Religion & Democracy: Interactions, Tensions, Possibilities

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Much of the world is seeing conflict between people whose views permit basing political actions and lawmaking on religious convictions and people whose democratic values oppose this. Democratic societies are in principle open to the free exercise of religion and, in constitution, they are characteristically pluralistic in both culture and religion. Religions are highly variable in their stance toward government, but many of the world's most populous religions, including Christianity and Islam, are commonly taken to embody standards of conduct, such as certain prohibitions, that cannot be endorsed by democratic governments committed to preserving liberty for the religious and the nonreligious alike. The present age is seeing much discussion of just how far religious liberty should extend in democratic societies and just what role religion should play in the conduct of citizens.

The most prominent range of problems concerning the tensions between religion – or certain religions or interpretations thereof – and democracy are institutional. They concern the relations that do or should obtain between "church" and state: between religious institutions or organized religious groups and government or its agencies. Institutional matters, however, are not the only ones important for understanding the relation between religion and democracy. Ethics and political theory also extend to standards appropriate to the conduct of individual citizens. Here the ethics of citizenship, as it is now sometimes called, focuses on how individual citizens should understand the role, in civic affairs, of religious convictions, especially their own convictions about how human life should be lived. This concerns not only deciding what to support by one's votes and public advocacy, but also how to conduct civic discourse. The essays in this issue of / – most of them based on contributions to a seminar sponsored by the Australian Catholic University in March of 2019 – address both institutional questions concerning religion and democracy and the ethics of citizenship as bearing on how individuals, religious or not, may best regard their role in the political system in which they live.

An entire book could be devoted to conceptual exploration of either democracy or religion. None of the essays in this issue undertakes that task, but all of them implicitly conceive religion in a way that avoids narrow-

ness. For instance, none of the authors assumes that a religion must be theistic or that a democracy must use a particular system for selecting government officials. This is appropriate, and here the explorations of religion in relation to democracy apply to all the commonly accepted instances of both religion and democracy. One minimal assumption about democracy shared by the authors is that the term properly applies only where political offices are held on the basis of free elections. It is more difficult to identify a minimal assumption about religion that is comparably shared. But an important assumption for the question of how a given religion is related to democracy is that it has , , : a set of standards indicating how one is to live. This assumption holds for the religions that have been and continue to be central in discussions concerning democratic governance. It holds for all the various religions referred to in the essays included here, and its importance is evident throughout the volume.

Stating the ethic of a religion is often very difficult. Even if it seems explicitly stated in scripture, the relevant texts are likely to exhibit ineliminable vagueness. It has often been noted, to be sure, that "Do unto others as you would have them do unto you" has equivalent or roughly equivalent forms in many religions; but it is highly vague. So is "Love your neighbor as yourself," which appears in (among other religious sources) both the Hebrew and the Christian testaments of the Bible. It is also true that there is no sharp distinction between ethical and religious directives, such as those prescribing certain rituals. Even where their content is overtly religious, however, directives enshrined in a religion have | , , for its practitioners. For at least the orthodox practitioners of certain kinds of religion, it is wrong to act otherwise and to do so is criticizable or even punishable. Some religious directives – arguably all those that are genuinely moral – are meant to apply to everyone, including people outside the religion. This holds for the prohibitions of killing, lying, and theft that are prominent in many religions.

Inevitably, there will be conflicts between what, for some religions, is obligatory or impermissible and what, for some democratic governments, may not be enforced or prohibited. Prohibitions of divorce and abortion are examples, since both are considered morally wrong in some religions and a legal right in some democracies. These conflicts raise two important kinds of questions: first, institutional questions about what laws and practices should bind government and, second, individual questions about what we, as citizens not holding public office, should support, either through persuading dissenters to join us or through voting for laws requiring their conformity to the standard.

ate extent of religious accommodation, from tax exemption to waivers of inoculations to freedom from military conscription.

