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 *Dædalus* – 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-

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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 *an ethic*: 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 *normative authority* 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.

So far, one might think that the relation between religion and democracy is important only because conflicts are inevitable. That is not so. But is religion of special concern for democratic societies for any similarly important reasons? There are at least three kinds of consideration indicating that it is.

Suppose we take seriously the idea that democracy is a form of government that is, as Abraham Lincoln put it in the Gettysburg address, "of the people, by the people, for the people." Surely the "for" here is normative: in any sound democratic theory, government must serve the people in a sense that entails caring about their good. This is distinct from, though it entails, caring about their rights. It also concerns their well-being. No specific view of the "common good" is required by the minimal conception of the good of the people in question here, but support of material well-being, at least minimal education, maintenance of certain public goods, and preservation of the conditions for free elections are uncontroversially included. If we add to this that many pursuits people deeply feel to be part of their sense of identity deserve protection, then it appears evident that protection of religious liberty may be of special concern for a democracy.[1] This is not to say that *only* religion can have this status. That seems a mistake. But historically, few pervasive, interpersonally significant commitments – at least if institutionally identifiable – have the role in one's sense of identity that religion has for those who are genuinely religious. This is most evident where the religion in question has an ethic and, with it, a well-developed vision of the good life.

A second consideration supporting a special place for religion in democracy concerns its potentially positive role, by contrast with its need for protection. Institutional religions are social and indeed often *participatory* in the sense that they provide social roles and call for their fulfillment by groups of people. Some religions are, to be sure, strongly hierarchical in their authority structure; but even those can encourage or require a measure of partial or local governance. This can involve planning and directing parish activities, maintaining schools, serving the poor in or beyond one's community, and overseas missions with educational or health care purposes. Such activities may be to some degree democratic, and they can provide training in, among other things, civic discourse, leadership, and policy-formation.

A third consideration is that religious institutions – and indeed, individuals representing religiously based ideas and ideals – can be a counterpoise to the power of the state. They can also be a source of diverse elements that can bring to civil society ideas and values that might not otherwise be recognized or given due consideration. If religions have sometimes been co-opted by dictatorships, they have also sometimes been powerful counterforces against tyrannical government, institutional oppression, and forced conformity to government-approved social norms. Secular ethics and political leadership can yield many of the same valuable contributions; but particularly where democratic governments are – quite properly – maintaining religious neutrality in their official actions, it is not difficult for government officials to overlook needs, policies, or normative issues that may be well articulated by religious citizens constructively participating in civic life. One issue here is the content of public education; another is the basis and appropri-

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 *all* 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 *On Liberty*, 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 dealings of society with the individual in the way of compulsion and control. . . . That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection . . . to prevent harm to others.[2]

In relation to religion and democracy, a plausible application of this might be called the *liberty principle*: Government should protect religious liberty to the high-

est level possible within a reasonable interpretation of the harm principle.[3] Liberty in general, and not just religious liberty, is a constitutive standard in any sound democracy, but, for reasons such as the need to protect citizens' sense of identity, this religious liberty principle is one deserving a distinct place in framing democratic constitutions or crafting legislation affecting religion.

The liberty principle is not the only general standard important for church-state relations in democratic societies. A government that upholds the liberty principle may consistently treat different religions differently, at least in countenancing an established church. This is commonly taken to be undesirable for democracies, if democratically permissible at all, and there is wide acceptance of an *equality principle*. This principle requires that government must treat different religions equally. The principle thus implies nonestablishment as ordinarily understood: minimally, as prohibiting official state endorsement or favoritism of any religion or church. Particularly in a democratic society whose citizens do or would approve of such establishment, such a principle needs justification, as indeed it does in democratic theory. The strength of the case for the equality principle heavily depends on the kind and sociopolitical significance of the establishment in question.[4]

The multitude of relevant considerations supporting either the liberty principle or, especially, the equality principle cannot be considered here, but in my view *both* democracy and religion are better served if the liberty principle is integrated with an equality principle to the effect that (other things equal) government should treat different religions equally. Other things are not equal if a religion practices human sacrifice or violates basic human rights. These rights prominently include not only protection from bodily injury but also liberty rights. This is an indication that the liberty principle is a constraint on the application of the equality principle, as the latter principle may be on the former.

