6.1 Introduction

According to the role-differentiated application of public reason, office-holders should exercise self-restraint in relation to religious arguments. This implies that no public official may use religious arguments, regardless of his particular position. The role of a judge, though, is different from that of a cabinet member, and both are different from the role of a Member of Parliament (MP). If these roles differ, the duties attached to them may differ as well. This raises the question of whether the duty not to use religious arguments should be the same for all public offices or should apply differently to different offices. This chapter explores that issue.

I first present the duty not to use religious arguments in public as it applies to holders of a public office as a role-specific or positional duty. This notion is familiar from the literature on political obligations and provides important insights into the nature of the duties of citizens and office-holders. Positional duties are part of an office’s “package of duties”, containing a number of different duties. Thus it could be the case that there are positional duties of certain offices which outweigh the duty of office-holders not to use religious arguments. In pursuing this issue I distinguish – broadly along the lines of Montesquieu's notion of the separation of powers – between three different kinds of public office: that of judges, high executive officials, and members of the legislature (Parliament). I first briefly discuss judges and high
officials, arguing that they constitute comparatively easy cases in which the need to refrain from using religious arguments is plain.

The main part of this chapter is dedicated to MPs. In their capacity as legislators, they are responsible for passing legislation and thus directly and clearly exercise coercive power over citizens. In contrast to judges and executive officials, however, it is part of their positional duties to represent their constituents, some of whom are religious. Between the two aspects of the professional duties of MPs – passing laws on the one hand and representation on the other – is an indissoluble tension which makes it difficult to say whether the duty to represent religious citizens carries sufficient weight to counterbalance the positional duty of MPs not to use religious arguments (in their capacity as legislators). I discuss two views of representation, the classical one and one focused on the role of parties, arguing that the second one should be adopted. On that view, the duty of an MP is first and foremost to represent the supporters of his party. In case of religious parties, the MP represents a relatively homogeneous constituency of religious citizens. Representing their religious worldviews in parliament requires the use of religious arguments. I argue, therefore, that MPs of religious parties should be allowed to use religious arguments in the formal public sphere.

At the end of the chapter I turn to the question of how far political parties in general and religious parties in particular can be made to fit into theories of public reason. Referring again to Rawls and Habermas, it turns out that the accommodation of political parties is more of a problem for Rawls than Habermas. With two additions, which I name in section 6.7, Habermas's theory can be adapted to account for the role of political parties.

### 6.2 Role differentiation and role obligations

What underlies Habermas's account is the idea that being a state official involves some special duties (such as the duty not to use religious arguments) which citizens who do not have a public office are not obliged to follow. Such a distinction between the norms of behaviour for office-holders and those applying to citizens has, I believe, a lot of intuitive appeal. It corresponds to a distinction that is common in everyday ethical judgements between what is proper behaviour for office-holders as compared to ordinary citizens. Most people will agree, for example, that government should not discriminate on the basis of religion. For instance, it should not prefer Protestants over Catholics for government positions. However, if a Protestant parish is looking for a minister it is perfectly acceptable for it to choose a Protest-
ant and reject a Catholic applicant. Likewise, if I prefer in my private life to associate with Protestants only, I would not be considered guilty of morally reproachable behaviour.\(^1\) Generally, we expect of government a stricter adherence to the norms of equal treatment and neutrality than citizens. We expect government to be neutral, tolerant, and egalitarian, but we do not expect every citizen to be neutral, tolerant and egalitarian in all his dealings.\(^2\)

This intuition can be given theoretical form by introducing the concept of role-specific duties. This notion is familiar from theories of political obligation and is sometimes called a positional duty (Simmons 1979, pp. 16-23). Positional obligations are duties (and requirements\(^3\)) one has by virtue of occupying a certain position, or (professional) role. They are tied to roles or positions rather than to individuals; individuals have these duties in so far as they hold a particular office to which these duties are tied.

Theories of political obligation are moral theories, but in contrast to theories of justice they do not draw on extended assumptions about human beings, the nature of political society or the common good.\(^4\) Rather, the normative foundation of positional duties in theories of political obligation is the notion of voluntariness. A positional duty acquires the moral weight that distinguishes it from a job description because of the volitional aspect of positions.\(^5\) That one takes on an office voluntarily

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\(^1\) On the basis of the claim that there are different norms and rules for government than there are for citizens, especially where discrimination is concerned, Jeff Spinner-Halev has defended the right of identity groups to exclude people who do not share their identity. See Spinner-Halev 2000, ch. 7.

\(^2\) McConnell has pointed out that such a projection of political principles on private persons and associations constitutes not only an overextension but an inversion of liberal principles, as it prevents citizens from living their life as they see fit but forces them instead to adhere to liberal principles even in their private affairs (McConnell 2000).

\(^3\) As Simmons has pointed out, not all professional requirements are duties. One may feel, for example, that it is inappropriate for a Member of Parliament to consort with prostitutes but it can hardly be considered a professional duty of members of Parliament not to consort with prostitutes (Simmons 1979, p. 13).

\(^4\) In contrast to social contract theories, therefore, they do not derive positional obligations from a hypothetical contract.

\(^5\) Simmons claims that positional duties in general are simply neutral job descriptions (and thus do not impose moral requirements) except in those cases in which a position is taken over voluntarily. It is difficult to imagine, however, a position which involves clearly definable tasks yet was not taken on voluntarily. One may think of hereditary kingdom as such a case. In this as well as in the less convincing example Simmons himself gives of someone forced to become president, the existence of an exit option should clearly play a role. In part, Simmons's claim that positional duties are neutral facts seems to rest on a dubious identification of positional duties with job tasks. For example, he claims that a Gestapo officer's positional duty is no different from that of the President of the United States in terms of moral quality. It seems strange, though, to define a duty in terms which do not relate to morality, as a duty is often understood as something that may legitimately be expected of the one under duty.
means that one accepts an obligation to do one’s positional duties.\textsuperscript{6} By voluntarily entering into a position, an individual takes on the moral obligation to do the positional duties attached to it. It is this voluntary act that bridges the gap between a job task and a moral requirement. An important element in the moral weight of positional duties is that the tasks one commits oneself to do well are known beforehand, at the moment one agrees to a positional duty. This means that an officeholder not only agrees to a position but is aware of the nature of the tasks to which he agrees. While the precise content of one’s work may not be known in advance, the main characteristics are. A representative, for example, cannot claim that he chose to stand for election but did not know he would be held responsible for representing his constituency. Taking on a position voluntarily, then, is a commitment to do one’s positional duty with full knowledge of the relevant features of the duty.

The notion of positional obligation lends greater precision to the nature of the duty of holders of public office not to use religious arguments. Some features of the notion of positional duty are relevant to this issue.

