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Grounds for Political Judgment: The Status of Personal Experience and the Autonomy and Generality of Principles of Restraint

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This Article addresses three perplexing problems about proposed principles of self-restraint for political decision and advocacy within liberal democracies. It considers the nature of convictions that are based on highly personal experiences and asks what their political status should be. It explores the subtle relationship between proposed principles of restraint and overarching religious and other comprehensive views. It argues that a plausible principle of restraint must appeal to people with various religious and other comprehensive views and must be suited to the particular conditions of a given society.

I. INTRODUCTION

In recent years, a number of American scholars, including participants in this Symposium, have written about appropriate grounds for political decisions and debate within liberal democracies. Doubts have been raised about whether officials and citizens should rely on religious convictions or upon bases that are somehow not "accessible" to fellow citizens. As I have reflected on my own position and

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those of others, three questions have nagged me. First, for convictions based on highly personal experience that seem particularly troublesome, what are the possible views? Second, how far can political theory yield conclusions on this topic independent of more comprehensive philosophic views? Third, what is the appropriate level of generality of proposed principles for political restraint in judgment and advocacy? This Article explores these three problems.

II. INSIGHTS FROM PERSONAL EXPERIENCE AND RELIGION

A. *Religious Convictions, Comprehensive Views, and Nonaccessible Convictions*

My initial interest in this general subject grew out of my discomfort with suggestions that religious convictions were an improper basis for citizens and officials to make political judgments.¹ I quickly discovered that there were many discrete questions and overlapping categories. The bases that people should restrain themselves from using in decision or discussion might encompass religious bases, all comprehensive philosophic views, or all bases of judgment that in some sense are not generally accessible. These categories require some preliminary explanation.

By "religious bases," I mean bases that are connected to theistic belief or to forms of life that are understood to be religious, such as Buddhism or the Ethical Culture Society. A comprehensive view would include any overarching philosophy of life, whether religious or not.² Thus, maximum happiness utilitarianism and standard

1. In his powerful defense of public argument in terms of some kinds of religious positions, Michael J. Perry regards as curious my concentration (in *RELIGIOUS CONVICTIONS AND POLITICAL CHOICE* (1988)) on bases for decision rather than forms of public argument. MICHAEL J. PERRY, *LOVE AND POWER* 16-17 (1991). He says the former is a "relatively marginal issue." *Id.* I do not agree. My understanding is that Bruce Ackerman, Robert Audi, Thomas Nagel, John Rawls, David Richards and other theorists who urge self-restraint do not believe that, for relevant subjects, coercion on the basis of religiously-based judgments is appropriate, whether or not these are offered as public justifications. Perry's position in *Love and Power* is that some religious arguments are appropriate in the public domain but that others, for example a claimed mandate from God drawn from the Biblical text, are not. Surely, it is a serious question whether officials properly rely on judgments corresponding to the *inappropriate* arguments when the officials themselves make such judgments or believe that citizens make them. I have always assumed that if political judgments on certain grounds are proper, then at the least discussions within the "community of believers" of the implications of their beliefs are also proper. Thus, the problem of proper bases of political judgment is directly tied to argued grounds for political positions within groups. I do not think one can escape the conclusion that reliance and argument are both important issues; neither is marginal.

2. See, e.g., John Rawls, *The Domain of the Political and Overlapping Consensus*, 64 N.Y.U. L. REV. 233, 234-41 (1989). Rawls distinguishes fully comprehensive doctrines, which cover "all recognized values and virtues within one rather precisely articulated scheme of thought," from partially comprehensive doctrines that comprise certain nonpolitical values and are loosely articulated. *Id.* at 240.

Marxism would be comprehensive views that are not religious. In an initial attempt to explain what I mean by "not generally accessible," I shall give three examples. Adrian says, "My gut tells me that an embryo is entitled to life from the moment of conception, and I am just sure that is right." Betty says, "I can't tell you why, but I know that Dell is a liar." Cal says, "Last night, I had an overwhelming experience and I realized that Jesus Christ is Lord." Unless Edith knows more, she lacks the grounds to move from these assertions to confidence about the truth of what Adrian, Betty, and Cal assert. This is not to say she is wholly without capacity to evaluate what they say. If she knows that Betty has intuitively sensed people's characters accurately before, she will give more credit than she otherwise might to Betty's statement about Dell. If she has great respect for Cal, she will take his conversion more seriously than if she knows he is highly unstable emotionally. Nevertheless, there is a huge gulf between the confidence that Adrian, Betty, and Cal may have about what they say, and any confidence that Edith will reasonably have that what they say is true. Their bases for judgment are not generally accessible.