None of these points entails that a special concern with religion is necessary in every democracy. But the points do strongly support a case for that concern in the actual world as we have known it since the birth of democracy and, so far as one can tell, are likely to know it in the foreseeable future. We should be mindful, however, of nonreligious modes of life that may have or gain a similar status in democratic thinking. Certainly, we should bear in mind that protections of liberty and the general benefits of citizenship should be equally extensive for both the religious and the nonreligious. But here, too, as in the case of conscientious objection to military conscription in America, accommodating the religious can be the basis on which the need for broadening liberty rights is realized.

Exemption from military conscription is an accommodation of what is often considered a matter of conscience: religiously based pacifism. If democracies should not automatically give more weight to religiously based conscientious objections to what would otherwise be a legally enforced burden, should they give equal weight to sincere claims of "conscientious" objections? Those who emphasize "freedom of conscience" as a human right can easily give that impression, but we should not conclude, nor should democracy presuppose, that there is a special insightful faculty – whether it is called conscience or something else – that has high moral authority in its own right. A moral judgment may represent genuine insight or deeply felt commitment whether or not it rests on a deliverance of conscience. Democracy respects our right to hold views of our own regardless of whether they come from a moral sense that apparently bespeaks conscience, a coolly reasoned position, a persisting intuition, or a religious view held in deference to authority. Democracy does, however, limit what we may do – or be excused from doing – on the basis of our views. This brings us to the delicate matter of the limits of liberty in democratic societies.

No simple formula can tell us exactly what liberties a democracy should protect. In at least the Anglo-American tradition, however, the "harm principle," proposed by J. S. Mill in , published in 1859, sketches one of the most influential standards:

> The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the de1 Tt (t-v0 Td ()TJ 0.118 Tw 0 -ssert)]TJ 0.083 Tw 0 -1.individTj /-20 (cwsser

not interfere with the church, is there a comparable case against the church's interfering in the state? This is a controversial matter. It cannot be supposed that moral instruction and indeed moral leadership and role-modeling are outside the scope of religion – and of childrearing. Indeed, the kinds of rights the liberty principle must respect – rights prohibiting harms and government policies that threaten personal development and free expression – protect churches, parents,

en the ideal of public reason itself," as might be illustrated by using a religion's ethical texts to fight injustice of a kind definable in nonreligious terms, such as unfair restrictions on voter registration.[7] Indeed, in the preface to a later edition of the same book, , Rawls says (in what he considers a significant revision of an earlier formulation) that reasonable comprehensive doctrines "may be introduced in public reason [including decision-making in at least nonjudicial governmental contexts] at any time provided that in due course public reasons, given by a reasonable political conception, are presented sufficient to support whatever the comprehensive doctrines are introduced to support."[8]

A plausible and quite different standard, proposed by Kent Greenawalt (but perhaps in some ways anticipating Rawls's most permissive formulation) is that

> Legislation must be justified in terms of secular objectives, but when people reasonably think that shared premises of justice and criteria for determining truth cannot resolve critical questions of fact, fundamental questions of value, or the weighing of competing benefits and harms, they do properly rely on religious convictions that help them answer these questions.[9]

Given how common such judgments of irresolubility are, this principle is quite permissive in sometimes allowing religious convictions to determine law and policy without explicit restrictions on content or source. The principle does, however, require a judgment that shared premises cannot resolve the relevant question; and it apparently requires that actual legislation "be justified in terms of secular reasons." This overall standard fits well both with Rawls's emphasis on the need for nonpublic reasons to be introduced in a way that will "strengthen the ideal of" public reason, and with his later requirement that public reasons be introduced "in due course" for what might be legislated on the basis of other kinds of reasons. The question remains how far – if at all – Greenawalt's position would allow lawmaking that is supported by religious reasons and not clearly justifiable by secular reasons.