To begin with, it is important to recall that not all public offices are under consideration here. A garbage collector, for example, has a position which is public, at least in countries where these services are still in the hands of the state. He took on that position voluntarily, but the question whether he should be allowed to use religious arguments does not arise. It only arises in connection with public offices that are related to the exercise of legitimate political coercion.

Now, it could be claimed that citizenship also constitutes a role to which positional duties are attached. Citizenship may not be a role one adopts voluntarily, but it may be argued that by not leaving one’s country and returning one’s passport, a citizen acquiesces to the role and thereby to the duties which it brings with it. According to this view, citizenship is what is called an associative duty, a duty one has by virtue of being a member of a group, or community. It could be compared to other associative duties like the duty one has as a sibling towards one’s brothers and sisters, or as a child towards one’s parents (Hardimon 1994). Both kinds of duties are not taken on voluntarily, yet there is some appeal in the idea that they give rise to moral obligations. While it may be unclear what obligations we have towards our parents (should we care for them when they are old, for example?), it seems natural to think that we do have some obligations towards them. The same may apply to citizens.

\textsuperscript{6} It has also been argued that relationships can give rise to obligations whether or not they are voluntary (Scheffler 1997). However, this position is infrequently defended and relates primarily to personal (emotional) relationships.
This view of associative duties has met with incisive criticism. One problem is that family ties are not comparable to citizenship ties, as the former are based on intimate and emotional relationships whereas the latter are imaginary (Simmons 1996, p. 258; Wellman 1997, p. 188). Against this it may be argued that citizens often identify with their fellow citizens, even if they do not know them all personally. For example, people may experience shame when they encounter misbehaving fellow countrymen in a foreign country. What such reactions may be taken to show is that citizens in fact consider themselves citizens and accept their roles. Even if we do not reflect on it, we do think of ourselves as citizens, just as we think of ourselves as parents, children, or siblings. Yet, as Christopher Wellman has argued, these are not instances of moral obligation but instances of psychological identification (or national identity). It is not clear why psychological identification creates moral obligations (Wellman 1997, p. 197). For example, I may identify with a football team but that does not mean I have moral obligations towards it.

Political obligation is a wide field, and I cannot argue conclusively here that citizens do not have political obligations which have moral force. It seems uncontroversial to say, though, that political-moral obligations are far more difficult to ground for citizens than they are for public officials because duties deriving from involuntary roles are more difficult to justify than duties deriving from voluntary roles. Even if citizenship is considered a role which, if not taken on voluntarily, is at least not forced upon a citizen (as he can choose to abandon it by leaving the country, or he can choose to renounce his citizenship rights and withdraw from public life), there is an important difference between a role that is not forced and a role that is taken on voluntarily. Most importantly, even if citizens can be said to have positional duties, these would differ from the positional duties of office-holders since the positions of the two differ.

Besides shedding light on the differences between citizens and office-holders, the notion of positional duty also elucidates the relationship between a public official and his position.

First, public officials do not agree to every one of their positional duties one-by-one, but to a “package of duties” (Hardimon 1994, p. 354), which is determined by the institution in which the role is situated. While public officials thus voluntarily take on positional duties, these are not chosen but predetermined. The package of duties is tied to the role; it is usually a long-standing characteristic of an office (though not an immutable one) and is known to the prospective office-holder.

Second, the exercise of the legitimate coercive power of the state is vested not in the person himself but in the official function. This separation between office and
person is characteristic of the modern state (Weber 1978, ch. 11). A person occupies an office temporarily and conditionally, at the directive of a higher authority and on the basis of merit rather than birthright. The office, on the other hand, exists independently of the person: it does not cease to exist when the person leaves. The person does not constitute the office; neither does the office constitute the person.

Third, the separation of person and office allows for a difference in personal rights and duties as compared to role obligations and rights. In particular, it permits a restriction of rights for office-holders (Benn and Gaus 1983, p. 10). For example, an ordinary citizen is well within his rights to accept a sum of money in return for a favour, whereas an office-holder will be guilty of corruption for the same act. These restrictions apply only where a person acts in his capacity as office-holder; they do not generally displace his rights. Persons in office retain their full freedoms when they do not act in their capacity as office-holders. In their capacity as office holders they are expected to adhere to the duties that a position brings with it.

Fourth, as the power of office-holders derives from the state, office-holders represent the state. Where they act in their official capacities they do so as representatives of the state. The totality of public office-holders constitutes the state; if the state is supposed to be neutral, or treat people equally, it is its office-holders on whom the duty falls to put these norms into practice.

These considerations concerning role-specific obligations support a differentiated application of the idea of public reason. They show how the moral duty not to use religious arguments can be interpreted as part of a public official’s positional duty. The public official’s set of positional obligations derives from the special characteristic of public office which consists in it being vested with the legitimate coercive power of the state. As this power is tied to a specific role, a role which citizens do not have, the difference between citizens and office-holders is not a gradual one but, as in Habermas’s account, a principled one.

The notion of positional duties can also explain why asking citizens to exercise self-restraint with respect to religious arguments is unfairly burdensome, while it may be burdensome, but not unfairly so, in the case of public officials. If it is part of the official duties of public officials to justify their professional actions in terms that are generally accessible, then public officials commit themselves to their package of duties by accepting their position. They voluntarily take upon themselves the positional duty of not using religious arguments, knowing that it restrains them in the way they exercise their office but not as private persons. For this reason, appeals

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7. In this context Max Weber spoke of the “impersonal official obligations”, emphasising the difference between the obligations of office and the personal freedom of the official (Weber 1968, p. 220).
to one’s conscience should have limited force in the case of public officials, at least in cases where the positional duties of an office are known in advance and do not change in the course of a person’s tenure of a position. If, for example, a candidate for the position of judge accepts the position, knowing he will be expected to formulate his decisions in secular terms, it would be odd for him later to insist on using religious arguments by appealing to his conscience as a religious person.⁸

The positional duty not to use religious arguments can also be seen in the context of the separation of church and state. As I argued in the previous chapter, this principle holds on an institutional level and limits what the state may legitimately do with respect to religious groups and religious belief. It is supposed to guarantee equal religious freedom for all citizens, and prevents the state from taking a stance on religious belief. This principle thus binds the state as an institution, not individual citizens. It does, however, bind public officials in their capacity as employees of the state. It is worth emphasising that this perspective of self-restraint as a positional duty deriving from the separation of church and state differs from Audi’s view of self-restraint as an individual principle of conscience. Positional duties are not matters of individual conscience, but impersonal moral obligations in so far as they do not depend on an individual’s appreciation of proper conduct but are part and parcel of the positional duties attached to a public office. As public offices differ, the duties that come with them differ as well.

