

also conclude that the Christian tradition provides more than one paradigm scenario for assessing situations of grievance. Which of them is most apt cannot be determined apart from the theological considerations that create a ranking of paradigms, nor can it be determined apart from the actual discernment of a virtuous person in the situation. Nevertheless, the very fact that we can argue about the cogency or usefulness of the approaches proves the point that emotions are not irrational but corrigible, analyzable and, to some extent, educable.

Perhaps the last and best piece of advice to ethicists comes from Sidney Callahan: "I would be especially aware that the graver moral danger arises from a deficit of moral emotion than from emotional excess."<sup>67</sup>

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#### RELIGION AND POLITICAL LIFE

The debate on the proper relation of religion to politics has continued vigorously since these "Notes" last addressed the topic.<sup>1</sup> The influence of religious communities in public policy debates on abortion remains the most heated practical point of contention. Other practical issues such as economic justice for the poor, homelessness, sex education, health services in relation to the AIDS crisis, and U.S. military policy in the Persian Gulf have also received considerable attention. But during the past few years a number of authors in the fields of moral, political, and legal philosophy have been exploring the basic theoretical grounding for an understanding of the relation of religion and political life in a democratic society. In order to illuminate the larger context within which practical issues are assessed, it will be useful to step back from the details of specific controversies to consider this developing discussion in moral theory and jurisprudence.

Three general positions in the debate can be identified. The first is a liberal democratic stance with secularist implications. John Rawls represents this position in a moderate form; Richard Rorty pushes it to radically secularist conclusions. The second endorses the fundamental presuppositions of liberal democratic theory while seeking to provide greater public space for religion. This is the position developed by Kent Greenawalt. The third offers both a philosophical and theological critique of standard liberal democratic theory and seeks to justify a much greater public role for religious convictions. This is the position defended by

<sup>67</sup> Callahan, "Role of Emotion" 14.

<sup>1</sup> "Notes on Moral Theology: 1987," *TS* 49 (1988) 67-150, at 68-89.

Michael Perry and Robin Lovin. It will become clear that I share the views of Perry and Lovin. But discussion of the overall shape of the theoretical debate may shed light on the practical issues of today by making their presuppositions more explicit.

*Liberal Theories with Secularist Implications*

The intellectual framework within which these authors set the problem of the relation between religion and political life is the vigorous contemporary debate in moral and political philosophy about the status of "liberalism." In this debate, the term liberalism is not used as it was in the 1988 presidential election—as an epithet for the views of the left wing of the Democratic Party. Rather, it refers to a political tradition that developed in the 17th and 18th centuries in response to the religious and moral pluralism of the emerging modern world. It affirms human freedom and equality as the central values in public life. Because the citizens of pluralistic societies hold different convictions about God and ultimate moral purposes in human life, if we are to treat them as equals we must protect the freedom of all to hold these convictions. In public life, therefore, theological and metaphysical beliefs cannot be invoked as normative for the way society is organized. To do so would be to violate the freedom and equality of at least some citizens. This has crucial implications for the relationship of religion and politics. The basic issues can be illuminated by sketching several aspects of the contemporary defense of this liberal theory.<sup>2</sup>

John Rawls' arguments provide a useful frame of reference. Rawls points out that institutions of liberal democracy were initially developed in the years after the Reformation in response to the wars of religion that shattered Western Europe. These wars led both Catholics and Protestants to the conclusion that their own self-interests demanded that they work out a *modus vivendi* based on mutual toleration as the only alternative to endless civil strife. Such tolerance was initially accepted only reluctantly. At first, both Catholic and Protestant Christians continued to hold that if their community were to become predominant in a political region, it would be the duty of the prince to uphold it and to repress other doctrines.<sup>3</sup> Religious peace is inherently unstable under

<sup>2</sup> For further clarification of this multileveled debate, see R. Bruce Douglass, Gerald R. Mara, and Henry S. Richardson, eds., *Liberalism and the Good* (New York: Routledge, 1990); Nancy Rosenbaum, ed., *Liberalism and the Moral Life* (Cambridge: Harvard Univ., 1989). On the relation of the debate to some aspects of Christian ethics, see David Hollenbach, "Liberalism, Communitarianism, and the Bishops' Pastoral Letter on the Economy," *Annual of the Society of Christian Ethics* (1987) 19–40; idem, "The Common Good Revisited," *TS* 50 (1989) 70–94.

<sup>3</sup> John Rawls, "The Idea of an Overlapping Consensus," *Oxford Journal of Legal Studies* 7 (1987) 1–25, at 4.

such an arrangement, for it is not based on a mutual respect for freedom and equality but on achieving as much as possible for one's own community in nonideal circumstances. What Rawls calls toleration as a *modus vivendi* is very similar to the thesis/hypothesis approach to religious tolerance advanced in Catholic discussions of church-state questions before Vatican Council II. But Rawls maintains that in the course of subsequent Western history, a more stable basis for ordering a pluralistic society was discovered. He calls this an "overlapping consensus" on a "reasonable political conception of justice" for a pluralistic society.<sup>4</sup>

A brief outline of Rawls' theoretical account of the development of this overlapping consensus goes as follows. First, it supports a conception of justice that applies to a particular subject, namely the basic structure of a modern constitutional democracy—society's main political, social, and economic institutions. Thus, for example, it would not necessarily apply to family life, to the organization of voluntary associations, or the internal governance of churches. Second, the conception of justice contained in the overlapping consensus does not claim to be the whole of morality. It is not a "comprehensive" conception of morality that "includes conceptions of what is of value in human life, ideals of personal virtue and character, and the like, that are to inform much of our conduct (in the limit of our life as a whole)."<sup>5</sup> Rawls notes that religious moralities as well as philosophies such as those of Kant, Mill, and Marx embody just such comprehensive, even metaphysical, views of the full meaning of the good life. Because there seems to be no reasonable hope of overcoming the plurality of theological and metaphysical conceptions of the good life, a political conception of justice must avoid any claim to be comprehensive. Rather, an account of political justice demands that we deal with the historic controversies connected with religion, philosophy, and metaphysics by what Rawls calls "the method of avoidance." "We simply apply the principle of toleration to philosophy itself."<sup>6</sup>

Rawls states that this form of toleration should not be construed as skepticism about, or indifference to, the truth of comprehensive visions of the full human good. He acknowledges that there would be no possibility that religious believers could affirm such a skeptical theory without denying their own deepest convictions. He states that disputes about religious or metaphysical questions must be avoided in politics "because we think them too important and recognize that there is no way to resolve them politically."<sup>7</sup> Positively, Rawls hopes that diverse religious and philosophical traditions can find reasons *within their own belief systems*

<sup>4</sup> Ibid. 2.

