifying an array of politically or legally-relevant dimensions of religion' (Laborde 2017, 12). In what Laborde designates as her 'disaggregation approach', she distinguishes different features of religion – features it shares with non-religious commitments, identities, and activities – and shows how they are connected to different liberal values. Laborde thereby also steps away from those critical scholars who state that delimiting the 'religious' in an objective non-biased way is simply impossible and who claim therefore that 'religion' is not an appropriate legal or political category at all (see Sullivan

2005; Hurd 2015). By taking seriously the critiques which point out the ‘historical embeddedness’ of liberal thought on religion, and by constructing a theory that is responsive to such challenges, she brings the debates on religion’s special status to a new level.

Before the publication of *Liberalism’s Religion*, Cécile Laborde had already published extensively in the areas of liberalism and religion, state secularism, tolerance, and immigrant integration. She also worked on the broader topics of theories of law and the state, pluralism, syndicalism, and on contemporary theories of nationalism, multiculturalism, secularism and global justice. In her 2008 monograph *Critical Republicanism. The Hijab Controversy in Political Philosophy*, Laborde explored the tensions between the French philosophy of state *laïcité* and the reality of Muslim domination in France by meticulously analyzing the arguments and discourses surrounding France’s 2004 ban on religious signs in schools. The book develops a theory of critical republicanism that challenges official interpretations of *laïcité* but reinterprets and upholds certain core tenets of republicanism. ‘*Liberalism’s Religion*,’ Laborde states, ‘takes on a broader view of western political theory than *Critical Republicanism*’. In it, her own preferred theory of critical republicanism is presented as one of several reasonable traditions of thought, falling ‘within the broad umbrella of liberalism’. Laborde’s latest monograph thus presents a meta-perspective on topics that already figure prominently in her earlier work. This time she does not primarily focus on the gaps that exist between norms and practice but points out internal tensions within liberal political theory itself – tensions that can be brought to light by closely analyzing religion’s place within the liberal tradition.

At a recent event in Amsterdam, Anna Blijdenstein sat down to discuss some of these themes with Cécile Laborde.

Anna Blijdenstein: Before starting the ERC project on religion and secularism you had already written about the topic of religion, for example in *Critical Republicanism. The Hijab Controversy and Political Philosophy (2008)*. What led you to pose the question ‘Is religion special’?

Cécile Laborde: I worked on religion before, and not only on the hijab controversy. I have also written about Islam in Senegal, religious exemptions, state *laïcité*, and immigrant integration. And I was just quite struck by the fact that the only concept people always took for granted was the concept of ‘religion’. It was always used as if it was quite clear what it was, a ‘thing’ that had to be dealt with or managed. This was particularly the case in the work of political philosophers. They – or maybe I should say we – employed an un-reflected-upon concept of religion that was also very limited. When pushed, we thought of religion as what John Rawls called ‘a conception of the good’. So we always worked with an analogy. Every time we said ‘conception of the good’, what we really had in mind was a religion, and every time we said ‘religion’ we had in mind something like a private conception of the good.

We talked about the separation of state and *religion*; the free exercise of *religion*, freedom of *religion*, but the term itself was never clearly defined. The more I thought about it, the more I wondered if all these concepts might not mean something different in different contexts. My starting point was that in the idea of the separation of state and religion, the notion of religion is quite a complex one, and is going to be different than in the context of questions of religious freedom. So that was the starting point of the project: to interrogate the concept of religion.

AB: You say that political philosophers, in particular, failed to reflect on religion. Did other, more reflexive disciplines influence your project?

CL: I found the lack of reflection particularly puzzling because other disciplines had worked on religion quite a lot. I wanted to bridge that gap. There are well-established British and American schools for the sociology of religion for example. Reading these mainstream sociologists has been very good simply to grasp the diversity of religious experiences and the richness of the vocabulary with which these authors describe a variety of religious experiences: from faith to ritual to collective identity. It was really about getting a sense of something a bit more complex than what political philosophers were working with.

And then there is a more critical school that I am also interested in: scholars, mainly influenced by Talal Asad and his followers, who take both a Foucauldian and post-colonialist approach to religion. This project is mostly critical of the categories of liberal modernity and state secularism. I am interested in both and wanted to see which criticisms political philosophy should take seriously and which were irrelevant to the work that we were doing. So I wanted to do that work: seeing if there was anything we should learn from traditional sociology of religion, history of religion, the comparative study of religion, and the critical, post-colonialist, Foucauldian views. I wanted to see how we should respond to them – by taking them seriously.