A great many people, including many people who hold traditional religious beliefs, think that religious convictions fall within this broad category of nonaccessible beliefs. According to this understanding, people who hold religious convictions do so substantially on the basis of experience that is not fully accessible to others.³ The experience need not be unintelligible. Others may have considerable grasp of what that experience is, but they are not in a position to evaluate and credit the experience. Some notable Christians have claimed that true understanding is a consequence of a special grace that God does not bestow on everyone. On this view, those without that grace are not equipped to recognize what those whom God has specially blessed are able to see. When I was in college, a "leap of faith" theology had wide currency. Owing much to Kierkegaard, this Christian analogue to secular existentialism claimed that only by committing oneself to Christian belief and life could one perceive its validity. The truths that one person learns by making a leap of faith are not fully accessible to someone who has not made a similar leap, and generally accessible reasons are not powerful enough to induce a leap of faith.

3. This does not mean that reason plays no part in development of religious convictions. Possible religious understandings may be measured against various tests of reasonableness.

A position that is relevantly similar places less emphasis on individual personal experience and more on finding oneself within a tradition. A person is born and raised in a particular religious tradition. She believes that she is fortunate to be within the tradition whose religious understanding most closely approximates truth. But, she does not think there are generally accessible arguments sufficient to persuade those outside the tradition of the validity of its understanding. When I subsequently discuss religious convictions whose bases are not generally accessible, I concentrate on the position that emphasizes personal experience. I do not mean to suggest that the convictions of most Christians or of all "true" Christians rest heavily on such personal experience. That sort of belief does present certain issues in their most stark form. What I say largely applies as well to convictions that are tradition-based in the way I have described.

Many religious people *do not* think that their fundamental convictions are less than fully accessible; they suppose these convictions can be established on grounds that are subject to general rational evaluation. We can distinguish very roughly three possible kinds of accessible grounds for belief.

The first ground of belief is philosophic arguments for God, or for a god with particular characteristics. Some philosophers have thought, for example, that the ability to conceive of an omnipotent god, the purposive nature of the universe, or the capacity of human beings to engage in moral practices establishes (or points toward) the existence of God.

A second ground for belief is particular evidence in the stream of human history. Certain events are thought to have taken place that cannot be explained in ordinary natural and human terms. These events indicate the existence of God and further indicate much about God's nature and will. Thus, Diana may believe that prophets claiming to be inspired by God have prophesied historical events they could not have foreseen without divine inspiration, that people praying to God have prayed for extremely improbable events that have then taken place, that persons invoking God's assistance have been able to perform miracles, such as healing or the raising of the dead, and that other miraculous occurrences, such as the parting of the Red Sea, the resurrection of Jesus, and appearances of Mary, the mother of Jesus, show God's power and nature. These extraordinary occurrences within history are closely connected to teaching about God. Jesus, the same person who performs miracles, also tells us much about God. We can thus identify certain revelations about God as highly authoritative.

Diana's grounds for belief are accessible, of course, only if the claims of prophecy and miraculous intervention rest on a historical record that carries weight in its own terms. If no ordinary historical

evidence existed for these things, other bases, probably a nonaccessible faith, would have to support Diana's understandings. On the other hand, if independent historical evidence exists for critical events described in the writings collected as the *Bible*, then an accessible basis exists for believing in the truth of historical assertions in the *Bible* and further for believing in its religious claims. To take as an example the most central events in the Gospels, there is independent historical evidence that Jesus was crucified and that Christians believed fairly early in his resurrection. Many modern Christians believe that given the reported discouragement among Jesus' followers before the crucifixion, belief in the resurrection would not have arisen unless something extraordinary really had happened. Some Christians believe that the Romans, faced with resurrection claims, would have shown the body of Jesus if it remained in the tomb. These are the sorts of theses upon which rest miraculous Biblical claims that are generally accessible.