<sup>5</sup> Ibid. 3, n. 4.

<sup>6</sup> Ibid. 12-13.

<sup>7</sup> Rawls, "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14 (1985) 223-51, at 230.

for affirming the political conception of justice he proposes, namely one that regards all persons as free and equal. To the extent that the diverse comprehensive moral and/or religious traditions of Western culture can affirm this more limited political idea of justice on the basis of their own fuller account of the good, to that extent an "overlapping consensus" will be achieved.<sup>8</sup>

There is much to be said in favor of this argument. It is parallel at least in intent to John Courtney Murray's insistence that the First Amendment to the United States Constitution is not a theological or ecclesiological "article of faith" but rather an "article of peace." It is a provision that historical experience has shown to be a wise way to organize a pluralistic society, not a statement about religious truth. In Murray's words, the provisions of the First Amendment "are the work of lawyers, not of theologians or even of political theorists. They are not true dogma but only good law."<sup>9</sup> For Murray as for Rawls, this peace is not a mere *modus vivendi* to be accepted only on grounds of expediency. It has positive moral substance because it protects the dignity of the human person under conditions of pluralism. This protection is a high moral value indeed.<sup>10</sup> At the same time Murray argued that this protection of human dignity is itself a theological and religious imperative for Christian believers. It is an implication of the Christian doctrine that the human person is created in the image and likeness of God. Under the influence of the historical experience of the West, Catholicism has come to appreciate that this dignity of the person can only be protected adequately where religious freedom is protected. For this reason Vatican II declared: "The right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed. Thus it is to become a civil right."<sup>11</sup> Murray and Vatican II would both affirm, therefore, that Catholic doctrine can fully endorse the religious freedom that is part of Rawls' political conception of justice *on the basis of* the comprehensive vision of the human good that is rooted in Catholic belief.

Thus at Vatican II Catholicism became a participant in the overlapping consensus on religious freedom that Rawls wants to strengthen with his political conception of justice. Others, such as free-church Baptists,

<sup>8</sup> Rawls, "Overlapping Consensus" 6-7.

<sup>9</sup> John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed and Ward, 1960) 56.

<sup>10</sup> Compare Rawls' statement that the virtues of cooperation that are associated with his political conception of justice are "*very great virtues*" with Murray's assertion that the peace of a pluralistic society secured by the First Amendment "is altogether a moral norm. . . . One may not, without moral fault, act against these articles of peace." Rawls, "Overlapping Consensus" 17; Murray, *We Hold These Truths* 62-63.

<sup>11</sup> *Dignitatis humanae* 2, in Walter M. Abbott and Joseph Gallagher, eds., *The Documents of Vatican II* (New York: America, 1966).

liberal agnostics, Kantians, or Buddhists, may all be able to participate in this overlapping consensus as well, though they will do so for their own reasons rooted in their own comprehensive vision of the deeper meaning of human life. It is Rawls' hope that historical experience can lead all these groups to discover that the institutions of liberal democracy open up a social possibility not envisioned in the pre-modern era, "the possibility of a reasonably harmonious and stable pluralist society."<sup>12</sup>

Despite the convergence between Rawls and Murray/Vatican II on the desirability and indeed the moral demand for these liberal institutions, there remain important differences. And these differences lead to some of the most contentious aspects of the debate about the relation between religion and political life today. I do not mean the controversies about specific policy issues such as abortion and military strategy. Rather there are major theoretical disputes in the recent literature about *whether* and *how* religious beliefs should play a role in the *public* life of a liberal democracy. Two issues are central: the first can be called the challenge of radical historicism, the second the challenge of religious privatism.

First, radical historicism. On reading Rawls' major 1971 work, *A Theory of Justice*, many of his colleagues concluded that the book was an attempt to mount a defense of liberal democratic institutions based on an understanding of practical reason independent of historical traditions or cultural particularity. For example, Richard Rorty has written:

Many people, including myself, initially took Rawls's *Theory of Justice* to be such an attempt. We read it as a continuation of the Enlightenment attempt to ground our moral intuitions on a conception of human nature (and, more specifically, a neo-Kantian attempt to ground them on the notion of "rationality"). However, Rawls's writings subsequent to *A Theory of Justice* have helped us realize that we were misinterpreting his book.<sup>13</sup>

Rawls has acknowledged that *Theory* may have invited misunderstanding in this regard, and his more recent writings make explicit that his theory of justice, now understood as a theory of *political* justice only, makes no transcultural assumptions of a metaphysical or epistemological kind.<sup>14</sup> Rather he wants to argue for his liberal conception of political justice by looking to "our public political culture itself, including its main institutions and the historical traditions of their interpretation, as the shared fund of implicitly recognized basic ideas and principles."<sup>15</sup> He puts the

<sup>12</sup> Rawls, "Overlapping Consensus" 23.

<sup>13</sup> Richard Rorty, "The Priority of Democracy to Philosophy," in Merrill D. Peterson and Robert C. Vaughan, eds., *The Virginia Statute for Religious Freedom: Its Evolution and Consequences in American History* (Cambridge/New York: Cambridge Univ., 1988) 257–82, at 264–65.