AB: You want to take these disciplines seriously but you also argue that not all critiques are relevant to the work political philosophers are doing. Could you explain this position a little further?

CL: I think the main criticism that has been coming from both quarters – both from sociologists of religion and adherents to the more critical school – is that political philosophers don't 'get' religion. They argue that philosophers are working with an empirically flawed concept, a too narrow, too restricted, too individualistic view of religion. And that this is not what religion *really* is. This is what I take to be the most interesting criticism and this is the one I am trying to formulate a response to.

The answer, however, is twofold. I want to disagree with the general idea that the law of liberal states should work with a concept of religion that accurately describes religion and religious experience as a whole. Capturing the whole of reality is not what the law should do. So it can't be a criticism in itself to say that we do not work with religion 'as it is'. The point of law is not to describe an empirical reality, but to capture the ethically or normatively relevant features of a phenomenon.

For this reason, I would agree that there is something a bit wrong with a law of freedom of religion that captures a very contested notion of *conscience* as the only relevant form of individual integrity. In so far as the law of freedom of religion

exists to protect dimensions of people's relationship to the world in a way that expresses their deeper integrity, then, of course, not only conscience-based religions do that. So I concede that liberal philosophy but also liberal *law* should have a richer notion of the ethically relevant dimensions of religion, one that protects not only conscience, but also the practices and forms of association people see as essential in living by their ethical commitments and projects. I introduce the notion of integrity as the normative value that stands for religion in freedom of religion cases. It is this value that the law should aim to protect in cases of free exercise. But when we think about why there should be a separation between state and religion, I think the law picks out a different ethically salient dimension of 'religion'. So the question of state secularism is a much more complicated story.

AB: Do you think that religion poses a specific problem for liberal-democratic states? And is secularism the most suitable term to describe the relationship between religion and the state?

CL: In my book, I pose the question of whether liberal legitimacy requires secularism – or separation between state and religion – and if so, which form that separation should take. I argue that the best way to answer this question is to 'disaggregate' religion into four constituent elements, and I argue that the liberal state is secular in four distinct senses. I identify four different features that, when a religious organization or conception has them, the state should not endorse, enforce, or establish. When religion does not exhibit these features, it is perfectly okay for a state to be 'religious' in that sense. There is a case for the separation of religion and the state, and it is in virtue of certain features that some religions might have, but that might also be shared by non-religious identities or conceptions.

AB: Could you describe these four senses in which a state should be secular?

CL: The first feature is about *epistemic justification*. Some people argue that religious arguments are *always* illegitimate in the public sphere but I disagree with that. I think there is a large scope for all kinds of religious arguments in the public

sphere, and certainly citizens are under no obligation to refrain from using any argument they wish. To be clear, for me, a ‘secular state’ means that it is the *state* that should be secular, not the citizens. This view of secularism differs greatly from other well-known versions such as French *laïcité* in which everybody has to be secular, including ordinary citizens, including girls wearing hijab in a public school. As you know, I have written against that view. However, I do think the state and its officials have a duty of restraint in the expression of their religious beliefs.

Now, this does not mean that an official cannot make reference to her deeply held ethical or religious belief. It is an epistemic criterion, and by that, I mean that it is a criterion of *accessibility*. The state, when it justifies its laws, should appeal only to reasons that are epistemically accessible. Other people can understand them, even if they don’t agree with them, so they can be the object of public debate. If you put it that way, you can see that many religious views and ideas are not epistemically inaccessible. There are lots of things about religion that communicate meaning and can be understood. And you can also see that many non-religious ideas are epistemically inaccessible. So religion is not special in that sense. So that is my first criterion. The state is secular in so far as state officials do not appeal to epistemically inaccessible reasons. This is what I call *justificatory secularism*.