A still more permissive position on basing political decisions on religious considerations is philosopher Nicholas Wolterstorff's view that citizens may "use whatever reasons they find appropriate," though he endorses three kinds of restraints:

> When I say "Let citizens use whatever reasons they find appropriate," I do not by any means want to be understood as implying that no restraints whatever are appropriate. . . . [F]irst . . . on the of discussion and debate in the public square. . . . Second, the debates, except for extreme circumstances, are to be conducted in accord with the rules provided by the laws of the land. . . . Third, there is a restraint on the overall goal of debates and discussion. . . . [It is] political justice, not the achievement of one's own interests.[10]

This view allows that legislators might not have any secular reason for passing a law – unless, perhaps, the goal of political justice requires their having some secular reason, as one might reasonably think. Certainly Wolterstorff intends that

civility and respect in the manner of political discussion and in political justice as its goal will rule out much that other thinkers would rule out more directly. But he leaves open that there are kinds of religious reasons that might be an appropriate basis for lawmaking with no restrictions beyond those of this wide-ranging sort.

Is it possible to frame a principle in the ethics of citizenship that is more permissive than some formulations by Rawls but less permissive than Wolterstorff's and significantly different from Greenawalt's, even if only slightly less permissive than his? I have myself proposed a standard that has some kinship with all of those but contains elements they do not embody. Originally called "the principle of secular rationale," it can also be called "the principle of natural reason" to emphasize that, even if natural reasons are secular, they need not be anchored in a secular worldview and – on the positive side – they represent cross-culturally recognized standards of what has been called natural reason. It is illustrated both by judgments that are properly responsive to the evidence of the senses (such as evidence regarding what is seen or heard) and elementary logic, and by reasoning of the deductive and inductive kinds essential in both scientific inquiry and everyday life. This principle of natural reason expresses a kind of civic obligation:

> Citizens in a democracy have a prima facie obligation not to advocate or support any law or public policy that restricts human conduct, unless they have, and are willing to offer, adequate secular reason for this advocacy or support (e.g. for a vote).[11]

This principle has been widely misunderstood and should be briefly clarified.

A secular reason is one that does not evidentially depend for its normative force on religion or theology, but it may of course coincide with a religious reason in content, say in affirming the wrongness of killing and a right of free expression. That enslaving, silencing, and lying are wrong is common ground among the moral requirements of many religions and of an ethics anchored in natural reason. Moreover, prima facie here is not to be defined in terms of evidential plausibility: as an obligation to have adequate secular reason that is apparent but need not be real. The term indicates *pro tanto*. The standard posits a genuine obligation sufficient to justify the act in question if there is no conflicting reason of at least equal weight, but a prima facie reason is not absolute and can be overridden. Suppose only a governor's appeal to religious considerations could stop terrorists' attacks on stadiums filled with people. This could justify appealing to them.

A more subtle point is that the prima facie obligation in question is compatible with a right to act otherwise. There are, however, wrongs within rights: it may be wrong to exercise a right, for instance giving no charitable donations even though one can easily afford to do so and has no competing need. The principle of secular rationale (thus natural reason) is meant to reduce the range of legal coercions likely in a society that abides by the principle, and it should be supported by good reasons drawn from the ethics of citizenship, rather than instituted by law. The prin-

ciple represents a kind of moral responsibility of citizens as such, but their liberty rights enable them to reject the responsibility. Others have a normative [illegible] to their adherence, as charities may have a claim to contributions, but the ethical domain in question is that of civic virtue and optimal respect for others, not the realm of rights we may claim against others. In religious language with a meaning translatable into the terms of natural reason, if perhaps not clearly "public reason," the realm of the principle of natural reason is that of "Do unto others," not that of "Thou shalt not kill."

This principle of secular rationale is (despite this name for it) also [illegible]: Although it calls for adequate secular reason to justify coercion, it in no way

not limited to giving reasons, much less to giving only secular ones. It is a matter of judgment just how much of one's overall perspective, whether religious or not, should be expressed in arguing for laws or public policies. In some cases, bringing religious convictions into public discussion or political deliberation would be needlessly divisive; in other cases, this may be necessary to show that secular considerations favoring a policy fit with a religious position important in the discussion.