<sup>14</sup> Rawls, "Political not Metaphysical" 224.

<sup>15</sup> *Ibid.* 228.

issue another way in a passage cited by Rorty with approving emphasis added:

what justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, *given our history and the traditions embedded in our public life*, it is the most reasonable doctrine for us.<sup>16</sup>

As noted above, Rawls is at pains to insist that his starting point is not moral or religious skepticism. He wants to keep open the possibility that persons with comprehensive, even theological, visions of the meaning of life and the human good can join a stable consensus on his political conception of justice. Rorty's reading of Rawls, however, raises serious doubt about whether this is possible when one avoids all claims about the criteria of political justice except those that are historically received and culturally mediated.

Rorty, in fact, is considerably more radical than Rawls in affirming that the *only* criteria of morality, whether political or comprehensive, are culturally embedded. For Rorty, there are no transcultural norms of morality at all, for there is no transcultural knowledge at all. The differences between acceptable and unacceptable behavior is not determined by appealing to some universal rational norm. Rather the distinction between the moral and the immoral is a "relatively local and ethnocentric" matter. Morality is simply what we do, and immorality is what we do not do. "According to this view, what counts as rational . . . is relative to the group to which we think it necessary to justify ourselves—to the body of shared belief that determines the reference of the word 'we.'" <sup>17</sup> The appeal to morality, therefore, is an appeal to a sense of identity that is "overlapping and shared" with other persons who make up the "we" of a particular community.<sup>18</sup> It has no other basis.

For this reason, Rorty maintains that notions such as transcendent human dignity and human rights cannot be invoked to stand in judgment of particular historical traditions from outside these traditions. Such transcultural norms simply do not exist. Rather, ideas such as religious freedom and tolerance are affirmed by those of us who are heirs of the Western tradition of constitutional democracy simply because this tradition has made us the kind of people who in fact affirm such things. The tradition of democracy is more important to us than are theological

<sup>16</sup> Rawls, "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77 (1980) 519, italics added by Rorty, "Priority of Democracy" 265.

<sup>17</sup> Rorty, "Priority of Democracy" 259.

<sup>18</sup> Rorty, "Postmodernist Bourgeois Liberalism," in Robert Hollinger, ed. *Hermeneutics and Praxis* (Notre Dame: Univ. of Notre Dame, 1985) 214–21, at 218.

and philosophical disputes about “human nature, the nature of selfhood, the motive of moral behavior, and the meaning of human life.”<sup>19</sup> So we tailor our philosophies and theologies to fit the requirements of liberal democracy, not the other way around. Rorty calls this the priority of democracy to philosophy.

For Rorty, those who refuse to accept the priority of democracy to philosophy cannot be compelled to do so by apodictic arguments, for that would imply the existence of a kind of rationality that Rorty denies. Rather, he says that those who refuse to accept the democratic way of life he supports should simply be regarded as fanatics—people who are “mad” or “crazy.” In a bizarre linkage, Rorty cites Ignatius Loyola and Friedrich Nietzsche as examples of this fanaticism. He says they are to be judged crazy “because the limits of sanity are set by what *we* can take seriously. This, in turn, is determined by our upbringing, our historical situation.”<sup>20</sup> And what Rorty cannot take seriously is any value or truth more important than the freedom of liberal democracy.

This historicism leads directly to Rorty’s privatization of religious and philosophical matters. Theological and philosophical questions may well be of interest to people who have a particular, idiosyncratic vocation to explore them. But they need not be addressed at all in expounding a liberal theory of political justice. Rather, Rorty suggests that the whole point of liberal democracy is to avoid having to address such matters in public life. Opinions on these questions will be exempt from legal coercion in a liberal society, under one condition: that such opinions “be reserved for private life.” Liberal democracy aims at “disengaging discussions of such questions from discussions of public policy.”<sup>21</sup> Rorty acknowledges that this conclusion can be characterized as philosophical “light-mindedness.” But he says it serves the same purpose as liberal “light-mindedness about traditional theological topics.” It “helps along the disenchantment of the world. . . . It helps make the world’s inhabitants more pragmatic, more liberal, more receptive to the appeal of instrumental rationality.”<sup>22</sup>

The theoretical issues underlying Rorty’s position touch a central debate in contemporary philosophy and political theory: the issue of relativism. This is not the place to grapple with the complexities of the current formulations of this perennial question.<sup>23</sup> But Rorty’s reading of Rawls raises two crucial questions for an understanding of the relation

<sup>19</sup> Rorty, “Priority of Democracy” 261.

<sup>20</sup> *Ibid.* 266–67.

<sup>21</sup> *Ibid.* 263.

<sup>22</sup> *Ibid.* 271–72. For fuller exposition of Rorty’s views, see *Contingency, Irony, and Solidarity* (Cambridge/New York: Cambridge Univ., 1989).

<sup>23</sup> The shape of the debate is presented in Michael Krausz, ed., *Relativism: Interpretation and Confrontation* (Notre Dame: Univ. of Notre Dame, 1989).

of religion and political life. First, can Rawls' effort to deal with the problem of pluralism by applying the principle of tolerance to philosophy itself avoid the skepticism that Rawls wants to avoid? If Rorty is right, the answer is no. Second, does Rawls' theory imply the privatization of religion and the triumph of instrumental reason in all of public life? Rawls is open to several interpretations on this point. He hopes that those who hold a particular religious or philosophical conception of the comprehensive good can enter into an overlapping consensus on political justice on the basis of their own beliefs. Thus he tries to show how his conception of political justice can be compatible with religion and how religious beliefs and political justice can "overlap" in the public forum. This seems to avoid the secularist claim that religion should be a purely private affair.

