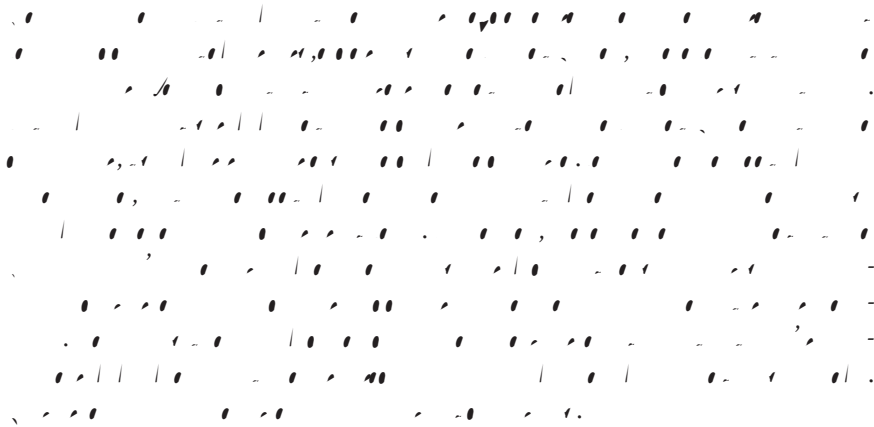


# Judaism, Pluralism & Public Reason

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Jews' commitment to democracy is strong, especially in the United States. From a Jewish perspective, the state neutrality toward religion expressed in the U.S. Constitution compares favorably to conceptions of public reason in addressing questions about religion in liberal democracy. One of the chief reasons for this has to do with the ways Jewish identity is important to both religious and nonreligious Jews and how public reason can be problematic for that identity. Because of how state neutrality relates to civil society, it enables people to acquire habits and attitudes of toleration and noninterference with others in ways that are perhaps more efficacious than (widespread sociopolitical) employment of a standard of public reason.

Notions of citizens of a democracy as “free and equal” and meriting respect on the basis of the worth and dignity of all human beings come quite naturally to Judaism. In some key respects, such notions have their origin in Judaism. Biblical conceptions of the fellowship of humankind, the worth of the individual, the political imperative of “justice, justice you shall pursue,” and the moral obligation to care for the widow, the orphan, the stranger, and the poor are anchored in Jewish sources.<sup>1</sup> In addition, much of the early modern theorizing about the liberal state, especially the arguments of numerous English and Dutch theorists, was shaped in large part by the ways they regarded the Hebrew Bible as a source of political ideas.

Milton, Harrington, Selden, Grotius, Cunaeus, and other English and Dutch Protestant thinkers—some of them monarchists, some republicans—regarded

and some “required oaths of office that only Christians could honestly take,” the experiences of Jews in the United States, right from the founding of the nation, have differed from Jews’ experiences elsewhere.<sup>4</sup> In many European countries, Jews were not even granted citizenship until the modern era, and then in the twentieth century, their rights were severely curtailed again.

In some respects, their experience in Europe helped to prepare Jews for the form of liberal democracy found in the United States. Prior to the Enlightenment and a key period of Jewish emancipation in Europe between the eighteenth and twentieth centuries, there had been several centuries of Jewish self-rule: quasi-democratic government under Christian or Muslim political authority. While lacking ruling political authority, Jews often had their own courts, and the most common form of Jewish political association was the *kehilla*, a council or group from the community exercising governing functions for the public good. As Yiddish literary scholar Ruth Wisse has argued, “unable to rely on coercive power, Jews had been forced to compete at a severe disadvantage. Like athletes that train with weights, Jews were more than ready for the competition once their handicaps were lifted.”<sup>5</sup> This occurred in France, England, the Netherlands, Austria, and Hungary in the eighteenth and nineteenth centuries, though full citizenship was not available to Jews in Germany until after World War I. Being a minority, and typically subject to various exclusions, Jews had lengthy practice with certain forms of self-government and with trying to protect their interests and promote their welfare without antagonizing non-Jewish majorities.

While those handicaps were lifted, emancipation and integration remained fraught in many parts of Europe. In Germany, widely popular anti-Semitism developed rapidly, and *Der Jude*, one of the most infamous and enduring anti-Semitic works, was first published in Russia in 1905. The removal of official, legal handicaps did not mean that there would not be vicious populist anti-Semitism. In some respects, emancipation “freed” Jew-haters in those societies to indulge in all sorts of popular hatred, humiliation, and caricature of Jews in the press, in theater, and in politics, even if the state did not officially enforce anti-Semitic measures. Very swiftly, the notion that “Jews were unworthy of the legal and social position conferred upon them” became widespread and powerful.<sup>6</sup> Thus, there were important respects in which the liberal and slowly democratizing European states still did not regard Jews as full-fledged members and participants, even once they had citizenship. In “On the Jewish Question,” Marx maintained that the “emancipation of mankind from *religion*” depended on “the emancipation of the Jews from Judaism.”<sup>7</sup> In Europe, the so-called “Jewish question” remained open, whether or not Jews were permitted to address it. A century later, the answer came in the form of a program of extermination. That program was broadly popular across much of Europe even if extermination of the Jewish people was not an official commitment of nations the Nazis invaded. While there

are many episodes of non-Jews helping and rescuing Jews, in Ukraine, Latvia, Romania, Hungary, and Poland, for example, local populations often participated in the expulsions, expropriations, and mass murder.