### 6.3 Judges and high officials

In liberal democracies, judicial decisions are for the most part formulated without reference to religion or personal moral views. Most political philosophers also believe that judges should not use religious arguments in formulating the reasons for their decision (Carter 1989; Greenawalt 1995; Levinson 1997; Solum 1989). While this view is not uncontested,⁹ it is widely accepted and has strong arguments on its side. I therefore only note the most important points here, reserving the main part of the discussion for the more intricate problem of the positional duties of MPs.

The main task of judges is to adjudicate legal conflicts. In systems with judicial re-

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⁸ This is not to deny the possibility of conflicts of conscience for office-holders. It says only that citizens who believe their religious commitments necessitate the use of religious arguments in public office should not occupy a public role if they know in advance that they will be expected not to use religious arguments.

⁹ Stephen Carter has defended the moral right of judges to refer to their religious beliefs in official justifications of decisions (Carter 1989).
view (like Germany and Canada), the highest national courts also have the power to declare laws unconstitutional. Thanks to their power over the application and interpretation of law, judges have a large share in the state’s exercise of coercive power. Recalling Habermas’s distinction between the weak public sphere as the sphere of opinion-formation and the strong or formal public sphere as the sphere of decision-making, the position of judges is part of the formal public sphere. Decision-making in the sense of decisions on political arrangements is done in parliament. The courts adjudicate conflicts that arise from the exercise of these decisions. Judges are involved in the execution rather than the formation of the will of the population as a whole, and therefore enjoy less freedom with respect to the arguments on which they are expected to draw than members of parliament.10

In deciding legal conflicts, judges are therefore supposed to let their judgement be influenced mainly by legal considerations. Ethical considerations often come into play but should be presented not as an individual judge’s personal opinion but as generally held moral principles. Their ruling should be as far as possible neutral as between different worldviews and religions. Refraining from the use of religious arguments can therefore be seen as part of the positional duty of judges not to be partial in the way they exercise their office, particularly as arguments are important to their tasks. In legal conflicts where the correct application of laws is at stake, what is important in a judge’s ruling is not only the ultimate decision, but also the reasons the judge gives for why he decided as he did.

Rather than contradicting other positional duties, the requirement not to use religious arguments may plausibly be considered part and parcel of the package of duties that the office of judge brings with it. While religious judges may still find it difficult to prevent their religious views from influencing their opinions on judicial matters, as Stephen Carter has argued (Carter 1989, p. 934f.), writing judicial decisions in secular terms should not pose any particular problems for the religious judge.

A second aspect of a judge’s position which is relevant in the present context is that, because of their neutrality, independence and responsibility for the ultimate decision about laws, they are often seen as the symbols of a state characterised by the rule of law and separation of powers. Judges represent the state in a way that is above party politics, changing governments and factional disputes. If, therefore, the state is supposed to be neutral (or even-handed) with respect to religion, so should

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10 Compare Wolterstorff: “legislators play a pivotal role in the normal process whereby a democratic society reaches its decisions about the laws that shall govern the interactions of its citizens; executives and judges exercise their roles after the society has reached its decision” (Wolterstorff 1997a, p. 117). Similarly Audi 2000, p. 174.
be its judges. The positional duty that corresponds to this thought is the duty to adequately represent the state and its founding principles. The use of religious arguments in judicial decisions could be seen as the official endorsement of a religious belief and thus as the denial of other beliefs (Solum 1989) and therefore has no place in judges’ exercise of office.

To sum up, judges have a great degree of coercive power and no positional duties that conflict with the requirement not to use religious arguments. I therefore concur with Greenawalt in holding that “[i]f anyone is constrained in the reasons they should employ for decisions and argument, it is judges” (Greenawalt 1995, p. 141).\footnote{There is much more to say about the duties of judges. See, for instance, Stephen Macedo’s informative discussion in Macedo 1991, ch. 3. I think, though, that nothing that may be added would change my conclusion in important respects.}

In important respects, the positional duties of high executive officials resemble those of judges: their tasks are related to the execution and enforcement of legal rules. The power of the executive (consider the power of the police, for example) derives directly from the power of the state. As they have coercive power and represent the state, executive officials should not appeal to religious reasons. They have no other positional duties that would contradict this positional duty. The same applies to representative heads of state in parliamentary systems. Even though their function is predominantly symbolic (rather than related to the exercise of political power), their positional duties require them to function as representatives of the state, which in turn represents the population as a whole.

### 6.4 MPs between legislation and representation

While the positional duties of judges and executive officials are such that an avoidance of religious arguments fits smoothly with the general thrust of their professional responsibilities, the special nature of MPs’ responsibilities makes judging the permissibility of religious arguments more difficult. On the one hand, MPs decide on laws and in their capacity as lawmakers are responsible for exercising their power in a way that avoids religious coercion, inter alia. On the other hand, MPs exercise their power as representatives of the citizenry and should in some way take account of their constituents’ commitments and views. If citizens are free to discuss political issues in religious terms, they may expect MPs not to ignore the role that religious beliefs play for them. There is an indissoluble tension between these two aspects of an MP’s professional tasks.

The second aspect, the aspect of MPs as representatives of citizens, including
religious ones, is the main topic of this chapter. Before discussing representation, however, there are a few points to be made about the first aspect, the law-making function of MPs. Legislators exercise coercion – that is a main feature of their position – but some of the factors discussed in chapter 4 are relevant here too. These factors show that in real-life cases it may sometimes be difficult to state precisely when a legislator’s behaviour constitutes religious coercion.

The first of these factors is the distinction between religious and secular arguments and religious and secular positions. Recall that the most problematic cases are not cases in which a religious practice or doctrine is made mandatory for the population or a group thereof, since such cases are relatively clear-cut instances of religious coercion. It is not difficult to argue, for example, why a liberal democratic state should not make it a legal obligation for citizens to go to church on Sundays, or for infants to be baptised. Rather, the problematic cases are those in which the content of a law is secular but its justification is religious. In these cases it is less clear when we can speak of religious coercion. If, for example, parliament passes a law prohibiting abortion, and a considerable part of those who advocated the law did so saying that it represented God’s will, one may think that the law is an instance of religious coercion even though it concerns a non-religious issue. It is not clear, though, how large the proportion of religious advocates needs to be for such a judgement to be reasonable. If only one member of parliament supported the prohibition because he thought it represented God’s will, whereas the overwhelming majority of legislators argued that a prohibition was necessary to protect the foetus’s right to life, one would probably not speak of religious coercion. Nevertheless, the use of religious arguments by the legislator can be considered a misuse of office.