Nevertheless, Rawls insists that matters of public morality—those that fall within the domain of the overlapping consensus of a democratic society—must be adjudicated by what he calls "public reason." He identifies this with "the shared methods of, and the public knowledge available to, common sense, and the procedures and conclusions of science when these are not controversial."<sup>24</sup> Thus in the actual practice of public life, comprehensive religious, philosophical, and moral conceptions of the good life are privatized.<sup>25</sup> Rawls acknowledges that persons who hold such conceptions—e.g., deeply committed and faithful Christians—will regard these understandings of the good life as formative of their very identity. They will find it difficult to imagine what their lives would be like without these particular convictions and attachments. But Rawls states that these convictions and attachments are formative only of persons' "nonpublic (or nonpolitical) identity."<sup>26</sup>

Both Murray and Vatican II would strongly resist this insistence that such "private" conceptions of the full human good "are not to be introduced into political discussion" and are not to be allowed to have any influence in the formulation of public policy.<sup>27</sup> If assent to such a privatized understanding of the full human good is a precondition for participation in Rawls' overlapping consensus, it is clear that contemporary Catholicism (and many other religious communities as well) cannot sign on. As Vatican II's *Declaration on Religious Freedom* put the matter: "It comes within the meaning of religious freedom that religious bodies should not be prohibited from freely undertaking to show the

<sup>24</sup> Rawls, "Overlapping Consensus" 8.

<sup>25</sup> *Ibid.* 15.

<sup>26</sup> Rawls, "Political not Metaphysical," 240, n. 23.

<sup>27</sup> *Ibid.* 231. Rawls states that appeals to comprehensive doctrines of the good must be avoided both in arguments about the basic structure of society and also in the formulation of more specific social policies. See "Overlapping Consensus" 20.



special value of their doctrine in what concerns the organization of society and the inspiration of the whole of human activity.”<sup>28</sup> Despite Rawls’ admirable desire to protect the deep convictions of the participants in our pluralistic society while simultaneously encouraging a consensus on the meaning of political justice, his solution is, I am afraid, not successful. For many religious believers cannot accept his privatized definition of the role of faith. Further, Rawls’ recent writings skate very close to the radical historicist position of Rorty. Rorty’s trivialization of the truth claims of all philosophical and religious beliefs in the name of democracy turns democracy into a kind of tyranny. Murray, following J. T. Talmon, called this “totalitarian democracy.” It is also a kind of religion that ought to be named for what it is: idolatry.<sup>29</sup>

### *A Liberal Theory Supportive of Religion*

Several other writers have recently addressed the problem Rawls is grappling with in a way that is more promising. Kent Greenawalt, professor at Columbia University Law School, states the aim of his recent study succinctly: “This book is concerned with the extent to which citizens and officials in this liberal democracy properly rely on their religious convictions when they decide what political actions to take.”<sup>30</sup> Greenawalt prefaces his study with some brief autobiographical remarks that indicate the source of his interest in the subject. As a young man, his comfortable acceptance of the idea that religious convictions may affect one’s political judgment were supported by his liberal Protestant background, his undergraduate studies of both political science and religion, and the fact that several family members and close friends were ministers concerned with questions of social justice. Later, as a young legal scholar, when he read and admired Rawls’ *Theory of Justice*, he “did not realize the extent to which acceptance of its basic premises would exclude religious perceptions from the political sphere.” But the debate about abortion and the claim often heard in this debate that some were trying to impose their religious beliefs on others stimulated his focused intellectual interest in the topic. In this context, Yale law

<sup>28</sup> *Dignitatis humanae* 5. Murray’s footnote to this passage in the Abbott-Gallagher edition of the Council documents comments: “Implicitly rejected here is the outmoded notion that ‘religion is a purely private affair’ or that ‘the Church belongs in the sacristy.’ Religion is relevant to the life and action of society. Therefore religious freedom includes the right to point out this social relevance of religious belief.” *The Documents of Vatican II* 683, n. 11.

<sup>29</sup> Murray, “The Church and Totalitarian Democracy,” *TS* 13 (1952) 525–63, citing J. T. Talmon, *The Rise of Totalitarian Democracy* (Boston: Beacon, 1952) 532.

<sup>30</sup> Kent Greenawalt, *Religious Convictions and Political Choice* (New York/Oxford: Oxford Univ., 1988) vii.

professor Bruce Ackerman published a book arguing “for the exclusion of religious premises [from political life] with a novel starkness and clarity.”<sup>31</sup> These challenges convinced Greenawalt that the political role of religious convictions was a subject that deserved the most careful attention.

Greenawalt’s book is a reflection on a deep tension in the liberal democratic stance toward the role of religion in political life. He characterizes the tension this way. First, government is legitimated by the consent of the governed and by its protection of basic rights. These rights are natural rights, i.e. they can be understood in nonreligious terms. Thus government has a secular warrant (which does not exclude the idea that it may *also* be warranted theologically as “ordained by God.”)<sup>32</sup> Second, this secular foundation for government implies that government should not seek to promote religious truth, nor should it sponsor any religious organization. Rather, “laws adopted by the government should rest on some secular objective. By this I mean that laws should seek to promote some good that is comprehensible in nonreligious terms.”<sup>33</sup> Third, for many people religious convictions do in fact have important bearing on ethical choices, including ethical choices about laws and public policies. These religious convictions can influence the political views of citizens in several ways: by supplying direct ethical prescriptions; by recommending attitudes of heart and mind; by providing a vision of the ultimate meaning of human life and the kind of God who governs the universe; by providing a sense that God can guide choices directly in prayer.<sup>34</sup> Fourth, it is a central tenet of liberal democracy that “people are free to develop their own values and, at least within limits, styles of life; they are free to express their views not only about political questions but about other human concerns.”<sup>35</sup>

The tension Greenawalt addresses is that between the principle that government has a secular purpose and a secular warrant and the principle that citizens are free to seek to influence public policy in light of their own values. When these values are religious the potential for a conflict of principles is real. This conflict has been evident in the abortion debate and in numerous other areas of public life where the nonestablishment and free-exercise clauses of the First Amendment compete for primacy.