The second relevant feature of religion is that it can signal an identity that is socially divisive. When we think about what is wrong with a state enforcing and endorsing a religious identity – what’s wrong with the establishment of Christianity, Islam or Judaism by a state – it’s that it makes non-members of those religions into second-class citizens. If you live in a state that is openly Christian and you are not Christian yourself, then you might think you are not an equal citizen. So that is the second criterion, *civic inclusiveness*. These cases where the endorsement of one religion causes the people who do not belong to feel excluded, highlight a different dimension of religion, the dimension of religion which makes it a possibly divisive identity. Here religion is much like race or gender: the reason we don’t want a religious state is the same as the reason why we don’t want an ethnic state or an apartheid state. But of course, not all religions are socially divisive in that way. So this criterion, in a different way from the others, is a contingent, context-

specific one. An example I often use is Senegal, a country with a 90 percent Muslim population. The state endorses symbols of Islam in its institutions. I don’t think that this is problematic because people in Senegal, including Christians and atheists, do not see Islam as a socially divisive identity. In that particular context, the endorsement of Islam by the state is fine. I have a different view of countries like Egypt and Turkey where religion is clearly politicized and you cannot really say religion is a non-divisive identity.

A third reason we think the state should not enforce religion is that we believe that many religions seek to regulate the whole of our lives. They want to regulate what we eat, whom we sleep with, how we dress, what we do with our bodies and our lives. Now it’s perfectly fine for religions to do that. But a liberal would think it wrong for the state to endorse or enforce any of those particular religions because it forces one into living a comprehensive life, which is not the one you would have chosen for yourself. That is a very basic liberal idea of *personal liberty*. And here peeks out a third dimension of religion which is that religion is a comprehensive system of ethics. And again there are other comprehensive systems of ethics, religion is not the only one, but a liberal state is a non-comprehensive state. On the whole, a secular state would let people decide how they want to lead their lives.

I will go to the last one, which is the most fundamental one. The state is secular, the fourth sense of secular, when it is *non-theocratic*. This idea, which may sound a bit simple or obvious, but it goes to the heart of secularism, has to do with sovereignty. Who has the final say in the state? Who decides what pertains to personal liberty, and what does not? Who decides on what goes where? The ultimate source of legitimacy in a democracy has to be the *demos*. There is no alternative unless you think we have to refer to the will of God. I don’t think of the *demos* as a general will, Rousseau style. It might be a pluralist *demos*, but in the end, the only way we can make decisions is together collectively and democratically.

AB: Veit Bader argued that the notion of ‘secularism’ or the ‘secular state’ should be replaced by ‘priority for liberal democracy (2007)’. Your disaggregation approach also seems to identify specific values a liberal state aims to protect. Why do you

find it necessary to hold on to the notion of the secular?

CL: I believe our projects are not dissimilar. Like Veit Bader, I am trying to understand the normative logic of liberal institutions. But what I try to show is that at the heart of liberal constitutionalism there is a political-religious conflict. The western liberal state emerged out of the crucible of the European religious wars in the 17th century. To understand where we come from, and the kind of problems the liberal state has to solve, or thinks is trying to solve, we have to understand the concept of religion that for me underlies the very liberal democratic order. What Bader does is similar to the other theories I engage with in my book. Like other liberal egalitarians, such as Ronald Dworkin, Christopher Eisgruber and Lawrence Sager, and Charles Taylor and Jocelyn Maclure, he wants to dissolve religion into a broader category of the good. I want to do more disaggregative work. Like Bader, I think one should not say that ‘the state’ should separate itself from ‘religion’ in general. However, one should explain which dimensions of religion it should separate itself from.

Some liberal pluralists like Bader would say that the state is just a framework, a neutral framework for the accommodation of difference. I disagree with that. I don’t think the state is neutral in that sense. When the state says that individuals are sovereign in the domain of ethics, it really takes a position against some religious views. And that is not a neutral stance at all. Many religious people are right to say “hang on, the state is not neutral when it says you have a right to an abortion” for instance. I want to say they are actually right to say “for us, abortion is murder, so allowing it is not neutral”. They are right because liberals always prioritize what, following Dworkin, I call ‘ethical independence’: the idea that we are always responsible for what we do with our lives and will always prioritize this over other goods, be it the family, unborn life or marriage. These are important goods but, on the liberal view, you can only pursue them privately, the state should not promote them itself. But by not abstaining from taking a view on say, whether the fetus is a person, the liberal state is clearly not neutral about the good.

Bader might argue for a more neutral framework of accommodation. I have a more

robust view of what the liberal state is. The state is not a neutral arena, the state promotes a particular view of the person. This is a thin view, it is not a comprehensive view, of the person as free. This gives us an answer, a response to religious critics of liberalism. But again, it is a response that is a concessive one: I agree with their critique of many of the liberal claims to neutrality. I think they are right to tell us that liberalism is not neutral, and I think that we should bite this bullet.