Second, and relatedly, overdetermination also plays a role in parliamentary discussions and decisions. In most liberal democracies religious arguments for secular positions have little chance of persuading a majority of legislators. It may happen, however, that religious and non-religious legislators converge on a common position for different reasons, religious as well as secular. It is difficult to say how far such an outcome should be considered illegitimate or at least undesirable. To sum up, in liberal democracies, MPs as legislators are lawmakers. They are elected by citizens and one of their main tasks is the passage of laws. They have

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12 There is another factor, the issue of decisiveness, which may come into play here, though it is considerably less relevant than in the case of citizens. Even though an individual legislator’s decisiveness depends on the size of the legislature, it is always considerably greater than the decisiveness of an individual citizen. Most lower chambers of parliament have between 100 and 300 members (Stigler 1976, p. 33f.). Moreover, whereas citizens’ votes concern representatives only, representatives decide on coercive laws.
direct responsibility for passing laws. Given all the considerations up to this point about the exercise of coercion and the arguments appropriate to it, the conclusion is that MPs have the positional duty not to use religious arguments when acting as legislators. However, it also emerges from the discussion that there are complicating factors, such as the distinction between positions and arguments and the difficulty of stating precisely when a consensus on a secular position for both secular and religious reasons should be considered religious coercion. The positional duty of legislators not to use religious arguments because they exercise coercion is clear and present, even though it may sometimes be difficult to judge if and when a legislator or a group of legislators violates this duty. The duty not to use religious arguments relates to the legislative tasks of members of parliament; but members of parliament also have representative tasks which bring with them other positional duties, duties that may weigh heavier than the duty not to use religious arguments.

6.5 Representing religious citizens

While the precise nature of the relationship between MPs and citizens is difficult to determine, it is clear that there should be some relationship between the interests, views, and positions of citizens and MPs and how they discharge their professional duties in parliament. Citizens, I have argued, should be permitted to use religious arguments in public. Does the MPs’ duty to represent citizens mean that they, too, should be allowed to use religious arguments in order to represent those citizens adequately?

There are arguments in favour of such a view. Representation is, after all, a cornerstone of contemporary liberal democracy. In mass democracies, the actual implementation of popular sovereignty is inconceivable without representation. The exercise of coercive political power by office-holders is an instance of representation: it is exercised by those who are chosen by citizens for this purpose. In theory, legislative power rests with the citizenry as a whole; in practice, the adoption and justification of laws happens in parliament in accordance with democratic procedures (Habermas 1996, p. 171f.). Representation is the means by which popular sovereignty is exercised in mass democracies.

A second argument in favour of the view that the representation of citizens who use religious arguments requires the use of religious arguments in parliament is the intuition that, if a democracy is to thrive, there should be strong ties and continuities between the informal and the formal political spheres. Jeremy Waldron, for example, claims that
clearly, there ought to be continuity between whatever discourse is appropriate among the people and whatever discourse is appropriate among those whom they elect. We expect elected officials to, in some sense, represent the views of their constituents; we think that in normal politics they should take notice of and be sensitive to what the people are saying. [...] Even as their representative, indeed especially as their representative, the professional politician must be able to engage in the same sort of deliberations as the voters to whom he is accountable (Waldron 1993, p. 830f.).

This, in Waldron’s view, militates against a distinction between citizens and officials with respect to the use of religious arguments.

I believe this view, according to which representation requires that representatives may use the same sort of arguments as citizens, is not convincing unless qualified. One problem with this view is that if it is combined with an emphasis on the dangers of religious coercion and the need to prevent it, this viewpoint will lead to the imposition of considerable restrictions on citizens, because the avoidance of coercion based on religion requires self-restraint from MPs, and if there is to be continuity in discourses, then the requirements for MPs should also apply to citizens. This is unfortunate, given that these restrictions are not necessary, not justified and far more burdensome in the case of citizens. Some discrepancy between the discourse of citizens and that of MPs is probably a small price to pay for considerably more freedom (in terms of the legitimate use of religious arguments) for citizens.

Second, and more importantly, the view that citizens and their representatives should use the same kind of arguments because of representation rests on too simple a view of what it means for MPs to represent religious citizens. The distinction between religious arguments and secular positions is relevant here. If, for example, a majority of religious citizens advocate a ban on stem-cell research for religious reasons, then an MP can very well defend such a position in parliament without recourse to religious arguments. He can either translate religious arguments, as in Habermas’s model, or he can simply substitute secular for religious arguments. This enables him to defend a position favoured by his religious constituents without having to use religious arguments. As I emphasised in chapter 2, arguments are not necessarily more important than positions. Some religious citizens may find it important that abortion is prohibited, regardless of the reasons given by MPs for a prohibition. A representative can be responsive to his religious constituents’ viewpoints without using religious arguments in parliament. The moral duty of MPs to represent religious citizens therefore does not, without further argument, lead to the conclusion that MPs should be allowed to use religious arguments.

Viewpoints or positions can be represented in parliament without reference to
religious arguments, but religious citizens may also want their religious perspective to be represented in parliament. In general citizens may expect representatives not only to speak out in favour of or against a position, but also to represent their moral perspective, their worldview. Lawmaking in parliament is difficult to imagine without this aspect. This is because parliament is not merely a problem-solving entity, a gathering of particularly suitable individuals who come to decide on the best solution to a given problem according to certain standards and rules. Debates in parliament involve ideological disagreement and the voicing of different perspectives, which relate not only to solutions to a given problem but to views and interpretations of the problem itself, its relevance and the normative implications of possible solutions. Often these solutions are not discrete options the practical adequacy of which can easily be established empirically; rather they present pathways for tackling political issues in relation to views about the desirability of social developments. For example, a decision for or against statutory store opening hours is not only a decision in terms of economic effects and the like; it raises such questions as whether society as a whole should prefer easy access to consumer goods over the protection of family life. Decisions on laws, then, are not only technically complex but often also normatively complex in that they are related to views of the good. Moreover, it is often the embeddedness of particular views within broader moral perspectives that lends relevance and force to a person’s political opinions; and it is not only the practical solution of problems that they wish to see realised in politics, but also something of their moral perspective. This aspect of religious commitment cannot adequately be presented in parliament without recourse to religious arguments. A religious worldview cannot be represented without the use of religious language, religious topoi or other reference to religion.