Greenawalt recognizes that the relationship between secular and religious warrants for moral stances on political issues is not univocal. For some believers, Roman Catholics and liberal Protestants for example,

<sup>31</sup> See Bruce Ackerman, *Social Justice and the Liberal State* (New Haven: Yale Univ., 1980).

<sup>32</sup> Greenawalt, *Religious Convictions* 16–17.

<sup>33</sup> *Ibid.* 20–21.

<sup>34</sup> *Ibid.* 31–32.

<sup>35</sup> *Ibid.* 16.

religious convictions are often understood as confirming what can be known about political morality from natural law or reflection on human experience. For others, such as Jonathan Edwards, Karl Barth, and Evangelical Protestants generally, religious conviction "critically affects the resolution of every moral question." Intermediate between these two views are those that maintain that religion provides a supplement to secular moral reflection or adds greater depth and motivation to the effort to live morally. Further, in some cases it may be virtually impossible to disentangle the threads of religious conviction and secular moral reflection.<sup>36</sup>

How, then, is one to deal with the tension between the competing liberal-democratic assertions that government and law should have secular purposes and that citizens should be free to seek to influence public life in accordance with their freely held convictions even when these are religious? Greenawalt agrees with Rawls partially but not completely on this question. Like Rawls, he maintains that the justification of law and public policy must rest on public reason, or, in Greenawalt's terminology, on "the shared premises and publicly accessible reasons" that prevail in society. Greenawalt, like Rawls, is not maintaining that justification must rest on transcultural rationality-as-such. Justification must reflect those canons of rationality that are in fact widely shared within the society in question. In our society these include logical deduction and scientific or ordinary empirical enquiry.<sup>37</sup> Since Greenawalt is convinced that religious judgments are not based on such publicly accessible reasons, he concludes that religious reasons should not be invoked either to advocate or justify a public policy or law.

Nevertheless, Greenawalt is also convinced that "publicly accessible reasons" do not settle a number of important moral questions relevant to public policy that are hotly debated today. He presents extensive analyses of the abortion issue and of our ethical responsibilities for the environment to show this. In both issues we confront "borderlines of status." These concern the crucial question of "how much living human beings owe to fetuses, nonhuman animals, plants, and ecosystems."<sup>38</sup> In order to answer these questions, some vision of what it means to be a human person and of what value is to be attributed to nonhuman beings must be invoked. Such a vision will at least implicitly contain the sort of metaphysical or religious elements that Rawls wants to exclude from his concept of political justice. The publicly accessible reasons of logic, science, and ordinary empirical enquiry have been unable to resolve these questions *de facto*. Greenawalt argues that this state of affairs reveals the inherent limits of these forms of reasoning. Therefore citizens and

<sup>36</sup> *Ibid.* 39–40.

<sup>37</sup> *Ibid.* 57.

<sup>38</sup> *Ibid.* 98.

public officials who must make decisions about issues like abortion or environmental policy cannot be faulted on liberal grounds if they turn to religious convictions for guidance in these areas. They may sometimes have no other choice.

Nevertheless, Greenawalt maintains that citizens who rely on religious convictions to reach their own conclusions on such matters should not appeal to these religious convictions in advocating these conclusions in the public forum. They may rightly discuss policy questions in religious terms with those who share their faith, but they should not do so when engaged in political advocacy in a pluralistic society. So even though Greenawalt wants to provide a space for religion in shaping the stance of believers toward public affairs, he remains committed to keeping religious talk out of the public square. "The common currency of political discourse is nonreligious argument about human welfare. Public discourse about political issues with those who do not share religious premises should be cast in other than religious terms."<sup>39</sup> Thus Greenawalt continues to support a central tenet of the sort of liberal theory developed by Rawls.

### *Religion and the Limits of Liberal Theory*

Robin Lovin has written a very useful analysis of the strengths and weaknesses of Greenawalt's argument. Lovin is appreciative of Greenawalt's challenge to the secularist idea that "it is undemocratic, or even irrational, to apply religious ideas to public problems" and of his effort to provide a "more careful and nuanced integration of an individual's identity as a member of a religious community with his or her role as citizen."<sup>40</sup> But Lovin is dissatisfied by the degree to which Greenawalt retains a characteristic liberal presupposition about the nature of public discourse. According to this presupposition,

The political forum is simply the place where individuals come together to register their conclusions. Aspirations, values, and preferences of whatever sort are formed in some other realm of human experience—religion, emotion, or economic interests, to name a few. They are commitments that people bring to politics for implementation, not for transformation or evaluation. For the most part, politics must take these commitments as given.<sup>41</sup>

In other words, Lovin is saying that Greenawalt grants religion a role in the political process by treating it just like any other individual choice or "interest." This interest plays a legitimate role in shaping how a citizen

<sup>39</sup> Ibid. 217.

<sup>40</sup> Robin W. Lovin, "Perry, Naturalism, and Religion in Public," *Tulane Law Review* 63 (1989) 1517–39, at 1521.

<sup>41</sup> Ibid. 1521–22.

votes, but there can be no real argument about it. Particular religious convictions about specific public policies may be rational given the deeper premises shared by a particular religious community. But since the adequacy of such premises cannot be assessed in any public way, when policy conclusions that depend on these premises enter the public square they are

as remote from rational persuasion as are the most arbitrary preferences. There is no alternative but to treat these convictions as simply choices and to deal with them in politics with the same mixture of prudent limitation and tolerant respect that liberal democracy accords to any other choice. Thus, in the end, Greenawalt's argument is not a case for the public relevance of religious reasons, but for the public acceptance of individual choices that rest on religious reasons.<sup>42</sup>

Religion, therefore, remains a private affair.