What of the notion of an , , reason for a law or public policy? Evidential adequacy will always be contestable, but contestability applies to other indispensable concepts, including that of democracy itself and certainly to notions essential to it, such as liberty, equality, and the common good. We might say that adequacy of a reason entails that an action or belief based on it is , but this is of limited help. It can help to bring concrete aspects of the well-being of the people into view: the importance of food, clothing, shelter, and public health and safety is virtually uncontroversial. But even in these cases, there will be differences to be settled by comparing reasons for one policy or another. Determining whii,pe othere adequate is a problem for any political theory.e

The essays that follow otherpresent diverse views and numerous insights. They e otherefar too rii,pto permit brief summary, but what follows will indicate some of the points they make and some major issues they address.

Kent Greenawalt's essay, "Democracy & Religion: Some Variations & He othed Questions," is a kind of thumbnail retrospective presentation of ideas he has developed and defended in books and papers spanning half a century.[13] He focuses on liberal democracy, with the United States as his central though not exclusive example. Given this concern with democracies like that of the United States, he naturally considers both establishment and free exercise questions concerning religion and democracy. On his view, the nonestablishment and free exercise norms in the United States Constitution "workptogether."[14] He takes this to imply the kind of governmental neutrality towe othed religion that reflects the point that "people will feel mo otherefree about religion if they understand that the government will not favor or disfavor them based on their convictions."[15] Greenawalt considers a number of court cases bearing on the nonestablishment and free exercise

es in which some reliance on those considerations is not wrong. His position on accommodation of religious practices is similarly nuanced. It takes account of both the democratic commitment to protecting religious liberty where no harm is done and restricting the exercise of religion where it calls for accommodations that would require unwarranted governmental preference.

In "Democracy, Religion & Public Reason," Samuel Freeman provides a broad account of how, in democratic societies, both government and individual citizens should view the place of religious beliefs in political matters.[17] His overarching normative framework is that of public reason, roughly as that notion is understood by John Rawls but clarified and diversely exemplified in the course of the essay. Freeman goes to considerable lengths to clarify the way in which that reason-governed framework calls for governmental neutrality toward religion and, for individual citizens, giving a kind of primacy to public reason in lawmaking. Here Kant as well as Rawls is a major source for conceptions of free and equal citizens and of the "political values," above all liberty and equality before the law, that should guide political decisions. As Freeman illustrates in relation to social contract theory as clarifying (perhaps partially yielding) the foundations of democracy, these political values make room for religious expression (within appropriate limits), but also limit the role that religiously based normative standards may have in determining laws and public policies. Religiously inspired opposition to oppression, as expressed by such religious leaders as Martin Luther King Jr., is consistent with public reason, but religiously based opposition to the civil rights of, for instance, gays is not.

Governmental preference toward religion is widely opposed by political theorists, but governmental deference toward it is quite different and raises different questions. The distinction between according preference toward religion and according deference toward it is not commonly observed, and Paul Weithman's "Liberalism & Deferential Treatment" both clarifies it in new ways and brings it to

erence toward religion, as a culturally pervasive attitude, can, even when well-intentioned, adversely affect both public discourse and political decision-making.

Cathleen Kaveny's essay, "The Ironies of the New Religious Liberty Litigation," is a natural companion to the essays just described and extends their work. Referring to several recent court cases of plaintiffs seeking religious exemptions, she articulates the not uncommon underlying admixture of political agenda with apparently religious zeal. But despite a number of legal gains, "social conservatives may have blunted their own most powerful critique of Western liberal society: its atomistic individualism, its reduction of morality to feelings, and its inability to think in terms of the common good rather than the contestation of interest."[20] Here she contrasts the quest for exemptions as a way to change legislation with Martin Luther King Jr.'s attempt to make law fair to[illegible]. In characterizing a positive redirection in understanding religious liberty and its accommodation, she outlines a kind of civic friendship that constitutes a better framework for decision-making in democratic communities than the "exemptionist mentality" that is currently prominent. Civic friendship centers on regard for one another's conscience and on reciprocity concerning the maintenance of liberal democracy.[21] For civic friendship, especially in the case of employers, role relationships are central, and in those relationships, civic friendship seems a better framework than drawing more and more legal lines.