AB: Is this fact of non-neutrality a reason for the extensive accommodation of religious groups and individuals?

CL: That is possibly the case. I don’t take a position on that in my book. I am interested in the justification of the liberal state and how it justifies itself in relation to religion. Which particular policies it would then implement towards religious groups is a completely separate question. Politically, I might agree that there would be quite a lot of state support that should be channeled towards various religious institutions. But there would be a separate justification for that. For me, it would be in the name of freedom of association, or in the name of rights to education or healthcare. These are secular goods the state provides and it would support religious organizations so they can help provide these goods. I don’t think the state should provide or help provide directly religious goods.

I also believe that when a religious group engages in activities like teaching, healthcare, or commercial activities and wants to be exempted from anti-discrimination law in the name of freedom of religion, the state should be critical. They might say: “hang on, we are a religious group. When we run schools and hospitals or when we have businesses, for us these are *religious*. Our businesses are Christian, our teaching is Christian, so please can we get an exemption from Obamacare?” The state should come in and say “actually, you are not entitled to claim religious freedom in this case”. Jean Cohen has written about the case in which *Hobby Lobby Stores* were exempted, on religious grounds, from having to implement a healthcare plan for employees which included contraceptive methods (Cohen 2014). When you operate in the marketplace I think you should be treated like any commercial organization.

AB: Do you believe that to be true for schools as well? Should they not be exempted from anti-discrimination law to be able to employ teachers that adhere to a specific faith?

CL: Schools are a harder case because some schools indeed have a right to teach religion. But when you are teaching a secular subject to children who are not of the faith, this is quite far removed from the core purpose of the religious association. The problem is that these organizations might have hundreds of employees. Many of them are not members of the church and the people they teach might not be members of the church.

In the end, where the boundary lies between what is properly religious and what isn't is going to have to be democratically decided. This doesn't mean it will not be on the side of religious groups. In a society that is very religious or that prefers religious provisions like the Netherlands, it might mean that democratically – and judges might follow that view – it may have an expansive view of what counts as religious. My point is ultimately this is what democratic communities must decide for themselves.

Another way of putting it is that this is not a human rights matter, not something that can be decided universally for all societies. It can't be defined prior to democratic deliberation and it cannot be decided by assessing the content of the doctrines religious organizations adhere to. These can never be the ultimate source of legitimacy. There has to be a democratic discussion, and each society decides what should be considered as a proper exercise of religion and what isn't. This is what I mean by the fourth dimension of secularism. The *competence-competence* lies with the *demos*.

AB: There has been a change in European societies to see minorities as 'religious' minorities instead of ethnic or racialized, especially when it comes to Muslims. In some cases, it might be useful for minorities to be put into a religious category and in other cases not so much. Could you share your views on this?

CL: Many Europeans 'discovered' religion after 9/11. They discovered there was a religious problem in the wake of a particularly violent episode of Islamic terrorism. And then many of the issues related to immigrant integration started to be described in terms of a conflict of civilization between Islam and the West. The idea took hold that Islam is fundamentally anti-secular and anti-democratic and that there is a fundamental incompatibility between religion and liberalism. I want to look at the much more complicated relationship that liberalism has with that 'thing' that we call religion. This is what I want to push on. I want to provide clarity about which bits of religion should be protected, and which bits of religion the state should be protected from. Now we just bundle all these issues together.

If we feel clearer about these two main things, the non-establishment side and the free exercise side, hopefully, we can relax a bit about the Muslim question and realize there is no such thing. So I hope my approach disentangles what is too often perceived as a 'Muslim problem'. In fact, some issues discussed in these debates have to do with civic exclusion, others with religion as comprehensive systems of ethics. Some forms of Islam are indeed quite comprehensive, in the sense that they regulate norms of social and personal life in a manner a liberal state would not do. I am hoping that instead of seeing it as a problem with Islam or as a religious problem, we can identify the different kinds of issues at stake and show that for every issue there is no specificity for Muslims. It is actually a whole set of different problems about education, about the norms of public debate, about equality and about different European societies going their own way. So I am hoping the book can provide a kind of map for thinking about these problems, not in isolation from other problems and not as specific to Islam as a religion.

AB: Is discussing religion as vulnerability class, as you do in your article 'Religion in the Law: The Disaggregation Approach' (2015), a way to show how religion is connected to other categories?

