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Religion in the public sphere of a pluralistic society
The South African attempt
A Reformed perspective

1. Introduction

The debate about the place and role of religion in a pluralistic society is and remains very acute in many countries around the world. The question can also be formulated by asking how different worldviews and life experiences can live, interact and dialogue in the same public sphere. To try to answer the question two concepts need closer attention, that of the "public sphere " and that of "religion". The role that a Charter of Religious Rights and Freedoms can play to help a variety of religions to live in the same public sphere is presented and discussed as a possible answer for the South African Society and perhaps also for other societies although they will have to develop a charter of religious rights and freedoms that meets their specific context and requirements.

2. Public Sphere and Religion

According to Nick Crossley and John Michael Roberts, the concept of 'public sphere', 'public opinion' and the 'public use of reason' have a long and complex genealogy. In recent years Jürgen Habermas' work on *The Structural Transformation of the Public Sphere* has set the agenda for much of the debate on this issue (Crossley & Roberts 2004:1). For Habermas traces of a new social order began to take shape with the emergence of early finance and trade capitalism. The public sphere as a new social space distinct from the state, economy, and the family, in which individuals could engage each other as private citizens deliberating about the common good (Mendieta & Vanantwerpen 2011:2), began to develop during the eighteenth century. It became known as the so called bourgeois public sphere, a "sphere of private people come together as a public; they soon claimed the public sphere regulated from above against the public authorities themselves, to engage them in a debate over the general rules governing relations in the basically privatized but publicly relevant sphere of commodity exchange and social labour. The medium of this political confrontation was peculiar and without historical precedent: people's public use of their reason." (J.Habermas 1991:27). Soon this public sphere explicitly assumed political functions in the tension-charged field of state-society relations. This meant that the control of the public sphere was wrested away by the critical reasoning of private persons on political issues (J.Habermas 1991:29). The public sphere was a sphere of reason giving "a realm in which reasons were forwarded and debated accepted or rejected". Nominally the public sphere was an indefinitely open space in which all reasons could be accepted that could meet the assent of all participants. In this way, while the state monopolized coercion, the public sphere became the social space in which all force was transformed into the coercion of rational deliberation – what Habermas would later develop as the "unforced force" of the better argument (Mendieta & Vanantwerpen 2011:3).

Habermas was criticized for paying too little attention to religion in *The Structural Transformation of the Public Sphere*. In his 2008 publication *Between Naturalism and Religion: Philosophical Essays* he acknowledges that "Two countervailing trends mark the intellectual tenor of the age – the spread of naturalistic worldviews and the growing political influence of religious orthodoxies" (Habermas 2008:1). He sees the two conflicting trends as rooted in opposed traditions. "Hard" forms of naturalism are implications of the Enlightenment's uncritical faith in science while the political reawakening of religious consciousness is a break with the liberal assumptions of the Enlightenment. The conflict is not just a clash at the level of academic controversies it is also a clash of powerful political forces both within civil society of the leading Western nations and at the international level in the encounter between the major world religions and the dominant global cultures (Habermas 2008:2; see also Huntington 1993:22). He concedes " - that the major world religions belong to the history of reason itself. Post-metaphysical thinking misunderstands itself if it fails to include the religious traditions alongside metaphysics in its own genealogy." (Habermas 2008, 6). "Even today, religious traditions perform the function of articulating an awareness of what is lacking or absent. They keep alive a sensitivity to failure and suffering. They rescue from oblivion the dimensions of our social and personal relations in which advances in cultural and social rationalization have caused utter devastation. Who is to say that they do not contain encoded semantic potentialities that could provide inspiration if only their message were translated into rational discourse and their profane truth contents were set free?" (Habermas 2008:6). In his essay *The Political* (2011) he agrees with Schmidt and Lefort that the sovereign power of the king has been dissolved, disembodied and dispersed leaving behind an "empty place". But in the course of its democratic transformation "the political" has not completely lost its association with religion. In democratic discourse secular and religious citizens stand in a complementary relation. Both are involved in an interaction that is constitutive for a democratic process springing from the soil of civil society and developing through the informal communication networks of the public sphere." (Habermas 2011:27)

Silvio Ferrari is of the opinion that in the debate on religion in the public sphere too little attention has been given to the contribution that religions have given, either conceptually or practically, to the formation of the public space, the way they conceive it and the inputs they can offer to restructuring it in terms that are appropriate to contemporary society. For him, "this gap needs to be filled because any proposal for the re-organization of the public space implies the knowledge of how this matter is conceived (also) by the different religions that inhabit it." (Ferrari 2011:1). After having posed the necessity of the contribution of religion for the reorganizing of the public space, Ferrari poses the critical question whether the current European notion of the public space is not indebted to the concept of public space implicit in the Christian religion, "that has played a dominant role in Europe since when this geo-political category came into existence." (Ferrari 2011:1). From a Reformed point of view this is indeed a very important question.