Neutrality among religions does not guarantee neutrality toward religion. If democratic societies should treat different religions equally, it does not follow that they endorse governmental neutrality toward religion. Preference for the religious over the secular, for instance, in granting exemptions or determining public school curricula, would still be possible. Nonetheless, there is a strong case for a *neutrality principle*, to the effect that government should not prefer the religious as such to the secular as such. Such neutrality is commonly understood to rule out public funding for religious institutions but not for comparable secular ones; but it does not rule out tax exemptions for religious institutions *qua* charitable, so long as secular counterparts receive the same exemption.

The broad topic of religion and democracy extends not just to standards for governmental policy in relation to religion but also to normative standards appropriate for religious institutions that aspire to a kind of constructive citizenship in a democratic society. In broad terms, if the state should

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, and, within limits, educators in public schools from restrictions on (peaceably) expressing and teaching their moral views.

Nothing said here is meant to imply that moral views are sharply distinguishable from political views, but, apart from reasonable interpretations of the harm principle, democratic governments should not prejudge citizens' moral views by framing policies that limit the (peaceable) free expression of churches, parents, teachers, and others. Given this commitment to free expression, and given the possibility of moral views having political implications, democratic governments cannot prohibit churches, parents, or, within limits, educators from expressing and arguing for their moral views. Where these become clearly political in the sense illustrated by supporting specific candidates for office, government may withdraw tax exemptions justified by charitable status, but the liberty principle protects free expression even in cases of this kind.

This conclusion concerning democracy conceived institutionally does not in the least oppose the idea that ethics constrains churches in relation to government. A major general point here is that not everything unethical should be illegal. If that were not so, the long arm and rough hands of the law could reach into private life to restrict individuals' personal behavior toward one another. Granted, that behavior is far too often marred by perfectly legal conduct that exhibits immorally broken promises or morally reprehensible domination of the weak or vulnerable in marriage and childhood. For much of this, comprehensive legal enforcement of morality is not the remedy.

A different example of how ethics may oppose or limit what law must tolerate, this time in the political realm, is assisted suicide. Suppose a church supports the view that it is morally wrong to assist in suicide. Preaching that view does not entail telling people to vote for illegalization, since that adds the threat of legal coercion to the already protected use of forceful public argument that may dissuade people from asking for or supporting assisted suicide as a practice. Preaching that view in moral terms also does not imply that those who accept the view should treat a political position on it as decisive in determining whom to vote for. A political candidate with whom you disagree on this issue may share your positions on other issues of at least equal importance to you. The overall conclusion here is that moral positions come in many forms, differ greatly in political scope, and, especially taken in isolation, may or may not reasonably determine a political stance. The moral right of free expression limits governmental coercion, but it leaves open how cit-

izens should exercise that right in relation to political matters. Here clergy have both liberty as individuals and responsibilities as members of a profession: role obligations that set limits on their official conduct. These two elements can create conflicts, but surely the clerical responsibility to exercise moral leadership can be fulfilled without embodying or communicating political directives to parishioners and others who, in democracies, must exercise their freedom at the ballot box.

Even a good account of how religion and democracy should be related institutionally leaves much open regarding the *ethics of citizenship*: the standards appropriate to guide citizens in their sociopolitical conduct, particularly where their religious convictions favor some specific legislation affecting citizens with opposing views. A central question here is what kinds of reasons citizens in democracies should take as a basis of political decisions and, especially, for votes favoring laws or public policies that restrict liberty. Some principles most widely known in recent decades come from John Rawls. Among his many formulations of broad standards constitutive of political liberalism is this judicial principle:

> [T]he court's role is not merely defensive but to give due and continuing effect to public reason by serving as its institutional exemplar. Public reason is the sole reason the court exercises. It is the only branch of government that is visibly on its face the creature of that reason and that alone.[5]

Immediately following this he clarifies its scope by proposing a more permissive principle for nonjudicial citizens: "Citizens and legislators may properly vote their more comprehensive [e.g., religious] views when constitutional essentials and basic justice are not at stake."[6]

Commentators have found it difficult to determine what should constitute public reason, but there is no doubt that – both in Rawls and in much work using the term in discussing him or pursuing political theory more generally – public reason represents a mode of thought and argumentation that, negatively, does not depend on either religion or some particular ideological or philosophical theory and, positively, is governed by standards appropriate to constructing and interpreting constitutions. Rawls's notion of a "comprehensive" view is also in need of analysis not possible here; but it is safe to say that it includes the worldviews of such major religions as the "Abrahamic" triad of Judaism, Christianity, and Islam. It presumably need not exclude positions that are simply comprehensive in scope, in a descriptive sense, provided they do not embody commitments to highly specific standards of conduct, such as standards for divorce, dietary restrictions, architectural patterns, and dress codes.