A third ground of belief is what we may call the fruits of conviction. If people with a certain set of religious beliefs lead lives that are deemed specially fulfilling even by those who do not share their beliefs, this constitutes evidence that the practice of life according to these beliefs is good for people. That, of course, does not establish by itself that the beliefs are true,⁴ but many people may think there is a kind of natural move from understanding that practice according to beliefs is fulfilling to a conclusion that the beliefs are true.⁵ The connection will seem especially appealing if there is no evident explanation at the human level why practice according to this set of beliefs should be regarded as particularly fulfilling.⁶ A somewhat similar ground for belief might be the wisdom displayed by a religious community over time. Someone who believed that for many centuries the Roman Catholic Church had displayed great sensitivity to human needs and to justice might claim that this is evidence that in some

4. I am not talking here about ethical beliefs that are connected to religious beliefs. It is at least arguable that the standard of truth for ethical beliefs is whether they yield fulfilling lives. I have in mind the differences in belief that divide Jews from Christians, or Mormons from traditional Protestants.

5. Of course, if truth is understood as what is practically useful, then it follows logically that the most beneficial beliefs are true. I am not assuming such a pragmatic approach to truth.

6. Such an explanation might be that these beliefs satisfy some childish psychological desire or aid people in achieving material prosperity. A different sort of explanation might be that people in a culture, even those skeptical about the religious premises, regard these lives as fulfilling mainly because they have been influenced so strongly by the religious environment.

respect the Church has been divinely inspired.

I have made these points crudely; actual claims are richer and more subtle. For many Christians, some of these accessible arguments may carry weight without being thought sufficient by themselves to induce belief in a reasonable person who begins as a skeptic. Even if the accessible reasons are thought sufficient, Christians often suppose that full Christian convictions require experience of a more personal kind. What I have said, however, is enough to indicate that many religious people do not concede that their religious convictions, in their entirety or in crucial elements, lie outside the domain of accessible arguments.

Suppose the response is that these religious people happen to be misguided, that only nonaccessible forms of experience can genuinely support religious belief? We need to examine this response fairly carefully because if it holds up, all religious claims can conveniently be placed within the broad category of claims that do not rest on accessible bases. We need to remember the main practical point of such a categorization: for some political purposes, citizens and officials should perhaps exercise self-restraint and not rely on grounds that rest on certain bases.

What is the position of the person who claims that religious belief inevitably rests crucially on grounds that are not accessible to those who begin without similar beliefs? The position about philosophic arguments for God is likely to be importantly different from the position about historical evidence.⁷ Consider the argument that a purposive universe shows a purposive creator. Many people find the universe to be without purpose; as they see it, the instances of purpose that exist *among creatures* yield no indication about the nature of the universe overall or whether it was created. These people find the teleological or purposive argument for God to be totally unconvincing as an argument.

A skeptical response to the argument about the resurrection of Jesus is different. If convincing historical evidence existed that Jesus really died and that his body actually came to life again, and that he then walked, and spoke, and ate like a normal human being for a period of time, I do not think many people would deny that this would be *some* indication of the likelihood of a supernatural power with the ability to intervene in nature and alter the natural course of events. It would also be *some* indication that Jesus bore a special relationship with this supernatural power. I do not say all this would be irrefutable proof of a supernatural power — there might be some

7. I pass over the bases for rejecting a “fruits of conviction” argument, which are likely to vary and be more complex, and to depend more particularly on exactly how the “fruits of conviction” argument is made.

natural explanation of rare conjunctions of atoms that make the regeneration of life an occasional occurrence — only that it would constitute data in favor of a supernatural power. Most people who find the claims about the resurrection of Jesus to be unconvincing do not believe there is credible historical evidence for it.⁸

How would a principle of “no reliance on nonaccessible grounds” apply to the original arguments for the existence of God, given these two sorts of rejections of those arguments? The historically-based claim is the simplest. Suppose the skeptic says that historical evidence for the resurrection of Jesus is so unpersuasive that people can believe in the resurrection only on nonaccessible grounds. In other words, the skeptic says, faith precedes belief in the resurrection, not the reverse. Would this kind of rejection be a sufficient basis to bar someone’s reliance on the historical argument for the resurrection? The answer is no.

Calling for self-restraint because the *listener* does not find claimed evidence to be persuasive would make a joke of the principle that grounds for decision or argument should be accessible. People often find the arguments of other people to be unpersuasive. When they do, they often suppose that someone who believes in those arguments must have predispositions not related to the actual force of the arguments. The truth is that we all believe in the arguments we do for various complex psychological reasons. Many elements other than the force of the arguments we find convincing and present to others figure in causing us to develop and maintain beliefs. But that alone can hardly be enough reason to disqualify all such arguments. We would then have to disqualify virtually all arguments for everything.⁹ No, the main response to accessible arguments must be to meet them on their own terms. The skeptic must meet the historical argument for the resurrection of Jesus on its own terms, taking it as a weak (in his view) accessible argument, not claiming it falls outside the range of accessible arguments altogether.