This article is about *Reformed Perspectives on Religion and the Formation of the Public Space*. In order to explain the contribution of a Reformed perspective in this regard attention will be paid to a Reformed understanding of the Kingdom of God, Religion and Freedom of Religion, Principled Structural and Religious Plurality and the task of the State, to conclude with a paragraph "From the History of Church and State Relations" turning to the South African attempt to help religions and society to form a public space in which a plurality of religions can live together in peace. Some concluding remarks will be made at the end.

3. THE KINGDOM OF GOD

From a Reformed perspective the Kingdom of God forms the primary context for the whole of creation, individual and society, religion and state. The Dutch theologian, Herman Ridderbos (Ridderbos 1978:1), calls the Kingdom of God the most theocentric concept that Scripture offers for our understanding of the creation, humanity, the world and current and future times. God's Kingdom and the Lord Jesus Christ's royal sovereignty comprise the whole of creation. Where Christ's kingship is recognized, something of the Kingdom becomes visible; individuals are liberated, and the entire pattern of their lives is transformed (Ridderbos 1960:303). Every part of creation forms part of God's Kingdom and, although a specific individual, society or state often does not acknowledge God's sovereignty, it nevertheless, according to a reformed perspective, is and remains a part of the kingdom of God.

One of the biggest legacies of John Calvin, the Reformed theologian in Geneva, is that he succeeded in bridging the gap between the so called spiritual and temporal jurisdictions, the so called Kingdom of God vs. the Kingdom of darkness. Although he himself could not succeed in implementing this legacy in everyday life in Geneva he supplied the theological framework which reformed theology can offer today as a means to help to organise the public sphere.

In the first edition of the *Institutes* (1536) Calvin wrote "There is a twofold government in man: one aspect is spiritual, whereby the conscience is instructed in piety and in reverencing God; the second is political whereby man is educated for the duties of humanity and civil life that must be maintained among men. These are usually called the "spiritual" and the "temporal" jurisdictions (not improper terms) by which is meant that the former sort of government pertains to the life of the soul while the latter has to do with the concerns of present life. The one we may call the spiritual kingdom, the other the political kingdom. There are in man, so to speak, two worlds, over which different kings and different laws have authority" (*Institutes* 1536:524).

In these formulations one can hear Martin Luther's teaching on the two kingdoms and also Augustine's teaching on the City of God in contrast to the city of man (Greenawalt 2008:116-117). These views also form the deepest foundations of what was later used by the Enlightenment to refer religion to the private sphere of life and eventually establish a wall of separation between the state and religion.

In his later writings law and order became the categories that Calvin used to define the functions and interrelationships of moral, political and ecclesiastical laws and structures within both the heavenly and earthly kingdoms. In the 1559 edition of the *Institutes* Calvin in effect superimposed his own variant of the two swords theory of the Roman Catholic Church on the Lutheran two kingdoms theory. For Calvin it was God who governed both the earthly as well as the heavenly kingdom through His moral law. This meant that the church had a legal role in the governance of the earthly kingdom and the state had a moral role in the governance of the heavenly kingdom. For him there was now only the one kingdom of God. Obedience to church officials and church law was a spiritual and a moral duty just as obedience to political officials and political laws was a civic and spiritual duty (*Institutes,* 1559:4.20.4.1-4); Witte 2008:58).

By 1559 the moral law was for Calvin moral commandments engraved on the conscience of humankind, repeated in Scripture and summarized in the Decalogue (*Institutes,*1559,2.8.1). It is the norms created and communicated by God for the governance of humanity, for the right

ordering of individual and social lives. The Decalogue is the fullest expression of this moral law (*Institutes,* 1559, 2.7.1; 2.8.1; 4.20.15).

The view that God's moral law governs both the heavenly and the earthly kingdom had far reaching implications for both church and state. Both were now seen as legal entities each with its own forms of organization and order, its own norms of discipline and rule. Each was called to play a distinct role in the enforcement of Godly government and discipline in the community (Witte 2007:63). It also has profound implications for the way in which Reformed believers see society and the public space. With some Reformed thinkers exactly this idea of God's moral law governing both the heavenly and earthly kingdom led to what is discussed under point 5 of this article as *principled structural and religious plurality*. This implies that in the Reformed view the whole diversity of organizational competencies such as family life, schooling, art, science, politics, labour, economics, church/religion and the state etc. are all part of the kingdom of God and as such fall under the moral law of God. This view also implies that the religious or confessional plurality falls within the ambit of the kingdom of God and can as such legitimately claim a place in the public sphere. This is not a statement about the truth of a religion but about the principled place of all religions in the public place. This view on the moral law of God and its implication for the plurality in society as well as confessional or religious pluralism has its roots in the Calvinistic reformation of the sixteenth century and is a contribution that Reformed religion can offer to the current debate on religion in the public space of pluralistic societies.