Rawls has qualified the quoted (nonjudicial) permissive standard in many ways. The same lecture countenances exceptions to this standard (for nonjudicial citizens) provided they "vote their comprehensive views" "in ways that strength-

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, *Political Liberalism*, 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 *reasonable* 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 *manner* 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 *defeasiblity*. 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 *claim* 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 *doubly inclusive*: Although it calls for adequate secular reason to justify coercion, it in no way rules out religious or idiosyncratic reasons. It does not ask citizens to abstain from expressing these, nor imply that such reasons can never appropriately motivate political action, nor even imply that religious reasons cannot be evidentially cogent. The requirement is simply that *some* set of reasons for passing a law or public policy be both secular and adequate. This is not a limitation on the content of civic discourse itself. It may indeed be an admirable kind of civility to indicate publicly both one's religious and one's secular reasons: the former to be forthright about who one is, and the latter to assure others that one's case does not depend on standards they do not or may not share, but on considerations appraisable using natural reason as (with some idealization) shared among all adult citizens.

To be sure, in giving reasons for a proposed law or policy, we are not being forthright about who we are if we are not significantly motivated by those reasons. Suppose one gives only secular reasons regarding the common good but is actually motivated by, for instance, a religious reason or considerations of self-interest. Civic virtue – even ordinary sincerity, some would say – calls for giving one's "real" (motivating) reasons rather than rationalizing for purposes of persuasion. This point seems plausible, but alignment of one's motivation with one's proffered justification – even when lawmaking is at stake – is secondary to the need for having adequate (secular) reasons in the first place. As some cases of democratic compromise illustrate, it is more important that there *be* adequate reasons (thereby justification) for laws that restrict liberty (as most laws do) than that they be enacted on the basis of appropriate motivation.[12] Inadequate reasons, even from constituencies that oppose one another, may converge in support of a law or policy that is supported by good reasons that no one has brought forward and, with good luck, the converging rationalizations may motivate acceptance of the law or policy. But such a lucky convergence is not usual. A law passed without publicly receiving evidentially adequate support by reasons cannot be expected to be justifiable by sound standards, and its applications may be biased by the inadequate motivating reasons that led to its instatement.

These points should clearly indicate that the principle of secular rationale does not restrict freedom of expression. The relation between our reasons for advocacy and voting need not be expressed, and what we express in political discourse is

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 *adequate* 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 *rational*, 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 which are adequate is a problem for any political theory.

The essays that follow represent diverse views and numerous insights. They are far too rich to 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 & Hard 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 "work together."[14] He takes this to imply the kind of governmental neutrality toward religion that reflects the point that "people will feel more free 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 norms. He indicates how neither norm implies that there are no limits on free expression and that the two norms can conflict, as where legislative sessions are opened with prayers, which, even if nondenominational, may be seen as favoring a certain kind of religion.[16] He is particularly concerned with showing how public education can do justice to the importance of religion as a subject of inquiry while avoiding governmental establishment of religious doctrines. His essay also provides a perspective on the ethics of citizenship as applied to religious citizens in their political conduct. Here he stresses both the difficulty of their avoiding reliance on religious considerations in certain cases and the range of instanc-

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 bear on democratic theory. He conceives deferential treatment of religion as constituted by "forms of favorable treatment that are cultural rather than legal," by contrast with preferential treatment as "the legal conferral of a status that is more favorable than that accorded to other organizations or systems of belief."[18] Deferential treatment of religion includes such behaviors as giving its teachings the status of social norms, giving leading religious figures the status of moral authorities, and according clergy "considerable latitude to act without official or unofficial scrutiny."[19] Weithman argues that deference of the kind in question encourages an unreasonable view (or set of attitudes): namely, "benchmark traditionalism," an orientation that can produce or strengthen uncritical assumptions. He sees this orientation – in or outside government – as a failure to give due weight to public reason. But, unlike many democratic theorists who address the role of religion in governmental and narrowly political conduct, Weithman brings out how def-