To sketch the elements of an alternative approach, Lovin appeals to the work of Michael J. Perry, professor of law at Northwestern University. Perry is a specialist in jurisprudence and the philosophy of law whose writings indicate that he has theological interests as well. His 1988 book, *Morality, Politics and Law*, is an important contribution to the theoretical debate we are considering here.<sup>43</sup> It is impossible to encapsulate Perry's arguments here, for they touch matters ranging from fundamental issues in epistemology regarding the question of relativism, to highly disputed questions about how the U.S. Constitution should be interpreted by the Courts (including the debates surrounding the nomination of Judge Robert Bork to the country's highest bench). It will be enough for present purposes to note several of the philosophical points made by Perry that Lovin employs in his own theological contribution to the argument.

Perry is a Roman Catholic, and his basic stance in this debate reflects a characteristic Catholic hope that faith and reason are allies, not adversaries. But his views are far from those of Catholics who think that moral principles governing public life are eternally valid and easily known by all who are of good will (especially by those who hold the true faith). Perry takes the historicity and exploratory nature of all human knowl-

<sup>42</sup> Ibid. 1522.

<sup>43</sup> Michael J. Perry, *Morality, Politics, and Law: A Bicentennial Essay* (New York/Oxford: Oxford Univ., 1988). This book is the subject of extensive discussion in "Symposium: Michael J. Perry's *Morality, Politics, and Law*," *Tulane Law Review* 63 (1989) 1283-1679. Lovin's essay on Greenawalt and Perry is part of this symposium, and Perry commends Lovin for clarifying the basic issues in the debate. Perry's explicit response to Greenawalt is in "Neutral Politics?" *Review of Politics* (Fall, 1989) 479-509, an excerpt from his work-in-progress, tentatively titled *Love and Power: A Postliberal Reflection on Religion, Politics, and Human Rights*. It whets the appetite for Perry's forthcoming book.

edge with deep seriousness. But it is precisely because he does so that he grants much more importance than does Greenawalt to the *public* role of particular traditions, including religious traditions.

For Perry, people—including religious believers—do not enter the public square simply to negotiate about how best to secure their own privately chosen interests. Perry shares Benjamin Barber's aspiration that democratic politics ought not to be an exchange among a throng of individuals asserting "I want X" in a market of ideas governed by instrumental rationality. Rather, democratic citizens ought to approach the public square with proposals in this form: "X would be good for the community to which I belong."<sup>44</sup> They should be fully prepared for conversation and argument about all such proposals. Perry thinks that much liberal theory encourages the former rather than the latter approach to public discourse. He wants to encourage and open up public space for people to propose visions of what would be good for the larger community. And they should be able to do so not only when these proposals are part of a current overlapping consensus backed by publicly accessible reasons, but also when they are premised on religious convictions that are particularist and distinctive.

So Perry challenges the predominant liberal view that conversation and argument about a comprehensive vision of the good life must be fruitless in a pluralistic society. He has greater confidence than do Rawls or Greenawalt that public debate about the comprehensive meaning of the good life can get us somewhere. Rather than proposing that fundamental religious and philosophical differences be dealt with by Rawls' "method of avoidance," Perry advocates an approach to these questions that is "ecumenical" rather than "neutral."<sup>45</sup> This means that politics is not about instrumental adjustment to competing private interests, but conversation and argument about "competing conceptions of human good, . . . questions of how human beings, individually *and collectively*, should live their lives."<sup>46</sup>

Rawls says such questions are "too important" to be subjected to the heat of politics, and holds out little hope that they can be resolved in the public debate. Perry agrees on their importance, but draws the opposite conclusion about their place in public discourse. "Questions of human good—and in particular deep questions of what it means to be authentically human—are too fundamental, and the answers to them too determinative of one's politics, to be marginalized or privatized."<sup>47</sup> In this way

<sup>44</sup> Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age* (Berkeley: Univ. of California, fourth printing, with new preface, 1990 [orig. 1984]) 171.

<sup>45</sup> Perry "Neutral Politics?" 499.

<sup>46</sup> Perry, *Morality, Politics, and Law* 182.

<sup>47</sup> *Ibid.*

Perry challenges a fundamental presupposition of most versions of liberal politics today: the idea that politics can be neutral about competing conceptions of what authentic human existence is all about. Such neutrality cuts liberal thought off from some of the richest resources for thinking about the human, "the resources of the great religious traditions."<sup>48</sup>

Lovin relies on Perry's basic argument while advancing it a step further in a theological direction. Lovin, like Perry, is fully supportive of the institutions of a free society. He has no desire to reinstitute the authoritarianism of the *ancien régime* nor to support the spirit of "restoration" that currently seems to be animating some in the Catholic community. His purpose is quite the opposite: to enable religious believers to both inform and be informed by the diverse knowledge-claims in our pluralistic world.

Where Lovin differs most from Greenawalt is in the description of what really motivates religious believers in their public, political action. Greenawalt starts with the presupposition that the norms of liberal democracy set the terms for legitimate employment of religious convictions in politics. He concludes that the indeterminacy of arguments based on publicly accessible reasons leaves space for believers to rely on their religion in reaching their own personal political decision as "private citizens" (to employ an oxymoron that has become common in our culture today). Lovin, on the other hand, points out that many religious believers will not find that Greenawalt's argument "authorizes them to do something that they would have otherwise refrained from doing."<sup>49</sup> They do not perceive themselves as needing permission to appeal to their faith when taking political stances. Greenawalt's analysis does not explain why religious believers often seek to shape the public debate about what our *social projects, goals, and ideals* ought to be, not simply to register what their *personal choices or interests* might be.