4. Religion and Freedom of Religion

It can be said that most religions have systems of organization, certain structures of leadership, requirements for membership, structures for the functioning of their lay members, regular meetings where they venerate a deity and pray. They have holy places and holy documents which guide them in their life. Their practices can include sermons, commemorations, sacrifices, festivals, feasts, initiation ceremonies, funerary and matrimonial services, requirements for meditation, music, art and dance. Some religions place a very strong emphasis on belief while for others practice of the religion is very important. In some religions the subjective experience of the religious individuals is very important while in other religions the activities of the religious community are more important. Some religions see their views to be universal, believing their laws and cosmology to be binding for everyone while other religions are more focused on the practice of a closely defined or localized group. Some religions are closely associated with public institutions such as education, hospitals, family life, government and political hierarchies while other religions are more withdrawn from the public space. Religion is also seen to help people to deal with problems of human life by providing a set of ideas about how and why the world is put together, to help people through anxieties and misfortunes (Monaghan, John and Just, Peter; 2000, pp124). All of the above can be seen in the practices of different religions as well as in their official documents like their confessions of faith, their constitutions and documents of order and for instance also in their requirements for membership as well as in their requirements for leaders and office bearers.

Religion can also be described as something individual and communal, internal and external, private and public, permanent and transient (Witte 1996:xxiv). Although it is often difficult to give a definition of what religion entails the following guidelines regarding religion can be very helpful in determining what a religion is and whether it can claim certain rights or in certain aspects limit the rights of their members.

Seen from a *functional* point of view religion can be described as all beliefs and actions that concern the ultimate origin, meaning and purpose of life and existence. In this sense religion embraces the responses of the human heart, soul, mind, conscience, intuition, and reason to revelation, to transcendent values, to what Rudolph Otto calls the "idea of the holy".

When this functional dimension of religion is translated into an *institutional* dimension religion would entail *a creed, a cult, a code of conduct and a confessional community. A creed* defines the accepted cadre of beliefs and values concerning the ultimate origin, meaning and purpose of life. *A cult* defines the appropriate rituals, liturgies, and patterns of worship and devotion that give expression to the beliefs.[1] The *code of conduct* defines the appropriate individual and social habits of those who profess the creed and practice the cult. *A confessional community* defines the group of individuals, who embrace and live out the creed, cult, and code of conduct, both on their own and with fellow believers (Witte 1996:xxv).

There are a variety viewpoints on what freedom of religion entails (Vermeulen & Kanne 2004:76-77; Sap 2004:114-117; Blei 2003:2-3 and Van Drimmelen sa:199). International documents and declarations like the 1948 *Universal Declaration of Human Rights* describes religious freedom as follows: "Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance." (Van der Vyver 1996: Religious Perspectives, xxiv). This broad definition of religious freedom often has as a result that individual states and individual claimants define the boundaries of what freedom of religion entails. It is therefore necessary that a more precise description of what freedom of religion entails be given.

Firstly certain conditions must exist before there can be any real claim to religious freedom either by a country or any claimant. These conditions entail freedom of conscience; the right to the free exercise of religion; the recognition of religious pluralism; religious equality; the separation of church and state and the disestablishment of religion by the state (Witte 2000:37). Since 1994 these conditions exist in South Africa and are guaranteed by the Constitution so that it can be said that the possibility for real freedom of religion exists in SA.

Witte also points out that freedom of religion has both an *individual* as well as an *associational* character. Individuals have the right to formulate, deny, or change their religious beliefs and to act, speak, write and associate with others in accordance with them. "But religious associations too have rights to function in expression of their founding religious beliefs and values. Thus churches, temples and mosques have rights to organize, assemble, worship, and enforce certain religious laws. Parents and families have rights to rear, educate, and discipline children in expression of their religious convictions. Religious publishers and suppliers have rights to produce the particular products needed for their religious cultus. Religious schools have rights to educate and discipline children in accordance with the basic norms and habits of their religious traditions." (Witte 1996:xxvi).

Religious rights can be *asserted* against both state officials and other individuals or associations. The assertions of such a right will be governed either by public or private law. When rights are asserted against other individuals of the same religious community both the private law of the state and the internal law of the religious community may govern. A strong case can be

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1 "Cult" can also refer to certain religious or secular movements where the cult leader(s) seek to control their followers through the use of manipulative techniques. This meaning of "cult" is not implied above.

made for the preference of the internal law of the religious community if it can be shown that it stands on firm faith convictions although the respective jurisdictions of secular and religious law in these disputes have been subject of perennial legal and theological controversy (Witte 1996:xxvi-xxvii).

Religious rights can also be both *protective* and *affirmative*. They provide religious individuals and institutions with *freedom from* improper intrusions and prohibitions by government officials or by other citizens and groups on religious beliefs and actions. They also provide religious individuals and institutions *freedom to* engage in religious conduct, and to procure the means for such engagement. Witte calls this the *liberty* and *entitlement* dimensions of religious rights (Witte 1996:xxvii).