Jews have regarded the United States with special affection, in part, because their participation in civil society did not have to wait upon others conferring rights on them or removing disabilities from them. Jews have experienced anti-Semitism in the United States, especially in parts of the Midwest and South, but generally it did not take the more menacing forms it took in Europe. Jews had a degree of confidence in the ability of political and legal institutions in the United States to address issues of exclusion and to protect against a majority religion taking a state-endorsed role. As scholar of Islam Hillel Fradkin has observed, "Given the liabilities of their premodern circumstances as a disenfranchised and much persecuted minority, it was natural for Jews to see modern democracy as a great blessing that promised not only legal and physical security but dignity as well."<sup>8</sup> In the increasingly open and competitive circumstances of American life, as quotas and impediments were eliminated from universities (both regarding admission and employment), professions, civic organizations, and other institutions, Jews overall became politically active and prospered.

Many American Jews continued to feel some trepidation about arousing anti-Semitic sentiment, and even though Jews were not apprehensive about asserting their rights, "profound disagreements existed within the still nascent Jewish leadership over how best to gain their objectives without provoking an anti-Semitic response from the dominant Christian culture."<sup>9</sup>

One way to characterize the uniqueness of the American experience for Jews is that in the United States, the basic political-legal order did not need to be altered in order for Jews to be citizens and to have the rights that others have. Also, civil society in the United States was pluralistic from the start. Pluralism was not a latter-day, unfamiliar development. Granted, free society was basically white and Christian: slavery was not abolished until well into the second half of the nineteenth century, and there were diverse ways in which exclusions, quotas, and other impediments to participation and inclusion limited Jewish participation in civil society (including universities, professions, housing, fraternal organizations, and so on) for many decades. But the inclusion of Jews did not come about after a period of official exclusion from citizenship.

A key reason for the distinctiveness of the American experience concerns the relation between its liberal democratic constitutional order and its dynamic, pluralistic civil society. One of the chief points of the present discussion is that the relation of mutual reinforcement between the political-legal order and civil society in the United States has been crucial to the experience of Jews in U.S. liberal democracy.

From the Jewish perspective, the political culture of the United States at its founding contrasted in fundamental ways with the political cultures of European nations. The constitutional order in the United States is distinctive in recognizing extensive individual liberties and rights as fundamental elements of the political-legal order. Also, all Americans are entitled to equal protection of the law and equal status under the rule of law. It is distinctive in having multiple modes of popular participation in the political process: from voting, running for office, and campaigning, to forming interest groups to influence legislation, expressing views in the media, and so forth. Constitutional amendments ended slavery and guaranteed fundamental rights for new groups of citizens, rights that were later more explicitly upheld at the state level. In 1920, through the Nineteenth Amendment, women achieved suffrage, and while non-white women were still subject to the same de facto discrimination and disenfranchisement as non-white men, the political culture in the United States was becoming more democratic and the civil society more inclusive.

That kind of political order sustains a dynamic, pluralistic civil society, by which,



(ethno-national/religious) culture. “Every humane value that Jews claimed as an attribute of their moral achievement is interpreted as a secret means to achieve world domination, and every aspect of Jewish accommodation is construed as a stratagem of conquest.”<sup>13</sup> Jews’ improved political status was not also accompanied by civil society welcoming their participation as legitimate or natural.

In the United States, Jews have been vocal proponents of democracy and the basic political order. Their main concerns have not been whether they can be free to practice their religion, but the extent to which they can participate in civil society on equal terms with others.

During the first half of the twentieth century, many Jews were strongly committed to assimilation. They wanted to participate in American civic culture and distance themselves from much of what they regarded as a more insular, more tradition-bound, and socially limiting form of life in “the old country.” In a sense, Jewish commitment to church-state separation and to limiting the role of religion in public schools seems to have been motivated by fears of populist oppression of Jewish culture and identity. The separation was a way to keep whatever faith happened to be the majority from enlarging the presence and role of its religion in public education. At the same time, because religious identity was very important to many Jews, even if religious worship and knowledge of sacred texts were not, the neutrality of the state toward religion was a way of preserving Jewish cultural identity, in contrast to Jewish children growing up thinking that being Christian is “normal.” Many Jews in contemporary American society have a strong sense of Jewish identity, though they do not practice the religion. Still, it is important to them to be able to participate in civil society as Jews. As Hillel Fradkin has noted, “Perhaps most Jews today, including many who are not very observant, see a strong link between democracy and traditional Jewish teachings. They regard this link so seriously that they believe it may inform their own political actions and justify their own understanding of what democracy requires.”<sup>14</sup>