The status of the teleological argument for God is more complicated. The skeptic may perceive the substance of the argument as having no force at all. This suggests that it is not an argument that is accessible to him, because there is no further factual data or philosophical analysis to be addressed. For the skeptic, to put it starkly, this

8. Someone might concede that credible historical evidence does exist, but suppose that the events described are so extremely unlikely to have happened that the evidence is outweighed by reference to other standards of knowledge.

9. Mathematical and scientific proofs might survive.

is not an accessible argument for God because it carries no force for a nonbeliever. The person who propounds the argument, however, thinks it does have force which a sensitive, intelligent, open-minded person would recognize. As the skeptic might look for psychological or cultural reasons why the proponent accepts the teleological argument, the proponent may look for similar reasons why the skeptic's mind is so closed to the argument. There are some arguments that nonbelievers think are not accessible and that proponents think are accessible.

For such arguments, it will matter how a political principle is understood. If the principle excludes only arguments that the proponents understand are not accessible, then the proponents will properly continue to make some arguments that skeptics will not find accessible. If the principle is that arguments are excluded unless they are generally understood to be accessible, then the skeptic may be able to persuade proponents that some arguments they believe are really accessible do not meet this threshold. Even this latter approach, however, would not exclude the claim that historical evidence supports the resurrection of Jesus and many other accessible claims in favor of particular religious beliefs.

If a political principle were directed against all, and only, nonaccessible reasons, it would not exclude some arguments for moral and political conclusions that proceed from religious premises.

There may, however, be reasons to avoid all religious arguments. That approach may be thought to reflect appropriate principles of separation of church and state.¹⁰ It may be thought a desirable means to avoid the conflict and divisiveness that religious differences historically have brought in their wake. It may be thought to reflect a soundly based opinion that differences in religious view are particularly intractable, whatever the apparent accessibility of some arguments for religious positions.

The picture becomes even more complex if we try to include all "comprehensive" philosophic views. We can oversimplify slightly by treating all fundamental religious conceptions as comprehensive views.¹¹ I shall not undertake the demonstration, but as with religious positions, there will be accessible arguments, nonaccessible arguments, and arguments whose status will appear different to

10. See, e.g., Robert Audi, *The Separation of Church and State and the Obligations of Citizenship*, 18 PHIL. & PUB. AFF. 259 (1989); Robert Audi, *Religion and the Ethics of Political Participation*, 100 ETHICS 386 (1990) (reviewing Kent Greenawalt, *RELIGIOUS CONVICTIONS AND POLITICAL CHOICE* (1988)).

11. One can imagine certain religious views that do not relate significantly to the comprehensive understandings of those who hold them. Thus, someone who developed a human view of life and its meaning that had no significant relation to any divinity might also think there were gods with limited magical powers. Some people in ancient Greece and Rome may have held such beliefs.

proponents and skeptics for various nonreligious comprehensive views.

As with conclusions from religious premises, there might be reasons for self-restraint for conclusions that proceed from some kinds of comprehensive philosophic views, whether or not the arguments for those views are accessible. Perhaps political judgments should be based on shared premises and modes of ascertaining facts that have near universal acceptance. Whether that is so, we should not suppose that a principle that excludes all nonaccessible reasons will exclude all religious reasons or all reasons derived from other comprehensive views.

B. The Basic Idea of Nonaccessible Convictions That Appropriately Carry Force for the Holder

If we put aside any special problems about religious convictions and other comprehensive views, there remains a troubling question about reliance on convictions whose bases are in some way not accessible to others. It is not so easy to say what these convictions amount to and why they appropriately have greater force for the person who has them than for others. This question arises strikingly for convictions that are based on personal experience, when the experience and its interpretation are not replicable and the insight is somehow more powerful than interpersonal arguments for the validity of the insight. Disagreement as to whether such a category even exists may explain some differences of view about appropriate political principles.