The *liberty dimension* of religious rights requires that the state accommodate the religious beliefs and practices of individuals and associations and exempt them from generally applicable laws and policies which compel them to act, or to forgo action, in violation of their religious convictions. This can mean that religious believers can be granted the right to conscientious objection from participation in war and the military or immunities from oath swearing, from work on holy days, from payment of taxes, or from participation in civic ceremonies and activities that they find religiously odious. Religious organizations can be exempted from property and income taxation, from zoning and landmark regulations, or from state prohibitions on religious, gender, cultural, or other discrimination (Witte 1996:xvii-xviii). It is necessary that religions give proof of the fact that it is in accordance with their religious identity to claim the mentioned liberties and with that the limitation of certain rights/liberties of their members such as for instance to limit the right of members for legal representation in the case of disciplinary inquiries.

The *entitlement dimension* of religious rights requires that individuals be allowed to exercise their religious beliefs privately and that groups be allowed to engage in private or collective worship. More fully understood religious entitlements embrace an individual's ability and means to engage in religious assembly, speech, and worship, to observe religious laws and rituals, to pay religious taxes, to participate in religious pilgrimages, to gain access to places of religious importance to them, like the graves of ancestors and the like (Witte 1996:xviii). For religious groups it means their right to promulgate and enforce internal religious laws of order, organization, and orthodoxy, to train, select and discipline religious officials, to establish and maintain institutions of worship, charity, and education, to acquire, use, and dispose of property and literature used in worship and rituals, to communicate with co-believers and proselytes, and many other affirmative acts in manifestation of beliefs of the institution (Witte 1996:xxviii).

Freedom of religion gives churches and other religious institutions the liberty to determine their own internal order in accordance with their faith identity.

These viewpoints from a reformed perspective can have a huge impact on the inhabiting of a public sphere by religions, especially if it is kept in mind that all the religions in the public sphere can claim all of the rights that are associated with freedom of religions and also that they are all equal before the law.

5. PRINCIPLED STRUCTURAL AND RELIGIOUS PLURALITY AND TASK OF THE STATE

In his work on *Ethics* Dietrich Bonhoeffer wrote: "In its unity which embraces the whole of human life and in its undivided claim to man and to the world through the reconciling love of God, God's commandment, revealed in Jesus Christ, confronts us concretely in four different forms which it alone unites: the Church, marriage and the family, culture and government. The commandment of God is not to be found where there are historical forces, powerful ideas and convincing perceptions. It is to be found where there are the divine mandates which are founded upon the revelation of Christ." (Bonhoeffer, 1955, 252 & 253). This is a very important insight from Bonhoeffer that the divine mandates are founded upon the revelation of Christ and that the plurality of mandates come from the revelation. It means that the plurality of social and religious structures do not stem from certain historical developments or from natural law, they stem from the revelation of Christ and find expression in the way man accepts the mandate of that revelation. In their book *Society, State, & Schools. A Case for Structural and Confessional Pluralism* Rockne McCarthy and his co-writers link on to the viewpoint of Bonhoeffer to argue that there is a rich diversity or a plurality of cultural tasks, sets of human relationships and spheres of social action which must be taken into account (McCarthy et al 1982:32). According to them there are two kinds of distinct but also closely related kinds of pluralism in any politically organized society: structural and confessional pluralism. The American scholar Jim Skillen also writes about principled structural and confessional pluralism and brings forward the following very useful insights.

Firstly there is a structural pluralism – a diversity of organizational competencies and social responsibilities such as family life, schooling, art, science, politics, sports to mention but a few (Skillen 1994:83). The Constitution of a country marks off the tasks and limits of a government and is a recognition that government has its own distinct responsibilities and is not omni-competent. Other social structures have their own moral integrity and competence. "As society differentiates into an ever more complex array of social structures, government's task of securing justice entails recognition and protection of that "structural pluralism" as part of its legal integration of the whole society. Justice for the commonwealth requires just treatment not only of persons as citizens but also of all non-governmental institutions and relationships through which people constitute their lives. A just political order is a complex institutional community characterized, in part, by its establishment of structural pluralism." (Skillen 1994:84)

The second kind of pluralism that needs to be recognized in any politically organized society is confessional pluralism. No government is competent to decide on behalf of its citizens what their religious obligations and orientations may be. The just treatment of every citizen requires that government must fairly and equally protect a variety of religions within its sphere of competence. This does not presume that every religion is equally correct or true. It does mean that governments' competence to establish a public justice coupled with its incompetence to define and enforce religious orthodoxy leads to the civic-moral conclusion that there should be fair and equitable confessional pluralism (Skillen 1994:84).

Religions express themselves through the structural diversity in society. "But the different confessional ways in which people engage in social life do not obliterate the structural diversity. The principal of confessional pluralism must be protected hand in hand with the principle of structural pluralism" (Skillen 1994:84).