Lovin identifies three reasons why people bring the language of faith to bear on public choices. He calls these proclamation, conversion, and articulation. Proclamation proposes a religious way of life that stands as an alternative to the taken-for-granted expectations of the wider society. Lovin's example of this way of relating religious convictions to public life is the Mennonite theology of John Howard Yoder. It does not expect public life to be radically transformed in accord with its conviction that the gospel demands and makes possible a nonviolent way of living. But neither does it regard its Christian witness as entirely irrelevant to public life. Rather it "reminds the world of a higher will and another order" that undergirds the life of nonviolent love. Secularist liberals might be

<sup>48</sup> Ibid. 183.

<sup>49</sup> Lovin, "Religion in Public" 1523.

prepared to respect the religious convictions that lead members of such a community to become conscientious objectors on the ground of religious freedom. But respect for religious freedom hardly accounts for the reasons these men and women seek to live a life of nonviolence. As Lovin puts it, "The deed itself is incomplete without the proclamation."<sup>50</sup> The proclamation, therefore, could not be true to itself were it to remain a purely private affair. To say it should remain private deprives public society of a resource for thinking about its own well-being, and simultaneously denies such Christians the freedom to say what they mean.

The second reason for bringing faith to bear on public choices is an effort to resolve public disagreement by conversion. When believers and their fellow citizens disagree about public policy because they do not share the same premises, "one solution is conversion of the secular citizens to the religious premises."<sup>51</sup> For this to be ruled out in principle by the principles of liberal democracy would be an odd way to interpret religious liberty. Greenawalt acknowledges that efforts at conversion are legitimate on liberal grounds. But he suggests that such efforts ought to be pursued by showing how the moral implications of religious convictions are congruent with the present moral beliefs of nonbelievers. This may be strategically and psychologically sound advice. But Lovin points out that "conversion to a new religious belief . . . is quite different from being persuaded that some of the convictions of that belief are attractive on the basis of values one already holds."<sup>52</sup> Also, believers are often convinced that shared moral values need stronger and deeper grounds than *de facto* agreement on these values can provide. Again, the importance of religious reasons and public conversation about religion will be central for one who seeks to influence public life in this conversionist way. Though abuses (usually called proselytism or propaganda) are surely a danger here, does it make sense to eliminate these abuses by cutting off the possibility of this sort of discourse altogether? Lovin and Perry say no. So do I.

Third, religious arguments can be used "in the articulation of an idea of the human good."<sup>53</sup> This approach will build on the possible congruence between a religious vision of the good life and the aspirations of secular persons. The appeal to a religious vision, however, is not simply endorsement of prevailing cultural standards. Rather the believer explicitly appeals to religious convictions because of their capacity to "enrich our sense of the possibilities life offers, extend our concerns to people and places we have heretofore ignored, and transform our sense of what would make us happy by showing us ways of life that our own limited experience

<sup>50</sup> *Ibid.* 1528.

<sup>52</sup> *Ibid.* 1529.

<sup>51</sup> *Ibid.*

<sup>53</sup> *Ibid.* 1530.



could not devise.<sup>54</sup> Such an appeal to religion in public is not simply a ratification of secular values for reasons that are different than those proposed in secular discourse. It seeks to enrich and transform the vision of the human good that shapes our common life together in a pluralistic society, without necessarily expecting a full-fledged religious conversion of members of that society.

For Lovin, therefore, all three ways of invoking religious beliefs in public discourse aim at transforming the terms of debate. There is of course a considerable danger in any one of these sorts of appeal to religion in political life. Greenawalt is especially sensitive to the way religious beliefs can become rigid and can cause significant discord in public.<sup>55</sup> Lovin argues, however, that the fear that public religion will become a source of conflict and even violence is presented in a one-sided way in much liberal discussion of the matter. For the active participation of religious believers in political discourse can be an important occasion for the development and transformation of religious convictions themselves.<sup>56</sup> The fear of what will happen if religion appears in public rests largely on the presupposition that there is something inherently uncivil or fanatical about all religion.

To counteract this fear, Lovin, following Perry, argues that the nature of human language and thought is such that our convictions about how we ought to live are embedded in a complex web of ideas, including ideas drawn from “scientific studies in biology and psychology, personal experience of what is and is not satisfying over the long run, social experience of what does and does not work in dealing with other persons, and religious or philosophical beliefs about what is of lasting value in human life and human achievements.”<sup>57</sup> All ideas—whether scientific, moral, or religious—take their meaning from their relationship to the other parts of this complex web. It is therefore impossible to reach judgments about the truth or falsity of any of our ideas without relying on other ideas that form part of the web. There are no first principles that have no presuppositions. Lovin and Perry share this “anti-foundationalist” conviction with Rorty and the recent Rawls. But they draw a different conclusion, for they reject the notion that historical

<sup>54</sup> Ibid. 1531–32.

<sup>55</sup> Greenawalt, *Religious Convictions* 158–162. Robert Audi has concluded that even Greenawalt’s defense of a limited place for religious convictions in political life goes too far and risks encouraging religious conflict. See his “Religion and the Ethics of Political Participation,” *Ethics* 100 (1990) 386–97, at 395–96. Audi critiques Greenawalt from a more secularist perspective, while Lovin and Perry want more public space for religion than does Greenawalt.

<sup>56</sup> Lovin, “Religion in Public” 1526.

<sup>57</sup> Ibid. 1532. Perry develops this in chapter 2 of *Morality, Politics, and Law*.

consciousness implies a historicist abandonment of the quest for truth.<sup>58</sup> The debates of public life are not just interesting but finally inconclusive talk. When successful, they take us somewhere: toward an increasingly adequate but always revisable understanding of the good life.