While it is uncontroversial to posit that the representation of religious worldviews in parliament requires representatives to use religious arguments, what is open to debate is whether the representative duty of MPs includes the duty to represent religious worldviews. Is it part of an MP’s positional duty to represent his constituents’ religious worldviews in parliament if that means using religious arguments; that is, if it violates his positional duty not to use religious arguments? A crucial role in deciding this issue accrues to the concept of representation: are the duties of members of parliament to represent religious citizens so strong that they outweigh the duty not to use religious arguments?
6.6 Theories of representation

The answer to this question depends first on what representation is; in particular, what kind of relationship between the represented and the representative it describes. Should a representative reflect the view of those he represents without distortion – the descriptive view of representation – or do the represented, through election, authorise their representative to act as he sees fit, as the authorisation view would have it? The classic treatment of representation in political theory, Hannah Pitkin’s *The concept of representation* (Pitkin 1972), convincingly argues that this question has no solution. Pitkin called the controversy the “paradox of representation”. According to her, the paradox of representation cannot be resolved since it hinges on a paradox inherent to the concept of representation: the paradox that something is absent – it needs to be represented – as well as present – through being represented. Therefore both views, the authorisation view and the descriptive view of representation, however contradictory, need to be present in any theory of representation, or so she claims.

The functions of representation that go with the classic conception of representation are easy to identify (Birch 1971; Birch 1993). They relate to popular control (including the accountability of government towards the population), leadership (the provision of leadership and the recruitment of new leaders) and system maintenance (enlisting citizens’ support and legitimising the exercise of political power). It is possible to infer the duties of MPs from these purposes of representation, but such duties are bound to remain at a level of abstraction that cannot shed light on the use of religious arguments. All one can say on this basis is that the duties of representatives are situated somewhere between delegation and authorisation; and that while there is no legal duty on MPs to represent, in practice most of them do pay attention to the interests and opinions of their constituents while also exercising their own judgement.

Even though theories of representation abound, none has so far specified the moral duties of the representative towards those he represents. Two notable exceptions are the works by Hardin (Hardin 2004) and Sabl (Sabl 2002). Neither, however, offers much guidance in terms of concrete rules for behaviour. Hardin, who provides mainly an historical survey of theories of representation, notes the role of conventional morality in standards for representatives’ behaviour, concluding that

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13 Classic to modern political theory, that is. For discussions of older theories of representation, especially those of Burke, Madison, and Mill, see, for example, Ankersmit 2002; Birch 1971; Williams 1998. For a critique of Pitkin’s conception of representation on the count that it does not take adequate account of group representation, see Runciman 2007.
while there are generally accepted moral pursuits for politicians, such as aiming for justice and equality, any more specific principles of conduct can be contested. Like Hardin, Andrew Sabl chooses to approach the question of morality for office-holders by concentrating on their professional tasks. Focusing on senators, he, too, only offers general principles of behaviour for representatives, such as that they should not let big money influence legislation or be creative in finding solutions to political problems (Sabl 2002, pp. 152-167). These principles are plausible, but they do not provide any clues as to whether MPs are allowed to use religious arguments.

A second question, more relevant than the first in the present context, is who a representative is supposed to represent. Two competing principles offer themselves as answers. The first principle is that a representative represents the members of his district. In this notion of geographical representation, a representative represents a constituency, which is ideologically and religiously diverse, including citizens who voted for that representative and those who did not. The second principle is that a representative represents his party and all those citizens who voted for it. On this principle a representative's constituency is not defined geographically but ideologically or, in case of religious parties, religiously. According to this account, a representative first and foremost represents those citizens who concur with the ideas and aims of his party. I shall address these principles in turn.

For the classic conception of representation, the relevant relationship of representation is that between a representative and the citizens in his district. In almost all democratic states, representation is organised in electoral constituencies which determine the composition of the national legislature, and these constituencies are territorially defined (Rehfeld 2005, p. xii).14 Due to the electoral bond between an MP and his constituency, an MP represents the citizens within his constituency. Since constituencies are based on territorial proximity, they are internally divergent in respect of worldviews. The question here, then, is not only the degree to which the MP needs to take his constituents' wishes into account, but which of his constituents' wishes he needs to take into account. In a territorially defined constituency or electoral district, citizens differ with respect to religion. Some are atheists, some are believers; and the believers belong to different denominations. Any claim to the effect that representatives have a positional duty to represent their religious citizens' worldview in parliament by using religious arguments is faced with the difficulty that the same duty towards his secular constituents requires him to refrain from doing so. It is true, as Michael Perry has claimed, that a representative cannot possibly

14 Apart from Israel, there is only one other exception, namely the Netherlands, where there is only one (nationwide) constituency.
be in agreement with all his constituents at the same time, given their differences (Perry 1997, p. 50); an argument that Perry thinks speaks in favour of the admissibility of religious as well as other contentious beliefs. This conclusion need not follow, though. A representative can represent his religious citizens’ opinion, at least, without the use of religious arguments. Moreover, since religious arguments are accessible to religious citizens only, whereas secular arguments are in principle accessible to all citizens (even though not all of them actually are), secular arguments constitute the lowest common denominator in a heterogeneous constituency. In a constituency containing citizens of different religious beliefs as well as non-religious citizens, a representative who uses a religious argument represents only those of his constituency who adhere to the same faith from which the argument is derived. Often this not only concerns the difference between secular and religious citizens; Protestant and Catholic citizens, for example, or liberal and conservative Catholics or Protestants, may also disagree about a given religious argument. In a way, then, a problem reappears here which is familiar from the cases of judges and high officials. Their actions and statements in office should be such that they can be taken to represent the population as a whole. Similarly, the actions and statements of a representative should be such that they can be taken to represent his constituency in all its diversity. According to the classic view of representation, the prima facie duty of an MP to represent the religious members of his constituency is therefore not sufficiently strong to outweigh his duty as a legislator not to use religious arguments.

The second perspective on representation, which understands representation in terms of the role of political parties, deviates from the classic view of representation in that it regards representation not primarily as a relationship between a territorially defined constituency and its representative, but as representation of groups in other, non-territorial senses: groups of like-minded people. Of the different forms of group representation, representation by political parties is arguably the most.