A good and just public law is one that leaves the determination of religious convictions in the

hands of the communities and institutions that hold and nurture them (Skillen 1994:72-73). Skillen claims that the presupposition for this argument is the distinction between political and ecclesiastical jurisdiction of authority – it could also be called political and religious jurisdiction of authority. There is both a public legal competency and various theological / ecclesiastical competencies. This means that it is not the task of political or state authorities to pass laws that God should be honoured and in which way He should be honoured, or for that matter how religious bodies should conduct their disciplinary hearings. Every opinion and every conviction does not automatically fall under the jurisdiction of the government. Out of respect for God's true omnipotence, the government of a political community should not even try to exercise omni-competent authority. Government ought to acknowledge that it would perpetrate injustice within its jurisdiction if it tried to compel the conscience of its citizens in all respects. Any government ought to honour God by keeping with its own moral responsibility before God which is to uphold public justice for all citizens by protecting their consciences and the jurisdictional independence of institutions like churches and religions so that all citizens and communities of faith will be able to fulfil their confessional and institutional responsibilities. Following from this it can also be said that moral arguments to honour God within nongovernmental realms of responsibility should be conducted without appeal to political or legal power to compel the conscience of others. Just as the government should not interfere with religious convictions and the jurisdictional competence of religious bodies, religious bodies should also not seek governmental power to force fellow citizens of the state but not members of their religion to heed the theological and ecclesiastical or religious conclusions of a specific religion. A Government must fulfil its task of governing through good and just laws that heed the principled plurality of communities and institutions in society (Skillen 1994:72-73).

The recognition of principled pluralism does not suggest that government has nothing to enforce with regard to religious communities and institutions in society or that government itself holds no God-ordained responsibilities of its own. But, for good government to do justice it must respect its own God-given limits and the consciences (including all the diverse confessional and other religious communities) of its citizens (Skillen 1994:73). "Theological truths - including truths about God and human nature that can provide wisdom for public affairs – matters a great deal to a polity." (Skillen 1994:73). But the morally responsible way for public authorities, and may we also say for citizens, to deal with these matters, is to act with even-handed vigilance to protect the independent exercise of religious freedom in the common public square.(Skillen 1994:73). Political authority ought to be committed to the protection of the religious life of its citizens, all of its citizens. Government should never be neutral between religious freedom and religious persecution, between fair treatment of all religions and the special privileging of one religion (Skillen 1994:73). The jurisdictional competence of the state for the exercise of a particular kind of responsibility that is properly differentiated from the responsibilities of non-governmental institutions and communities can be argued as a matter of moral principle (Skillen 1994:72).

6. From the History of Church and State relations

A short overview of the history of the relationship between church and state, also as it played out in South Africa before 1994, is another contribution that can be made from a Reformed point of view to help the structuring of a public space where a plurality of religions within the same state, meet each other on a daily basis. Historical developments also pose a question as to what model of church (religion) and state is/was at play when it is said that the current view

of the public place in Europe was largely influenced by Christianity. Perhaps the public space is begging to be approached with a new paradigm to facilitate its structuring.

6.1 The relationship between church and state from Constantine until 1075

In 312 Emperor Constantine was converted to Christianity (Van der Wiel 2006:34) and in 380 Trinitarian Christianity became the official religion of the Roman Empire. This ultimately fused Roman and Christian laws and beliefs. This would have a big influence on the relationship between church and state. The Roman Empire was seen as the universal body of Christ on earth embracing all persons and things. The emperor was viewed as both pope and king reigning supreme in both spiritual and temporal matters (Van der Wiel 2006:35). Roman law was seen as the pristine instrument/outcome of natural law and Christian morality. This new relationship between Empire and Christianity not only allowed the church to fundamentally influence Roman law with some of its most basic teachings but also brought about that those teachings were enforced throughout much of the Empire (Van der Wiel 2006:35), often brutally, against heretics like the Arians, the Apollonarians and the Manichaens. In the Codex Justiniani and the great synthetic texts of Roman law that have survived, like the *Codex Theodosianus* (438), the *Corpus Iuris Civiles* (529-534), Christian teachings on the Trinity, the sacraments, holy days, the Sabbath, sexual ethics, charity, education etc. were copiously defined and regulated by Roman law. The law of the Empire also granted all kinds of immunities, exemptions and subsidies for Christian ministers, missionaries and monastics which were very favourable for them and helped to extend the church's reach to the farthest corners of the Empire (Witte 2008:7-8).

This legal establishment of Christianity helped its expansion and the survival of the influence of Canon law for centuries to come. At the same time it also subordinated the church to imperial rule. Christianity was now the new cult of Rome presided over by the emperor. Christian clergy were in effect the pontiffs of the Christian imperial cult and ultimately subordinate to imperial authority. Church property was the new public property subject to both public protection and control. The emperors and their delegates convoked many church councils and synods, disciplined and removed the high clergy; administered many of the church's parishes, monasteries, and charities and legally controlled the acquisition, maintenance, and disposition of much church property.

Already in the fourth century there were church fathers like Ambrosias (339-397) and Augustine (354-430) and Popes like Gelasius (492-496) and Gregory the Great (540-604) who were of opinion that the Church had a supremacy over the state. With reference to Luke 22:38 – the two swords - they insisted on the two powers, a worldly and a spiritual power, that governed autonomously and independent from each other over the affairs of Christianity. The spiritual power was however more dominant because eventually all kings will be answerable to God (Witte 2008:8-9; Van der Wiel 2006:35-38).