Thus it is simultaneously the case that the meaning of one's political convictions will be shaped by one's religious convictions, and that the meaning of one's religious convictions will be shaped by scientific, social, and political ideas. There are no airtight compartments in human consciousness, but rather a rich interweaving of its diverse elements. This implies that religious convictions can be transformed by social experience and the emergence of new political ideas, just as politics can be transformed by moral and religious belief. The interaction is reciprocal, a two-way street. The effort to isolate religion from politics is impossible given this view of human understanding. And it will be just as impossible to develop a religious approach to public life without taking one's best understandings of history, psychology, and social experience into account.<sup>59</sup> Because the proposal to keep religious reasons private abstracts from these interconnections, it risks undermining the dynamic that can sometimes lead religious believers to develop or change their religious convictions. Thus it risks precipitating the sort of fundamentalism, intolerance, and conflict that it seeks to prevent.

Religious convictions are potentially explosive when confined to small spaces. And rightly so. They are, after all, about God. And beliefs about God entail convictions about the whole of human life, not simply a small compartment of it. Whether one professes the *shema* of Israel ("Hear, O Israel: the Lord our God is one God"), the Christian *credo* ("We believe in one God, the Father Almighty, Creator of heaven and earth"), or the Muslim *shahadah* ("There is no God but God"), private religion is theologically self-contradictory. Because religion is about the ultimate good of the whole of human life, it will be untrue to itself if it accepts the private niche to which liberal theory would assign it. And from a sociological point of view, liberals by now ought to have recognized that the alternatives are a *civil* role for religion in public or full-fledged secularism. Rorty sees this choice accurately and opts for secularism.

<sup>58</sup> Rorty's ideal liberal culture would be one that was "enlightened through and through. It would be one in which no trace of divinity remained, either in the form of a divinized world or a divinized self. Such a culture would have no room for the notion that there are nonhuman forces to which human beings should be responsible. It would drop, or drastically reinterpret, not only the idea of holiness but those of 'devotion to truth' and of 'fulfillment of the deepest needs of the spirit.' . . . [D]oubts about whether the aims of liberal society were 'objective moral values' would seem merely quaint" (*Contingency, Irony, and Solidarity* 45).

<sup>59</sup> Lovin, "Religion in Public" 1535.

Rawls, and to a lesser extent Greenawalt, are searching for a way to avoid the choice. Their effort is understandable given their presuppositions, but the empirical evidence shows that it unlikely to succeed.

### *A Public Role for Religion*

Thus for both theological and political reasons, religious discourse deserves to be a free participant in the public exchange of a pluralistic society. Abuses of this public space by believers have occurred and will continue to occur. But as Lovin concludes: "We will have a better understanding of both faith and politics if we try to describe their relationship and construct their norms in terms that fit the discourse to which we aspire, rather than the distortions that we fear."<sup>60</sup> What would such a discourse look like? Four brief conclusions can be drawn from this survey of the theoretical issues that lie just below the surface of the popular debate today.

First, Christians should fully endorse what Rawls calls an overlapping consensus on the *institutions* of constitutional democracy. Rawls is right that a simple *modus vivendi* among diverse groups who share no common moral commitments about how to conduct public life is bound to be unstable. He is also right that most religious communities in the West have discovered grounds within their own belief-system for the affirmation of these constitutional institutions. This happened in Catholicism at Vatican II through the influence of Murray, Maritain, and others, under the pressure of their historical experience. There is no going back on this fundamental institutional insight.

Second, I think Rawls and the other quasi-secular liberals whose views he has systematized are wrong about the purely private role of religious reason and religious imagination. Religious traditions are the bearers of many of humanity's deepest convictions about the human good. (This is not to say these traditions are simply human constructs.) To exclude the insights of these communities from public discourse in the name of "common sense, and the procedures and conclusions of science when these are not controversial" would impoverish our common life in a self-destructive way.

Martha Nussbaum has observed that we need considerably more imagination about what it is to be human than common sense and uncontroversial science can provide if we are to negotiate the rapids of contemporary social existence. We need a vision of the good life. Such a vision arises from "myths and stories from many times and places, stories explaining to both friends and strangers what it is to be human rather than something else. The account is the outcome of a process of self-

<sup>60</sup> Ibid. 1539.

interpretation and self-clarification that makes use of the story-telling imagination far more than the scientific intellect."<sup>61</sup> Our imaginations need to be engaged by these stories not only in private enclaves, but in civil society as well. And to the degree that they are present in civil discourse they will have political impact. Though Nussbaum's writing is non-committal on religious truth-claims, she is right that religious and metaphysical beliefs can make important contributions to a social understanding of the genuine human good.

Third, religion should be part of public discourse precisely because not all religious communities now participate in the overlapping consensus on the moral values that support the liberal democratic institutions Rawls advocates. Some communities do not so participate in this consensus for religious and theological reasons. Serious religious and theological discourse is the only noncoercive route by which their stance can be changed. It took Murray a lifetime of conversation and argument to develop his theological rationale for an official Catholic endorsement of religious freedom. He was helped to develop this rationale by his ecumenical engagement with other Christian communities and by his full participation in public discourse. Had Murray been less ready for public dialogue about both theology and politics, his contribution would never have been achieved. Rawls' "method of avoidance" for dealing with religious diversity would never have produced this outcome. It will not produce it today.

Finally, it must be acknowledged that these reflections are not likely to provide a quick settlement for contentious practical questions such as abortion, military policy, or economic justice. But perhaps these practical questions are debated so interminably because the reigning categories of public discourse are inadequate to deal with them.<sup>62</sup> The literature surveyed here suggests as much. The question of the relation between religion and politics has a long history in the U.S. and the entire Western democratic tradition. It continues to be vigorously alive today. The fundamental issues are more important for the long-term health of this tradition than are the concrete controversies. Controversies about specific policies shape more fundamental convictions. But the opposite is also true. It is hoped that this review of some of the theoretical dimensions of the current argument can contribute to a wiser, truer, and more faithful response in the fog that threatens these arguments today.

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<sup>61</sup> Martha Nussbaum, "Aristotelian Social Democracy," in Douglass, Mara, and Richardson, eds., *Liberalism and the Good* 203–52, at 217.

<sup>62</sup> Lovin, "Religion in Public" 1521.