Other forms include gyroscopic and surrogate representation (Mansbridge 2003). Gyroscopic representation describes representation in which a representative is chosen because voters believe he or she is in crucial respects like them, that is, the similarities between a representative and his voters (in terms of character, personality, value system and so on) are sufficiently significant to inspire in voters the confidence that their representative will act as they would under the same circumstances. In surrogate representation, a representative represents all those with whom he shares a significant experience, feature or the like, regardless of whether they voted for him or not. For example, a homosexual MP may regard himself as the parliamentary representative of all homosexual citizens. Surrogate representation benefits those constituents who are structural minorities in their constituencies. In both gyroscopic and surrogate representation, religion is likely to play a role. In gyroscopic representation, religion is one of the indicators that allows voters to predict a representative’s viewpoint on a wide range of issues without having detailed information about his standpoints. Surrogate
important. In contrast to the classic conception of representation, the view of representation that focuses on the role of political parties in representation does not encounter the problem of mixed constituencies. According to this view, MPs represent those citizens who support the party to which they belong. Their duty of representation is towards all those citizens who support their party. In the case of secular parties, supporters will be heterogeneous with respect to their religious beliefs. By contrast, religious parties\textsuperscript{16} are supported by religious citizens, and the representative duty of religious parties therefore refers to its religious adherents. As I argued earlier, the representation of religious citizens may plausibly be seen as requiring not only the representation of positions that religious citizens embrace, but also the representation of religious worldviews. In order to represent their religious constituents, MPs of religious parties are expected by their electorate to use religious arguments. In contrast to secular political parties with religious platforms, religious parties do not encounter the problem of mixed constituencies. In their case, one can identify a strong positional duty on representatives to represent their religious constituents, using religious arguments among other things. Given the pivotal role of representation in liberal democracy as the main mechanism by which popular sovereignty is realised, the duty of representatives of religious parties to represent their religious constituents using religious arguments is present.

The two views of representation imply different views about whom an MP represents – a mixed constituency territorially defined, or a comparatively homogeneous constituency of party adherents. I believe the second view represents a more adequate rendering of representation. That political parties are important for voters’ choices of representatives is not a new thought (e.g. Pitkin 1972, p. 219; Sobolewski 1968, p. 99), even though theories of representation have largely neglected the role of parties in representation (Birch 1971, p. 97). Electoral districts are primarily organisational entities that structure the processes of voting, counting voters and allocating seats per party, but district candidates are representatives of their party per district rather than unattached representatives of a district. It is easy to imagine a democratic system without electoral districts, but it is difficult to imagine a modern parliamentary democratic system without parties.

Empirical political science has recently detected a decline in the role of parties in contemporary liberal democracies. Decreasing numbers of party members, rising degrees of electoral volatility, the weakening of party identification and other symp-

\textsuperscript{16} I provide a definition of religious parties and a discussion of variants of religious parties in the following chapter.
toms of an estrangement of parties from society (e.g. Dalton and Wattenberg 2000; Mair and van Biezen 2001) have been interpreted as signs of a crisis of parties, a crisis that refers to the trust citizens place in parties rather than the role parties play in the political process. On the other hand, such symptoms have also been interpreted as suggesting a changing role of parties or an adaptation, with the emphasis shifting from parties as civil society institutions to institutions of the state. Such a point of view is expressed in the “cartel thesis” (Detterbeck 2005), which proposes of a new kind of party, the cartel party (Katz and Mair 1995).17

While the importance of parties may be declining, it does so from a very high level: political parties are still central agents in parliamentary systems. Elections are to a large degree about parties. Due to the important role of political parties in parliamentary representation, an MP is first and foremost a representative of the adherents of his party. An MP of a religious party therefore first and foremost represents the adherents of his party. Those who take the political dimension of their religious commitments seriously enough to support religious parties are likely also to expect religious parties to represent their worldviews in parliament. To do this, religious parties need to use religious arguments. The representation of a religious worldview is probably one of the most important reasons why religious citizens support them. Where a religious party advocates the use of religious arguments in public, its adherents favour such behaviour, or at least tacitly agree with it.

These considerations speak in favour of regarding MPs as being under the duty to represent the supporters of their party. For MPs of religious parties this means they have a duty to represent their religious constituents. This in turn speaks in favour of the moral right of representatives to use religious arguments, also in the formal public sphere. The duty of representation is a very onerous one. In liberal democracy, putting popular sovereignty into practice is not possible without representation. In processes of opinion- and will-formation, political parties have an important role to play, mediating between the open opinion-formation of the civic realm and the will-formation and decision-making of the formal political sphere. They mediate, that is to say, between citizens and office-holders. I flesh out this account of the role of parties in liberal democracy in my discussion of Rawls’s and Habermas’s views on the role of parties.

The discussion so far has led to the conclusion that MPs of religious parties should be allowed to use religious arguments. Advocating the moral right of MPs of religious parties to use religious arguments means advocating a place for reli-

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17 Ideal-typical cartel parties are agents of the state and employ its resources to secure their own survival.
gious arguments in the formal public sphere. It does, however, raise a considerable threshold for the use of religious arguments in public. Religious arguments gain access to the formal public sphere only if religious parties exist. This in turn means that a significant part of the population needs to take religion seriously enough to want to be represented by a religious party. Religious parties exist – and are able to survive – only in liberal democracies where religious citizens take the representation of their religious worldviews to be so essential that they find secular parties unable to represent them.

6.7 Political parties and political theory

Political parties are important to representation and they have an important role to play in a role-differentiated account of public reason. Political parties are also relevant to theories of public reason as theories about the public and the private sphere and opinion- and will-formation. Political processes of opinion- and will-formation are not adequately represented by models with only two groups of actors, viz. citizens on the one hand and public officials on the other, acting in an institutionally undefined, unstructured public sphere. Theories of public reason in particular, concerned as they are with the processes of politics and their importance to the legitimacy of political decisions, should take account of the role of parties in these processes.

Nevertheless, it is not self-evident that political parties can be assigned a role in theories of public reason, for they belong to an institutional approach to politics which is alien not only to theories of public reason, but also to other, related fields of political philosophy.\(^{18}\) Theories of deliberative democracy, for instance, have paid little attention to the role of parties in deliberation (Johnson\(^{17}\)). It has been surmised that this neglect is due to the relegation of political parties to the disdained realm of aggregative democracy, that is, to a concept that deliberative democrats often take to be inimical to deliberation (ibid., p. 48). Another explanation that has been offered for the blindness of deliberative theory to parties is that partisanship as expressed in party adherence is often taken to inhibit the kind of reflection required by deliberation (Muirhead and Rosenblum 2006, p. 100). Only a few deliberative democrats, Joshua Cohen among them, have mentioned that publicly funded political parties have an important role to play in deliberation (Cohen 1997, p. 85f.).\(^{19}\)

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\(^{18}\) For an emphatic call for an institutional approach to political philosophy, see Bader 2003a.

\(^{19}\) See also Goodin 2008, ch. 10.
What is true of deliberative democratic theory is true more generally of democratic theory: it has devoted very little attention to political parties and has little to say about the role and standing of political parties in liberal-democratic systems (Katz 2006; van Biezen 2004).

In particular, democratic theory has little to say about one issue that is particularly important when assigning political parties a place in theories of public reason, and that is the issue of whether parties are private (civic) or public entities. Are parties voluntary associations of citizens or public institutions which belong to the realm of the state?