The Roman imperial understanding of the relationship between church and state was largely continued in the West after the fall of Rome to various Germanic tribes in the fifth century. Before their conversion many of the pagan Germanic rulers were seen as divine, being both the cult and military leaders of their people. After their conversion to Christianity they lost their divinity but continued as sacral rulers of the Christian churches in their territories. Christianity was an important source for their authority in their effort to extend their rule over the plurality of peoples under their regime. Christian clergy not only supported the Germanic Christian

kings in their suppression of pagan tribal religion but many of them also saw leaders like the Frankish Emperor Charlemagne (768-814) and the Anglo-Saxon King Alfred as their spiritual leaders. The Christian Germanic rulers from their side supported the clergy in their struggle against heresy, gave them military protection, political patronage and material support just like the Roman emperors before them. Feudal lords in these Germanic domains patronized the church by donating lands and properties for the use of the church in exchange for the power to appoint and control priests, abbots and abbesses who used and controlled the properties (Witte 2008:9).

6.2 The Papal Reformation of 1075

The reformation of the Roman Catholic Church between 1050 and 1150 AD, also called the Papal Revolution (Berman 1999:85ff), changed the relationship between the church and state as it existed since the time of Constantine from a Constantinian or Caesero-papal relationship to a theocratic relationship. On the relationship before the eleventh century Berman writes "Prior to the late eleventh century , the clergy of Western Christendom - bishops, priests, and monks - were as a rule, much more under the authority of emperors, kings, leading feudal lords than of popes." (Berman 1999:88). Before 1075 it was the worldly rulers who owned churches and church land, they appointed and dismissed church officials, they called and controlled church councils, they promulgated church laws; they appointed church officials in worldly councils.

In a revolutionary manifesto known as *Papal Prescriptions (Dictatus Papae)* (1075), Pope Gregory VII declared, amongst other things, in 27 articles that the Church of Rome was instituted by Christ; that only the bishop of Rome was universal, and that emperors and kings had no authority over the church. Only the Pope had the authority to install and dismiss bishops; only the Pope could call and control church councils, install and administrate abbeys and bishoprics. Only the Pope could make new laws according to the need of the time. Papal courts were courts for the whole of the Western Christendom and believers could approach them on any issue that had a spiritual implication – and all issues did have a spiritual side (Berman 1999:95-96). With this papal manifesto the so called Constantinian or Caesero-papal paradigm for the relationship between church and state was turned over in favour of a theocratic paradigm in which the Pope had absolute power. Apart from the total control which it exercised over individuals, society and the church the Roman Catholic Church also controlled the limited rights of orthodox Christians, Jews, Muslims and heretics within Western Christianity (Witte 2000:11-12). The Pope even had the power to dispose of kings while all princes had to kiss his feet. (Berman 1999:96; Witte 2000:11-12). It was indeed a revolutionary turnover from a position of control by the Caesar to one of Papal or theocratic control by the Roman Catholic Church.

All these control measures and many more eventually found their way into the *Corpus Iuris Canonici* – the Canon law books of the Roman Catholic Church which subjected rulers and citizens, laity and clergy, inhabitants and strangers to the authority of the Roman Catholic Church. Berman is of the opinion that the Roman Catholic Church was in fact the first modern Western State that wanted to rule over all other states with its theocratic authority (Berman 1999:113). It was against this Church with its theocracy and the resulting suppression of central truths form the Bible that the reformation of the sixteenth century took place.

6.3 The Reformation and the relationship between church and state

When the Reformation of the sixteenth century took place under the leadership of people like

Martin Luther and John Calvin much of the theological content of the teachings of the Roman Catholic Church was translated into a new paradigm of salvation through faith in Christ alone. However, when it came to the important issue of the relationship between church and state we find that the Reformers did not formulate profound new insights. They simply went back to the old paradigm of the relation between church and state that existed since the time of Constantine. This meant that they saw it as the duty of the state to protect the church and its teachings, even with the power of the sword thereby, at the same time, granting the worldly authorities the power to control the church. This teaching can clearly be seen in article 36 of the *Confessio Belgica* (1561), a very important Reformed confession from the sixteenth century, also known as the Dutch Confession of faith. Article 36 reads with regard to the authorities that God has placed the sword in the hands of the government to punish evil people and protect the good (Romans 13:4). It then continues: "And the government's task is not limited to caring for and watching over the public domain but extends also to upholding the sacred ministry, with a view to removing and destroying all idolatry and false worship of the Antichrist; to promoting the kingdom of Jesus Christ; and to furthering the preaching of the gospel everywhere; to the end that God may be honoured and served by everyone, as he requires in his Word." With regard to the duty of the subjects, which is of course also the church, we read the following: "Moreover everyone, regardless of status, condition, or rank , must be subject to the government, and pay taxes, and hold its representatives in honour and respect, obey them in all things that are not in conflict with God's Word praying for them that the Lord may be willing to lead them in all their ways and "that we may live a peaceful and quiet life in all piety and decency (1 Timothy 2:2)."(Confessio Belgica 156: article 36).