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 *everyone*. 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 *about* religion, as in history classes, it may not require instruction *in* 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 *it interferes with their wish* (which has no basis in traditional Islamic law) *to enlist the modern state* 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 *intrinsically* 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

surveys both selected Jewish literature and related historical patterns. One of his conclusions is that "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. . . . Biblical conceptions of the fellowship of humankind, the worth of the individual, the political imperative of 'justice, justice you shall pursue.'" Beyond this, he sees a welfarist tradition : "the moral obligation to care for the widow, the orphan, the stranger, and the poor are anchored in Jewish sources."[38] He does not view this anchoring as in tension with the ideal of governmental neutrality toward religion, which he finds consonant with Jewish tradition. Endorsing governmental neutrality toward religion, however, does not require that citizens "bracket, suspend, or otherwise disengage from values and commitments that might be basic to how people understand themselves and others, and how they understand what justice requires."[39] Here he stresses the need for toleration rather than the constraints on political deliberation he sees in a Rawlsian conception of that realm. Indeed, "For neutrality to succeed, it is important that people acquire habits and attitudes of toleration."[40] This point leaves open both the extent of religious liberty government must protect and the kinds of reasons citizens may take as a basis for lawmaking; but the emphasis on toleration seems fully consistent with the liberty, equality, and neutrality principles cited earlier,[41] the UN Declaration of Human Rights, and a wide range of religious accommodations permitted by these two sets of standards.

The essays considered so far concern the theory of democracy in relation to religion and the focus has been on appropriate standards governing this relation in actual democracies. In "Religion & Transitional Justice," Colleen Murphy explores how religion can be relevant to *achieving* democracy in a nondemocratic society that is transitioning from civil war or some other crisis toward democratic government. Here she pursues the question whether, as some have argued, forgiveness is an essential element in such peacemaking struggles. On this issue, she points out, not all injustices preceding transition can even be discovered in many such cases (hence cannot be forgiven), nor can all their perpetrators be punished if a transition is ever to be accomplished (thus making forgiveness a response that many may see as important for achieving transition). Forgiveness is an attitude (or stance) enjoined by certain religions and perhaps sustainable in transitional cases only with the support of religious attitudes or institutions. She acknowledges that "religion has been a root cause of conflict, a marker of those targeted for repression and the basis for privilege in an unequally structured institutional scheme."[42] But she also explores the possibility of an overlapping consensus among those in an "Abrahamic faith" and cites positions that they apparently supported in South Africa as it transitioned from apartheid.[43] Such a consensus could support an individual's becoming a moral exemplar with the authority to chair, say, a truth commission. In some cases, this kind of authority may be needed

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 cosmopolitan stance here antidemocratic? Surely not. The essay views Kantian moral theology as supporting, both morally and metaphysically, the universal values that ground democracy in particular countries and their international cooperation in dealing with refugees and other matters of international concern.

The relation between religion and democracy is multifarious, and it has different facets for every distinct kind of religion and for every particular form of democracy. Religions differ in their ethical standards and in the political implications of their teachings. Clergy differ in their disposition to distinguish moral leadership from political guidance. Ordinary citizens differ in their religious commitments and, whether they are religious or not, in their attitudes toward religion. Democracies differ in the historical and cultural conditions that shape their constitutional and legal structures. A major challenge for political theory is to provide standards that appropriately respect both democracy and religion and secure the possibility of their mutual flourishing. This balancing task has numerous institutional dimensions, particularly in defining and realizing a separation of church and state. It also presents a multitude of challenges in framing standards in the ethics of citizenship for individuals. The task is difficult even where there is agreement on religious liberty as a right that democracies must defend, and even when this is understood to entail governmental neutrality toward the religious and the nonreligious alike. But the difficulty of the task is reduced by a clear well-reasoned study of points of tension between religious and democratic values. It is also reduced by examination of alternative frameworks for rational

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.

AUTHOR'S NOTE

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ENDNOTES

[1] This statement reflects the "*principle of protection of identity* : the deeper a set of commitments is in a person, and the closer it comes to determining that person's sense of identity, the stronger the case for protecting the expression of those commitments." This is proposed and discussed in Robert Audi, *Democratic Authority and the Separation of Church and State* (Oxford and New York : Oxford University Press, 2011), 42–43.

[2] John Stuart Mill, *On Liberty* (Indianapolis : Hackett, 1978), 9–10. Mill is strongly opposed to parentalism and (for competent adults) excludes harm to oneself as a ground for interference. See esp. ibid., 10 ff. The notion of harm is seriously vague, and there is

no simple way to determine just how free we ought to be even if the harm principle is sound so far as it goes.

[3] In this section I draw on earlier work, especially as briefly represented in my *Democratic Authority*.

[4] Several kinds of establishment, some more and some less likely to affect religious liberty or basic human rights, are considered in ibid., 43–44. The legal literature on the "non-establishment norm" is extensive.