CL: When I call it a vulnerable class, I show that religion can be very much like race, sexuality or gender. It can be a way to be defined through the eyes of others, a third-party identity. And in that way, it can be an obstacle to equality. I have

discussions with my liberal friends who say “oh, religion is not at all like gender! And it is not like disability!” And no, of course, religion as an experience is not similar to gender or disability. But when you look at what it is like to be discriminated against, whether it is on grounds of religion, disability or sexual preference, it can be exactly the same thing. Of course being disabled is different from being a practicing Jew. The category ‘vulnerable class’ doesn’t say what religion is for the people who experience it. It is just that if you want to look at certain political and legal problems like discrimination, discrimination on grounds of religion is not so dissimilar from discrimination on grounds of disability. It is about forms of animosity or hostility that block access to equal opportunity. That is my formal definition and if you take that to be discrimination, there are many things that can stand in the way of equality and can be grounds for discrimination.

AB: Even though you are disaggregating, the focus of your book is still on religion, even though it is pulled apart. One could also argue other perspectives are more productive at this point. Post-colonial or migratory perspectives or those departing from the history of race might shed new light on issues that are now continuously examined through a religious-secular framework.

CL: I agree there are different paradigms to understand the current European paranoia. One of them is post-colonialism and another one is race theory, and I believe these are both very fertile. I am still interested in religion for the following reasons. When I finished my book on Republicanism, that is really where I left it: I had presented my view on the debates about Islam in Europe. And then I spent a year in Princeton and got involved in U.S. debates. There, the European categories – of minority exclusion, problems of integration, etc. – are completely inoperative. When the debate is about autonomy for Christian associations in how they deal with women’s bodies, homosexuality, abortion, and sexuality, it *is* about the scope of religious autonomy. I don’t think the categories that do the explanatory work in Europe can do the same explanatory work there. So, if that’s the case we could say that the U.S. is completely different, which I don’t think is correct, or we could say that there is a blind spot within liberalism in how it thinks about religion. And that will be *one* of the facets of the Muslim question. Maybe not the main one, I

agree, but if you want to understand the connections between European and U.S. debates I think they have to do with “the knot” of liberalism and religion. And that is what my book is about.

It was easy for the left in France and Europe, for all of us, to identify how we feel about the European obsession with Muslims. Quite clearly it is deeply problematic. It is connected to very problematic strands in European history. I think it was quite easy to see where we stood in these cases. I was more interested in cases in which I did not know where I stood. Whether to side with rights of the small religious group to be autonomous. Or whether to side with the dissident – the woman, or the LGBT person – within such an association. For the Left, for people who are thinking about these issues within a progressive, emancipatory framework, it is not as easy to take sides. That is why I loved being in the U.S. because these are harder cases to think about. Back in Paris, the kind of things the French go on about in the name of *laïcité* – whether women should be allowed to wear this or that – seem insignificant compared to what is at stake in the U.S. debates where you have large-scale denial of women’s rights. Not by small dominated minorities, but by very large, very powerful Christian majorities.

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Biographies

Anna Blijdenstein

Anna Blijdenstein is working as a PhD researcher at the department of philosophy and as a core tutor in Politics, Psychology, Law and Economics (PPLE) at the University of Amsterdam. Her research project explores how the 'remaking of religion' in European Enlightenment thought was connected to representations of Judaism and Islam. It then discusses what this conceptual history of religion within liberal thought means for contemporary normative political theory on state religion relationships. Her research is part of the NWO-funded project *Critique of religion and the framing of Jews and Muslims in Political Theory and Public Debate*.

Cécile Laborde

Cécile Laborde holds the Nuffield Chair of Political Theory at Oxford University. After studying political science in France, Cécile Laborde obtained a DPhil from Oxford University, where she was a Rhodes Scholar. Before joining Oxford, she was a Professor of Political Theory at University College London and held permanent posts in political theory at King's College London and the University of Exeter. At UCL she founded the Religion and Political Theory Centre (RAPT). Laborde has published extensively on the topics of, liberalism and religion, republicanism, theories of law and the state, and global justice. She has published five monographs and has written articles in major journals of political science and political theory. Her publications include *Pluralist Thought and the State in Britain and France* (2000) and *Critical Republicanism. The Hijab Controversy in Political Philosophy* (2008). Her last monograph, *Liberalism's Religion*, was published by Harvard University Press in 2017.