It is also not to say that the theocratic rule by the Roman Catholic Church since 1075 was simply accepted by the different rulers in the West (Berkhof 1975:186). There is much historical evidence to the contrary. After the Council of Basel (1431) the National States asserted their guardianship over the church. In England there was a national church already since the fourteenth century - which became the Anglican State Church in 1531 under the rule of Henry VIII. In 1478 the Inquisition in Spain was taken over by the state while in Germany the different national rulers had much authority in the different provinces – an approach that was asserted with the peace of Augsburg in 1555 (Berkhof,1975:115,160). In Geneva Calvin did try to bring in greater freedom for the church from the worldly authorities but even there the political authorities insisted on their position of authority over the church – we find proof of this in article 165 in both the Church Orders of 1541 and 1561 (*Ordonnances Ecclésiastiques* 1541,1559 art 165). In the Netherlands we also find that after many years of fighting and bloodshed the Reformed Church became the privileged church, protected by, but in fact also subjected to, the political rulers.

This was also the case in South Africa where a situation of Constantinianism in a stricter or lesser sense endured from 1652 to 1994, from 1652 to 1795 under the Dutch and from 1806 to 1910 under the English. After 1910 came the Union of South Africa, a period in which different governments through political agendas to a large extent continued the Constantinian model of Church State relations. In 1996 South Africa got a new Constitution in which, for the very first time, freedom of religion was guaranteed (Constitution art. 15). Even more importantly article 234 of the Constitution provides that parliament can accept separate Bills of Rights in order to enhance democracy.

7. The South African Attempt

The new South African Constitution of 1996 brought about what can be called a paradigm change for the whole of South Africa. It was a Constitution for every citizen of the country, with a Charter of rights as chapter 2 of the Constitution. For the first time all religions in South Africa were guaranteed freedom of religion (Constitution 1996, art 15).

South Africa is indeed a country of pluralities. The total population of about 50 million is made up of 80% black people, 9.1% whites, 8.9% brown people and 2.5% Indians. The plurality of cultures within the different cultural groups is reflected in the fact of eleven official languages which are here below reflected in the percentage of speakers of each language in comparison with the total population. The languages with their percentage of speakers are isiZulu 23.8%; isiXhosa 17.6%, Afrikaans 13.3%, Sepedi 9.4%, Setswana 8.2%, English 8.2%, Sesotho 7.9%, Xitsonga 4.4%, Siswati 2.7%, Tshivenda 2.3%, isiNdebele 1.6%, Other 0.5%.

As far as religion is concerned 79.8% of the population profess that they are followers of a form of Christianity. Of this 79.8% of Christians, Reformed churches make up 7.2%, Anglicans 3.8%, Methodists 7.4%, Lutherans 2.5%, Presbyterians 1.9%, Congregational churches 1.4%, Roman Catholics 8.9%, Pentecostal churches 7.3%, other churches 12%. African Independent Churches have a membership of 40.8% of the total Christian population. Apart from Christian followers in SA there are also 0.2% followers of the Jewish religion, 1.1% Islam followers, 1.3% Hindu followers, and 0.1% Buddhist believers. There is also a large segment of African Traditional Religion in SA. It is estimated that 12% of the total of African Traditional Religion followers are in SA (SouthAfrica.info. The Official Gateway. http://www.southafrica.info/pls/procs/iac.page?p_tl=2779&p_t27372&p_t3=0&p_t.:13/4/2011; South African Christian Handbook 2007-2008:69,74.)

Not only is there a plurality of cultures as is shown by the fact that the country has eleven official languages, there is also a plurality of religions which all claim their legitimate share of the public space.

Very soon after 1996 the question was asked what the implications of article 15 are for the religions of the land as well as for the whole of society. These questions led to the formulation of a *South African Charter of Religious Rights and Freedoms.* Already in 1990 Judge Albie Sachs wrote *"Ideally in South Africa, all religious organizations and persons concerned with the study of religion would get together and draft a charter of religious rights and responsibilities - it would be up to the participants themselves to define what they consider to be their fundamental rights."* (Sachs 1990:46-47).

Without being aware of what Judge Sachs had written, a *South African Charter of Religious Rights and Freedoms* was drafted over a period of several years by a Continuation Committee of academics, religious leaders, government commissioners and international legal experts in consultation with all the major religions in South Africa, human rights groups and media bodies. The Charter was publically endorsed at a ceremony on 21 October 2010 in the presence of the Honourable Mr Dikgang Moseneke, Deputy Chief Justice of South Africa. At that occasion 91 leaders representing religious, academic, legal, human rights and media organizations in South Africa as well as international advisors endorsed the Charter. The signatories included the representatives of the Jewish Religion, 24 Christian denominations, the Muslim Judicial Council, The Ismaeli Community, The Jami'atul 'Ulama (The Council of

Muslim Theologians), the Hindu Faith (The Arya Samay SA, The Hindu Co-ordinating Council, the Sri Sathya Sai Baba Council, the Tamil Federation), The National Spiritual Council of the Baha'is of South Africa, African Traditional Religion, African Independent Churches, The National Commission for Culture, Language and Religion, Women's organizations, Youth Movements, The Education Desk of the Dutch Reformed Church, The Griqua National Council, The Griqua Independent Church, The Commission for Religious Freedom of the Evangelical Alliance of South Africa, the Evangelical Alliance of Southern Africa, Trans World Radio, Media Production Houses, The Christian Network, the Jesuit Institute, The Elected School of Amadlosi and the Interdenominational Ministries.