[5] John Rawls, *Political Liberalism* (New York: Columbia University Press, 1995), 235.

[6] Ibid.

[7] Ibid., 247.

[8] Ibid., "Preface," li–lii.

[9] See Kent Greenawalt, *Religious Convictions and Political Choice* (Oxford: Oxford University Press, 1988), 12. This view is refined and defended in Greenawalt's later work, but the kinds of comments I make here are not undermined by his further work on the topic. Some of the points I make are extended or given a wider context in Robert Audi, "Religion and the Ethics of Political Participation," *Ethics* 100 (2) (1990): 386–397.

[10] See Robert Audi and Nicholas Wolterstorff, *Religion in the Public Square: The Place of Religious Convictions in Political Debate* (Lanham, Md.: Rowman and Littlefield, 1997), 112–113. This volume contains essays by each author writing alone and responses of each to the other. For his account of justice, see, for example, Nicholas Wolterstorff, *Justice in Love* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 2015).

[11] This formulation is drawn from Robert Audi, *Religious Commitment and Secular Reason* (Cambridge: Cambridge University Press, 2000), 86; though published earlier in Robert Audi, "The Separation of Church and State and the Obligations of Citizenship," *Philosophy & Public Affairs* 18 (3) (1989): 259–296. The principle has been widely discussed.

[12] I have explained and defended this point in Audi, *Religious Commitment and Secular Reason*, 96–100.

[13] These include–in addition to Greenawalt, *Religious Convictions and Political Choice*–the several, mostly later books listed in Kent Greenawalt, "Democracy & Religion: Some Variations & Hard Questions," *Dædalus* 149 (3) (Summer 2020): n. 1, including *Religions and the Constitution: Free Exercise and Fairness* (2006); *Religion and the Constitution: Establishment and Fairness* (2008); *Does God Belong in Public Schools?* (2005); *Statutory Interpretation: Twenty Questions* (1999); *Conflicts of Law and Morality* (1987); *Exemptions: Necessary, Justified, or Misguided?* (2016); *From the Bottom Up* (2016); and *When Free Exercise and Nonestablishment Conflict* (2017).

[14] Greenawalt, "Democracy & Religion," 27.

[15] Ibid., 28.

[16] Ibid., 27.

[17] Samuel Freeman, "Democracy, Religion & Public Reason," *Dædalus* 149 (3) (Summer 2020).

[18] Paul Weithman, "Liberalism & Deferential Treatment," *Dædalus* 149 (3) (Summer 2020): 61.

[19] Ibid., 62.

[20] Cathleen Kaveny, "The Ironies of the New Religious Liberty Litigation," *Dædalus* 149 (3) (Summer 2020): 84.

[21] Ibid., 81.

[22] David E. Campbell, "The Perils of Politicized Religion," *Dædalus* 149 (3) (Summer 2020): 90.

[23] Ibid., 93–94.

[24] Ibid., 97.

[25] Ibid., 101.

[26] Stephanie Collins, "Are Organizations' Religious Exemptions Democratically Defensible?" *Dædalus* 149 (3) (Summer 2020): 109.

[27] Winfried Löffler, "Secular Reasons for Confessional Religious Education in Public Schools," *Dædalus* 149 (3) (Summer 2020): 125.

[28] Ibid., 126.

[29] Ibid., 128–129.

[30] Ibid., 132.

[31] Lorenzo Zucca, "Conscience, Truth & Action," *Dædalus* 149 (3) (Summer 2020): 136–137.

[32] Ibid., 145.

[33] Ibid., 137.

[34] Ibid., 143–144.

[35] Ibid., 146.

[36] T. Jeremy Gunn, "Do Human Rights Have a Secular, Individualistic & Anti-Islamic Bias?" *Dædalus* 149 (3) (Summer 2020).

[37] Ibid., 161.

[38] Jonathan A. Jacobs, "Judaism, Pluralism & Public Reason," *Dædalus* 149 (3) (Summer 2020): 170.

[39] Ibid., 181.

[40] Ibid.

[41] See pages 8–9 in this essay.

[42] Colleen Murphy, "Religion & Transitional Justice," *Dædalus* 149 (3) (Summer 2020): 187.

[43] Ibid., 190–194.

[44] Ibid., 197.

[45] John Hare, "Patriotism & Moral Theology," *Dædalus* 149 (3) (Summer 2020).

[46] Ibid., 212.