In part, the problem in answering this question is that the role of parties and their position as regards citizens and the state is subject to historical developments which have experienced considerable changes in the role of parties but which do not allow a clear assessment of the public or private nature of parties. Traditionally, the function of political parties has been to mediate between individuals and the state, by expressing, channelling and representing the plural interests in society towards the state (Sartori 1976). This involves the definition of goals, the articulation of interests, socialisation and mobilisation of the population, and elite recruitment and formation (von Beyme 1991). More recently, political scientists have observed a significant shift in the role of political parties, and different interpretations of this development have been offered (Katz and Mair 1995; Katz and Mair 2002). There is a consensus, though, that parties have moved away from their role as private associations at the time they were instituted towards the public realm. This, however, seems all that one can safely say about where parties fall in the distinction between the private and the public realm.

One way to think about the position of parties as between the private and the public is the metaphor of parties having different faces (Cotta 2000). Some of these, like local activities and membership recruitment, belong to the realm of civil society and cause parties to resemble voluntary associations. Others, such as activities of party members in government, point to close connections with government and its institutions. In contrast to permanent government institutions, party members occupy certain functions in parliament or government for a limited period of time. In contrast to interest groups, parties seek not only to influence political processes but to occupy positions within the legal power structure (Hine 1991, p. 411). It has even been suggested that parties have been absorbed by the state (Katz and Mair 1995, p. 16)²⁰, but aspects of party activity remain to which this claim does not extend.

²⁰ Katz and Mair are referring here to the cartel party.
For example, parties that are not represented in parliament and the various kinds of local party activities bear little direct relationship to the state.

In empirical terms, then, political parties are entities that are neither wholly of civil society nor wholly of the state, but whose essential function is the connection of the two realms. This bridging function, constitutive as it is of the role of political parties for democracy, points to the need for theories of public reason to incorporate parties in their models of political processes.

### 6.7.1 Rawls and Habermas on the role of political parties

Neither Rawls nor Habermas have much to say about the role of political parties. Rawls’s theory in particular has difficulty making room for political parties. In *A Theory of Justice* (Rawls 1996), political parties are mentioned briefly in relation to equal liberty. Rawls holds that all citizens should be eligible to join political parties (ibid., p. 196) and that political parties should be publicly funded to permit them to be independent of private money and therefore private influence (ibid., p. 198). Rawls mentions briefly that there are parties which seek to suppress the constitutional liberties (ibid., p. 190). He also distinguishes parties from mere interest groups by their holding a general conception of the good (ibid., p. 195). These remarks constitute no more than passing reference to commonplace notions about political parties.

In *Political Liberalism* (Rawls 1997), Rawls devotes little attention to political parties but what he does say considerably restricts their latitude. As noted in chapter 5, Rawls states that the limits of public reason apply to members of political parties and candidates in their campaigns and even to “other groups who support them” (ibid., p. 215). In *The Idea of Public Reason Revisited* (Rawls 1997), Rawls also includes party platforms among the realms which public reason is to govern (ibid., p. 768), which suggests that he sees the place of parties as lying in the public political forum, the realm of public reason (when constitutional essentials and questions of basic justice are discussed). Accepting this position means depriving both parties and their supporters (in so far as they form groups) of the moral right to discuss political issues with reference to their comprehensive doctrines. Even opposition parties and parties without representation in parliament as well as supporters of parties with no public function would be required to discuss fundamental matters only in terms of public reason.

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21 It is telling that neither *A Theory of Justice* nor *Political Liberalism* have an index entry for political parties.
In this model, public opinion-formation is seriously hampered. Given the pervasive influence of parties in public opinion-formation, requirements of self-restraint on the part of parties and their supporters limit all public opinion-formation on fundamental issues. Without the bridging function of political parties, citizens would be hard pressed to find the means to discuss political issues as they relate to their own comprehensive doctrines.

In response to this problem, Russell Muirhead and Nancy Rosenblum have suggested introducing parties into Rawls's account as bridges between the background culture and the public political forum (Muirhead and Rosenblum 2006). Their proposal is to see parties not as factions fighting for competing comprehensive doctrines, but as responsible actors involved in the "ethics of partisanship" (ibid., p. 102). In this conception, parties present competing reasonable and complete conceptions of justice. Parties thereby become "agents of public reason" (ibid., p. 103). They are uniquely suited to function as bridges between the background culture and the public political forum because they have aspects of both spaces. Yet Muirhead and Rosenblum emphasise the commitment of all parties to a common good:

As shapers and articulators of public reason, parties speak to all citizens as citizens, not as socially situated in this or that social class or income group or as having a particular comprehensive doctrine. They refine and generalize particularist appeals by casting them in terms appropriate to public reason (ibid., p. 104; emphasis in original).

While parties are allowed to depart from the confinements of public reason in order to activate their roots in civil society, it is not clear how they can fulfil their bridging function if they need to be committed to public reason: it is difficult to see how parties as "agents of public reason" can be committed to their constituents' worldviews if they are not allowed to reflect them in their party pronouncements, programmes and activities outside civil society. Such a conception makes Rawls's theory more realistic, in that it assigns political parties a place, but it hardly makes it more responsive to citizens' worldviews. Neither on Rawls's view itself nor on a modified Rawlsian account can parties fulfil their bridging function. In neither conception could religious political parties be permitted to exist.

Like Rawls, Habermas does not address the role of political parties. In his article on religion in the public sphere, he only refers to political parties when explicating Rawls's rules on public reason. In a footnote, he wonders how far candidates involved in election campaigns may express their religious convictions, but interprets this issue as a matter of candidates expressing their personal background (Habermas 2006, p. 22 n.31). Habermas has more to say about political parties in
**Between Facts and Norms** (Habermas 1996), where he elaborates on the relationships between the informal public sphere of opinion-making and the formal public sphere of opinion- and decision-making, emphasising that the formal public sphere is not purged of disputes between different value orientations but involves not only pragmatic discourses but also ethical-political and moral discourses (ibid., pp. 162-168). “Parliamentary opinion- and will-formation”, Habermas asserts, “must remain anchored in the informal streams of communication emerging from public spheres that are open to all political parties, associations, and citizens” (ibid., p. 171).

The bridging function of parties implied here is later made explicit: “The political system, which must remain sensitive to the influence of public opinion, is intertwined with the public sphere and civil society through the activity of political parties and general elections. This intermeshing is guaranteed by the right of parties to ‘collaborate’ in the political will-formation of the people [...]” (ibid., p. 368). This gives them the function of “catalysts of public opinion” (ibid., p. 443).

From these brief remarks it is already plain that Habermas’s model of the political process has far fewer difficulties accounting for the role of political parties than Rawls’s. Habermas incorporates into his framework parties in their function as bridging between the popular sovereign and parliament. Two qualifications are indicated, though. They point to where Habermas’s theory should be modified to make room for the role of political parties.