The total of practising religious believers represented by the signatories is estimated to be approximately 10.5 million of the total South African population.

The Charter defines the freedoms, rights, responsibilities and relationship between the state of South Africa and her citizens of religious belief. The Bill of Rights in the Constitution recognizes that everyone has the right to freedom of religion while article 234 of the Constitution makes allowance for charters of rights to be drawn up by civil organizations which may then be enacted by parliament. The Charter of Religious Rights and Freedoms is the first such charter to be developed in South Africa. Apart from addressing the freedoms and rights of religion over and against the state the Charter is also very useful for organizing the relationship between the different religions of the land. It helps them to understand that the charter is not trying to bring about one religion in the country, or that each religion can be seen as one of many routes that can be followed. The charter defines the rights and freedoms that each religion in the country can claim while working together with other religions in the public sphere for the common good of the country. The Charter is also a very useful tool for religions to determine their own identity in terms of the rights and freedoms that they can legitimately claim. If religions do not use this tool they will find that their rights and freedoms will be determined by the courts of the country. Even if parliament does not enact the Charter religions can always make it part of their own body of rules and regulations which will have to be taken into account by the courts.

The Charter consists of a preamble of 8 articles which expresses the needs for a charter. This is then followed by the 12 articles with sub-divisions of the Charter itself in which the religious rights and freedoms of religious people and communities in South Africa are stated. The Charter expresses what freedom of religion means to those of religious beliefs and of religious organizations within a South African context, as well as the daily rights, responsibilities and freedoms that are associated with this right. These include:

- The right to gather to observe religious belief.

- Freedom of expression regarding religion.

- The right of citizens to make choices according to their convictions.

- The right of citizens to change their faith.

- The right of persons to be educated in their faith.

- The right of citizens to educate their children in accordance with their philosophical and religious convictions.

- The right to refuse to perform certain duties or assist in activities that violate their religious belief.

Currently the Charter is available is Afrikaans, English, Zulu, Xhosa, Sotho, Tswana and also in German.

After the public endorsement of the Charter a *South African Council for the Promotion and Protection of Religious Rights and Freedoms* was established to oversee the process of the Charter being formally enacted into South African law. The passing of the Charter into law will mean that every religious believer and organization will have legal impartiality and protection to practice all elements of religious belief under the Constitution.

Currently the Council for the Promotion and Protection of Religious Rights and Freedoms is engaging with various financial, academic and cultural bodies in society as well as with various trade and labour unions for their support in taking the Charter to Parliament. Eventually political parties will also be engaged to inform them about the Charter and the effort to have it enacted by Parliament.

8. Conclusion

From a Reformed perspective it can be said that both the reality of plurality as well as the public sphere are part of the mandates given to man by Christ in his Word. As such it is also part of the kingdom of God and humans will be responsible to Christ for the way in which the mandate was implemented and used. That both these concepts and realities have become very important in our time can be attributed to democracy and the development of human rights.

The Reformed view of the kingdom of God and of principled pluralism offers a framework to understand and accept a public sphere and also to understand that people and organizations take part in a public sphere in an equal and free manner. The existence of a public sphere need not threaten any private religious person or religious institution. To the contrary it is very important for religions to participate in the debates of the public sphere. As we have heard from Habermas religions have a very important contribution to make for the sake of the common good.

Ferrari asked the question whether the view of the public space, especially in Europe, is not too much indebted to the notion of a public space implicit in the Christian religion – this is a very important question. In South Africa it can be historically proven that a specific Christian concept of the public space determined the historical development of the country from 1652 to 1994. But it can also be proven that the specific concept of the public space was determined by a very old concept of the relationship between church and state – the so called Constantinian model. In this model the state protects the church and for that matter the Christian religion as well, as well as all other religions within the ambit of its authority, while at the same time the state also controls a specific protected religion as well as all other religions, for its own benefit.

The development of Habermas' "naturalistic worldviews" and the revitalization of religious communities and traditions and their politicization, together with the expansion of the basic human right of religious freedom, is putting a very serious challenge to the old Constantinian model regarding the place of Christianity in society but not really allowing other religions into that space.

In South Africa the fortunate situation came up that the public space had to be defined and

reorganized when a new Constitution with the guarantee of freedom of religion was accepted in 1994 – not that it is a task yet finished. This gave the religions in the country the opportunity to come together and formulate a Charter of Religious Rights and Freedoms as a guideline for every religious person, every religious organization and also for the state to chart their way through the public space of South Africa.

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