Among American Jews, by now, the tradition they are upholding is secular with regard to religion, but Jewish with regard to culture.<sup>15</sup> For only about one-third of American Jews is the practice of religion an important part of their lives. Almost a third seldom or never attend a religious service, and nearly half seldom or never pray. Less than one-fifth regard religion as a source of moral guidance. It is among Orthodox Jews that belief in God and religious practice remain centrally important, and the Orthodox—though only 10 percent of American Jews—are more likely than non-Orthodox Jews to marry, to have a Jewish spouse, to have several children, and to raise their children to be observant Jews. However, there are differences among the Orthodox: Haredi Jews and Modern Orthodox Jews have sharply differing views and commitments regarding many issues, including their relation to non-Jews in society. Still, Orthodoxy is the fastest growing group of Jews in the United States.

The Pew Research Center notes, “Jews are among the most strongly liberal, Democratic groups in U.S. politics. There are more than twice as many self-identified Jewish liberals as conservatives, while among the general public, this balance is nearly reversed.”<sup>16</sup> Part of what is striking about the firm commitment of Jews to liberal democracy in the United States is that the most traditional, observant groups among Jews are generally the most politically conservative, and nearly 57 percent of this group identify with or lean toward the Republican Party. The Pew survey indicates that on numerous moral issues, Orthodox Jews are aligned with evangelical Protestants and Mormons. A sizable majority of Jews favor a larger state role in regard to welfare concerns such as social security and provision for health care. This is most pronounced among those between eighteen and twenty-nine years old, followed next by those in the sixty-five-and-older age group. Orthodox Jews tend to endorse smaller rather than bigger government: almost 60 percent compared to about one-third of non-Orthodox Jews.<sup>17</sup>

**W**hy do Jews favor the neutrality of the U.S. Constitution regarding religion, and why might a standard of public reason not share its merits? It will help to distinguish (at least) two ways in which people can be said to be religiously serious. One of them is that religious commitment, worship, and practice are important to this group of people and matter to them in fundamental ways. A second sense of religious seriousness is having a strong sense of identity— usually cultural, valuative, and concerning ancestry— that is important to uphold. For those who are religiously serious in the first sense, their commitments could include elements that are illiberal and undemocratic, and there are reasons a state could consider prohibiting such harmful practices. But if their commitments shape how they live in civil society without harming or coercing others, there is at least a *prima facie* basis for permitting religious practice based on them. Granted, it will not always be clear and indisputable whether commitments cause harm to others. Still, in a sense, people are religiously serious when they regard their religious commitments as substantively constitutive, as integral to their conception of themselves and their view of the world.

Jews who are religiously serious in the first sense might be expected to strongly endorse state neutrality and freedom of religion. And while there are overlaps between religions— especially the Abrahamic monotheisms— many religious people are committed to one particular tradition, with its distinct concrete elements, and not to a kind of identikit religious morality. A kind of overlapping consensus can be acknowledged and valued without also being the focus of commitment. The meaningfulness of commitment might be rooted in history and culture, not as ineliminable sources of irrationality but as crucially important origins, supports, and grounds of valuative solidarity. For example, the Pew survey reported:



Overwhelming majorities of both Jews by religion and Jews of no religion say they are proud to be Jewish (97% and 83%, respectively). Most Jews by religion also say they have a strong sense of belonging to the Jewish people (85%) and that they feel a responsibility to care for Jews in need (71%).<sup>18</sup>

Even nonobservant American Jews often have a strong sense of being part of the Jewish people, regard its history as important, and have active concern for the current conditions of Jews' lives. Nearly three-quarters of those surveyed maintained that remembering the Holocaust and leading a morally sound life are important.<sup>19</sup>

If these points describe, in either sense of being religiously serious, a plausible characterization of the way many Jews see their commitment to justice, then it is understandable that notions of public reason could be problematic for many Jews.

Neutrality permits expression of the fullness of one's identity, while guarding against, for example, religious groups influencing education or using educational institutions in ways that promote sectarian aims. The role of neutrality in the political culture of the United States has meant that many forms of religious life and culture have been at home in civil society without blurring the lines between political order and civil society, especially in regard to education but more broadly as well. For many Jews, the ability to enjoy the freedoms of civil society without feeling continuous dread about interactions between state and church is a notable merit of American democracy.

which they were first introduced. There can be a strong sense of religiously anchored identity and value commitment even without religious practice. For many nonreligious Jews, leading a morally sound life is understood as what the religion requires.