First, the role of representation remains curiously unemphasised in Habermas’s account. Political parties are not regarded as actors of representation, providing an important contribution, an element of the political process in its own right, but merely as facilitators, as bridges in a more literal sense of the word: they provide avenues for will-formation to travel to the formal political sphere. Political parties may have a right to collaborate in the process of will-formation, but they are not recognised as a formative element in it. People’s values, preferences and interests seem in principle to be prior to the activities of political parties; they are not created or shaped by the existence and political activity of parties. Political parties need to be given a role in Habermas’s theory that does justice to their role as actors in their own right, actors that are not only neutral carriers of the popular will but exert a formative influence on citizens’ will-formation.

Second, while Habermas allows citizens’ ‘value horizons” (ibid., p. 161) to be taken up and discussed in parliament, the presence of the institutional threshold prevents religious value horizons from travelling into the formal public sphere. According to this view of the formal political sphere, religious parties have no place, they should not exist. However, as I have been arguing in this chapter, MPs of reli-
religious parties should be permitted to use religious arguments in the formal public sphere. The institutional threshold should therefore not apply to MPs of religious parties. This also means that religious parties have a right to exist and should be tolerated, a claim I defend in the next chapter.

6.7.2 Candidates for office

I indicated in the previous chapter that both Rawls and Habermas believe that self-restraint on the use of religious arguments should apply not only to office-holders but also to candidates for office. I also noted a puzzle about this view: in contrast to office-holders, candidates for office do not (yet) possess the power to decide on coercive laws. Neither Rawls nor Habermas discusses the issue further. If one now applies the notion of positional duties, and considering the importance of representation through parties, more can be said about the rules for self-restraint that should apply to candidates for office.

If the exercise of coercion is what distinguishes office-holders from citizens, it may be argued that candidates for office are in a similar situation to members of parliament speaking outside parliament on questions unrelated to the exercise of coercion. In such a view, a member of parliament opening a museum of sacral art, for example, would be freed from any expectations of self-restraint regarding religious speech, just as a candidate for office would be. In both cases, the person in question has a relationship with coercion (the one aspiring to an office which gives him that task, the other having it but not currently exercising coercion) but is not currently involved in exercising it. The notion of positional duty, though, suggests that candidates for office are not in a similar situation to members of parliament speaking outside parliament. This is because, trivially, candidates for office do not yet occupy an office. They have not yet adopted their package of duties, they have not yet undertaken the voluntary commitment to adherence to the standards of good office-ship. Members of parliament, by contrast, have done so, and have recognised that whatever belongs to their package of duties, the discharge of their function is subject to the requirements of proper behaviour peculiar to their position. The requirements apply whenever the office-holder acts in that capacity, regardless of the place where he finds himself. If a member of parliament is invited to attend the opening of a museum and give a speech there, it is because – or in part because – he is a member of parliament. Attendance at the opening belongs among his professional activities and therefore falls within the purview of his positional duties.

There is another reason why candidates for office should not be made to observe self-restraint in the same way as holders of office. Candidates for the office of MP are
candidates of parties applying for the position of representative. By becoming candidates, party members enter a prominent public place: candidates for public office are, besides being the office-holder members of a party, those who determine the party’s public face. They therefore have a major role to play in representing their party, making its standpoints known and explaining their party’s platform to potential voters. Unlike MPs, who to a certain extent share the same tasks, candidates are not similarly subject to the requirement to be co-operative, forge compromises with MPs of other parties, and in general be responsible for the common interest, too (rather than merely the interests of their constituency). While MPs are partly representatives of their parties and partly office-holders subject to the requirements of their public office, candidates are only representatives of their parties (even though, when campaigning, they would be well advised to display their willingness to accept the requirements should they be elected).

Being free from self-restraint also has a function within the campaigns of candidates for office. It is important for citizens to know the person they consider choosing as their representative. This requires candidates to be open not only about the political views and initiatives they intend to pursue as office-holders but also about the factors that are or have been relevant in shaping their political views and commitments. In a parliament in which the use of religious arguments is subject to narrow requirements of self-restraint (from which, as I have argued, only MPs of religious parties should be exempt), knowing about the religious views of an MP can facilitate surrogate and gyroscopic representation. It enables voters to some extent to predict a candidate’s future behaviour in parliament. This is true not only of candidates in religious parties, but also of candidates in all other parties. Religious or not, voters may benefit from knowing what shapes their political attitudes. Campaigning is meant to provide voters with this kind of information. In contrast to what Rawls and Habermas hold, therefore, candidates should not be subject to self-restraint concerning the use of religious arguments specifically and religious speech in general.

6.8 Conclusion

In this chapter I have explored the positional duties of different offices and their implications for the role-differentiated application of public reason, which I defended in the previous chapter. I argued that the positional duties of judges and executive officials support self-restraint with respect to religious arguments but that matters are more complicated where MPs are concerned.

I identified two duties of MPs. One is the duty to pass legislation. MPs as legislat-
ors have a positional duty not to use religious arguments. However, MPs also act as representatives of the population. As such they have a positional duty to represent citizens, including religious citizens. What this means for the use of religious arguments depends on the view of representation one takes. I argued that representation should be understood in terms of parties. In modern liberal democracies, representation is organised, structured and realised by parties. An MP is therefore first and foremost a representative of the supporters of his party. Secular parties have a religiously mixed body of support, and there is no duty upon MPs of secular parties to use religious arguments, for doing so would mean a failure to represent their secular supporters. Religious parties, however, have a religiously homogeneous body of support. If religious voters vote for a religious party, and this party is committed to the use of religious arguments in parliament, their MP knows that all those who voted for his party expect their representatives to use religious arguments in parliament. There is in that case a strong positional duty of the MP to represent religious citizens by using religious arguments in parliament. Due to the importance of representation in liberal democracy, this duty is strong enough to outweigh the duty that MPs have as legislators not to use religious arguments.

This argument leads to the conclusion that theories of public reason need to take account of the pivotal role of political parties. I argued that Rawls in particular has difficulty accounting for the role of parties in his theories. Habermas, by contrast, does not assign parties the place they should have in his theory, but his theory can be modified to achieve that end. First, it needs to take account of the parties’ role, not only in transmitting, but in shaping will-formation. Second, the institutional threshold does not permit MPs of religious parties to use religious arguments in parliament in order to represent religious citizens. In this chapter I have provided an argument why the institutional threshold should not apply to MPs of religious parties. This also means that religious parties have a right to exist and should be tolerated, a claim I defend in the next chapter.