In "The Perils of Politicized Religion," David Campbell provides data that underline the urgency of the cultural elements Kaveny sees as needed for the flourishing of the ideal democracy, and for reducing the politicization – or as he suggests, weaponization – of religion. He documents a "secular turn" in American society, but he also sees evidence that "politics shapes religious views."[22] One indication of such shaping is a significant change: in the period between the presidencies of Clinton and Trump, only 6 percent of white evangelicals, compared with 27 percent previously, affirmed "a connection between private morality and public ethics."[23] He also provides evidence of a "secular backlash," reporting that, for instance, "exposure to a Republican candidate who employs 'God talk' leads to an increase in Democrats who report no religious affiliation."[24] Given these and other data the essay brings forward, it appears evident that the religionization of politics in many realms of public life may be seen as a trend that "threatens the state of religious tolerance in America and muffles religion's potential to be a prophetic voice."[25]

Even apart from the idea that organizations may be viewed as legal persons, democratic theory must address their status as candidates for religious exemptions from applicable laws. This issue is central for Stephanie Collins in her essay "Are Organizations' Religious Exemptions Democratically Defensible?" One guiding assumption she considers is how individuals' religious liberty claims might be "transferred up" to organizations they belong to, such as businesses they own or institutions in which they hold office. She describes several other assumptions. She

rejects both the idea that every liberty right of an individual member transfers up to the organization and the counterpart view that an organization's responsibility to do something, such as provide a controversial medical service, transfers down to all its members.[26] Once these and related points are shown, we can see that organizations' claims – say claims by churches for a legal right to give discriminatory preference for one sex over another in employment policy – cannot be automatically given the weight such claims can have in individual relations. The issue is even more complicated when a claim by individuals as members of an organization, such as physicians in a church-affiliated hospital, conflicts with a claim of other individuals, for instance patients, who seek equal treatment by that organization or protection of a liberty, such as a right to assisted suicide, that it seeks to restrict.

Public education is a major realm of church-state policy issues in democratic theory. The prevalent liberal-democratic position is that although public schools may require instruction , religion, as in history classes, it may not require instruction a religion. In his "Secular Reasons for Confessional Religious Education in Public Schools," Winfried Löffler argues that so long as secular students are offered educational alternatives such as courses in ethics (which may touch on religion in the neutral ways a history course may), a democratic government may require confessional religious instruction for those who identify as belonging to an eligible religion. He argues his case in reference to the Austrian public education system but takes his view to have wider application. For one thing, "religions – in their best forms – can be seen as powerful supporters of democracy and the 'democratically virtuous citizen.'"[27] But he also argues that instruction regarding religion cannot be fully "neutralized anyway."[28] This bears on the alternative view that public schools should simply teach about religion without any confessional instruction. He indicates how, in Austria, the relevant religions are selected, since not just any religion can properly figure in the curriculum; and he considers how the kind of education he supports can avoid preferential treatment of any one of the eligible religions.[29] Löffler grants that the system he defends is not the only one that may succeed in providing adequate public education about religion. He concludes that "to have it done via confessional religion teachers under the transparency conditions of public schools is not the worst" among the available options for democratic societies.[30]

Liberty of conscience is a commonly cited right needing protection by any genuine democracy. But what is conscience? Here Lorenzo Zucca's "Conscience, Truth & Action" offers many analytical descriptions. On one view, which he associates with such powerful exemplars as Sophocles's Antigone, it is a source of moral knowledge, and that source may of course also be religiously authoritative.[31] On a second view (not incompatible with the first), conscience is a faculty that has a motivational and emotional role, pricking and prodding us in various ways. Here Shakespeare's Othello is Zucca's literary exemplar, one whose delusion shows how conscience can motivate the wrong actions.[32] On a third view,