Given the fact that many Jews do not practice Judaism, and given the central place that freedom and equality have in the religion, it might seem natural to suppose that something like a Rawlsian conception of public reason would appeal strongly to Jews. Yet neutrality could have much stronger appeal. The key points here apply to both senses of religious seriousness.

Rawls writes, "The idea of public reason specifies at the deepest level the basic moral and political values that are to determine a constitutional democratic government's relation to its citizens and their relation to one another."<sup>22</sup> Further,

A citizen engages in public reason, then, when he or she deliberates within a framework of what he or she sincerely regards as the most reasonable political conception of justice, a conception that expresses political values that others, as free and equal citizens might also reasonably be expected reasonably to endorse.<sup>23</sup>

Public reason requires that "we assume that, in an ideal overlapping consensus, each citizen affirms both a comprehensive doctrine and the focal political conception."<sup>24</sup>

Since the political conception is shared by everyone while the reasonable doctrines are not, we must distinguish between a public basis of justification generally acceptable to citizens on fundamental political questions and the many nonpublic bases of justification belonging to the many comprehensive doctrines and acceptable only to those who affirm them.<sup>25</sup>

Grounds for apprehension about public reason concern the way that the relevant consensus involves disentangling grounds of commitment and bracketing elements felt to be constitutive. The disentangling might be regarded as either artificial, threatening, or both.

Robert Audi has elaborated a view of the relation between democracy and religion that reflects the important fact that religious rationales often figure in ways that people are (reasonably, not just dogmatically) reluctant to give up and should be encouraged to express; though he also maintains that in a liberal democracy it is appropriate to expect of people a secular motivation for their views. Regarding the first point, he articulates "the principle of religious rationale":

Religious citizens in a democratic society 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 religious reason for this advocacy or support.<sup>26</sup>

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conception of public reason, this does not require a bracketing of religious considerations, concealment of them, or worse, acquisition of a habit of hypocrisy about them. Regarding the second point— that a secular motivation can be called for— Audi formulates “the principle of secular motivation.” He writes, “Citizens in a democracy have a (prima facie) obligation to abstain from advocacy or support of a law or public policy that restricts human conduct, unless in advocating or supporting it they are sufficiently / . . . by adequate secular reasons.”<sup>27</sup> This approach does not prohibit religious considerations from having a justificatory role and it does not separate out comprehensive views in a systematic way.

Those who are religiously serious in the second sense might find that it is not very difficult to fulfill the principle of secular motivation (though it does not preclude religious reasons being sufficient). However, as mentioned, disentangling the elements of one’s view from the ways that one has come to have them can be very difficult. It can be challenging to know, even in one’s own case, how important religious ideas have been to the formation of one’s ethical commitments. While it is appropriate to ask that fellow citizens articulate reasons that are accessible, what actually constitutes accessibility is not a simple matter. Nor is the issue of how much justificatory and motivational efficacy any given considerations have. Many political matters can be resolved eventually on the basis of good faith bargaining, the presentation of facts, and the willingness to listen genuinely to views other than one’s own. But even someone able to articulate a secular rationale for certain moral commitments might actually have them as the result of inculcation of a religious tradition, and may also regard the tradition as valuably illuminating. I suspect that this is the case for many Americans: that it is through religious education, even if informal, that they first learn certain moral values, though they come to hold those values as adults on the basis of secular reasons or on the basis of secular reasons.

It will not do to insist that religious ideas, images, and practices be excluded from moral education, whether formal or informal. That would be a significant imposition. Those values and commitments of secula\_01 Tf 0.087Tw1.71dibs not a simp||so alu

ish persons' concern for justice as rooted in religious commitments and values in ways that are clearly compatible with state neutrality but not so clearly compatible with a standard of public reason. State neutrality allows for the flourishing of diverse forms of religious seriousness and religious life in civil society, and without state-privileging of any religion. In the United States, that has been especially welcome to Jews because it meant that, right from the founding of the state, civil society did not include a role for the state in religion, and the political order has not required Jews to suspend or disavow religious seriousness for their participation in political life.

One of the most striking impacts of Jews' emancipation from second-class status— or worse— in Europe was that Judaism, for the first time, had become a private matter. That changed the character of Jewish community and, in numerous ways, how one led a Jewish life. It led to many Jews giving up tradition and worship and community life, but not necessarily in ways that dissolved bonds of solidarity. That voluntariness and the way even nonobservant Jews see the importance of membership in a historical community are not inconsistent. For many Jews, it remains so.

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To be sure, Rawls is careful to formulate his conception of public reason so that it does not condemn as unreasonable values and commitments that do not satisfy its requirements. Still, for persons who value liberal democracy in part because of how it does not burden or judge such commitments, the standard can seem to require setting aside some of what matters most. Rawls writes, “the elements of the political conception of justice must be separated from the analo-