"conscience is presented as a deliberative device: we engage in a calm, rational reflection on our feelings and duties and we attempt to organize our thoughts before we can allow ourselves to get into action."[33] Shakespeare's Hamlet is Zucca's exemplar in this case. These conceptions of conscience provide rich sources of questions about the status of conscientious objections, whether religiously based or not. Zucca concludes that "Conscience can claim to be heard but does not systematically excuse whoever claims it."[34] He does not explicitly appeal to "public reason" or any specific standards for adjudicating claims of conscience, but he does maintain that "conscience can only be protected by the law when it can show that the law is making a mistake that needs to be rectified."[35] Conscientious objections made on a religious basis are no exception to this restriction.

The protection of human rights is an avowed aim of many democratic constitutions and an ideal in the leading theories of democracy. There is of course dispute about just what rights are included, but freedom of religion is typically among the least controversial rights needing protection. Its extent is certainly controversial, but few would deny that the liberty rights whose exercise does not harm others include many categories of religious expression. Here T. Jeremy Gunn's essay "Do Human Rights Have a Secular, Individualistic & Anti-Islamic Bias?" – which focuses on the UN Declaration of Human Rights – is highly pertinent. Citing charges that the Declaration is so biased, he considers objections from representatives of Islam.[36] He finds no Quranic basis for the blanket charge in question. In making his case, he distinguishes between, on the one hand, rights people may voluntarily exercise, forgo, or in any case not claim, such as the right to leave a religion even if they have in some way promised to live within it permanently, and, on the other hand, the supposed right of a state to enforce conformity with the religiously ordained standard. He does not deny that, as in some other religions, there are some cases in which Muslims might deny that there is a right to act contrary to an Islamic requirement, but he suggests that the real issue for Muslim critics of the Universal Declaration "is not that it interferes with the ability of Muslims to practice their religion, but that , , , , (which has no basis in traditional Islamic law) , , , , to compel compliance with religious law."[37] A major question his essay raises is whether, contrary to some of the cited critics of the Universal Declaration, human rights are , , individualistic and, accordingly, whether any rights of governments as such derive from the rights of the individuals to whom governments are responsible.

A difficult question not pursued directly by any of the essays in this issue is whether any major religion is committed, by its scriptures or traditions, or by these in combination with other factors, to a specific conception of democracy and its role therein. Only one of the essays explores whether practitioners of a major religion, here Judaism, tend toward definite views of the relation between religion and democracy. In "Judaism, Pluralism & Public Reason," Jonathan Jacobs

to move toward democracy. Here religious figures have played a prominent role in transitional justice, though the moral authority of such people "is a function of individual biography" and need not depend on their religion.[44]

Patriotism has been considered a virtue, but it has also been seen as allied to a kind of nationalism that may be inimical to democracy as well as to international relations. In "Patriotism & Moral Theology," John Hare draws on Immanuel Kant both in defending patriotism as compatible with democracy and in arguing that it can be supported theologically. Hare takes patriotism to be love of one's country, not an attitude or stance toward one's nation as a legal or institutional entity. Indeed, he strongly associates love of country and love of humanity and sees the moral theology of Kant as he understands it to support the latter and thereby a cosmopolitan perspective.[45] Hare also maintains, regarding at least the Abrahamic religions, that "Within Judaism, we should look at the Noahide Laws, for example; within Christianity, at the parable of the Good Samaritan; and within Islam, at the Mu'tazilite position on duties to the stranger. . . . [I]t is the very same God who does both the including and the sending out . . . beyond the group to strangers in need."[46] He illustrates this point by citing Germany's accepting more than one million people seeking asylum. Must German patriots disapprove, and is the

resolution of conflicts that occur between church and state and, at the level of the civic interactions and political conduct of individual citizens, both in their public life and within their private thinking. The essays presented here are offered as contributions to advancing this perennial task.