This section examines such convictions based on personal experience. Some ethical insights or convictions related to personal experience raise no problems. Suppose Rachel has a personal experience that leads her to feel that a certain ethical position is correct. But, she decides she will adopt the position for herself and others only with the degree of confidence that accessible arguments warrant. Rachel is horrified by witnessing an execution, but believes she can conscientiously oppose capital punishment only insofar as accessible reasons show that it is unjustified. Obviously, no plausible political principle could bar Rachel from relying on and presenting public arguments against capital punishment. The fact that personal experience led her to examine those arguments cannot disqualify her reliance on them nor can the possibility that her judgment may be influenced to some degree by her personal experience. That is the nature of most understanding; experience leads us to be interested in problems and colors our views.

Another way experience can be relevant is by showing us what it is like for people in general to feel in certain circumstances. Of course, we might learn much from reading about people who have had an experience, or talking with them, but there is often no substitute for first-hand acquaintance. I believe most parents feel that nothing quite informs them just how joyous they will feel at the birth of their children. Similarly, nothing can prepare us for what we feel upon the death of those we love most deeply. Someone who has been through these experiences will have a sense about the reactions of others that is based partly on having had the experiences. When we have good reason to think our experience is replicable for those in similar situations, there is certainly nothing inappropriate in relying on that experience in political life.

At the other extreme are personal convictions that we recognize have no legitimate status for what is really right and good for other people. I may *feel* some personal obligation that derives from my own circumstances, without supposing that others, even others similarly situated, have that obligation. Also, I may *feel* that everyone has an obligation, without reflectively believing that they do. When a person understands his feelings in either of these ways, he would be wrong to promote political judgments that require others to act in a manner that conforms with the feelings.

These extremes are easy. Difficulty arises in the middle. Although experience leads someone to think that a belief or obligation is objectively valid for others, he recognizes that he lacks arguments to persuade others of that validity. A crucial initial question is whether a person reasonably gives more force to his experience than would a reasonable outsider. I shall consider a striking religious example here, one which certainly led to altered moral and political judgments. However, nonreligious beliefs and feelings based on personal experience raise similar issues.

The *Book of Acts* carries the following account of the start of the conversion of Saul:

As he neared Damascus on his journey, suddenly a light from heaven flashed around him. He fell to the ground and heard a voice say to him, "Saul, Saul, why do you persecute me?"

"Who are you, Lord?" Saul asked.

"I am Jesus, whom you are persecuting," he replied. "Now get up and go into the city, and you will be told what you must do."¹²

According to the account, when Saul stood up he could not see, and was led by hand to Damascus. There, Ananias placed his hands on Saul and said he was sent by Jesus "so that you may see again and be filled with the Holy Spirit."¹³ Saul could see again and was

12. *Acts* 9:3-6 (New Int'l Vers.).

13. *Id.* at 9:17.

baptized.

If we treat this as a roughly accurate account of Saul's experience, we can ask what force Saul should give to his experience and what force an outsider should give. First, there is the question of crediting what Saul says. Since he is telling the truth of his memory, Saul knows that he is sincere; an outsider may wonder if Saul is lying or shading the truth. Neither can be sure Saul's memory is accurate, but Saul will reasonably have more confidence in his own memory than an outsider will have. Then there is the serious problem of giving an adequate description of complex experiences. Finding words to convey what has happened may be very difficult for Saul. But sincerity, memory and incapacity to describe hardly go to the heart of the matter. We know that people have conversion experiences with some frequency in our culture. They tend not to be as striking as Saul's, but we do not usually doubt either the sincerity or the memory of those who report them, and their reports of experience are at least roughly comprehensible for many listeners. These reports are *publicly intelligible* to a large degree.

Once one accepts the *experience* on the road to Damascus as having occurred, the question of its meaning remains. Although it might be a genuine intercession in Saul's life by God, it could also be the natural product of some acute physical condition or extreme emotional stress,¹⁴ not involving any genuine insight into religious truth. A reasonable Saul as well as a reasonable outsider will need to consider these possibilities. (In one sense, Saul's experiences together have some special force for him and for an outsider. Saul's temporary blindness and apparent cure by someone who claimed to be sent by Jesus make his more than a free-standing conversion experience.¹⁵) Saul feels the experience is genuine in the sense that it reflects true divine intervention in his life, but the outsider is likely to be more skeptical; Saul's conversion is not the outsider's conversion.

Should Saul give no more credit to his experience than would a reasonable outsider? We do occasionally have experiences that we know are not very reliable. We feel *sure* the next throw of the die

14. It could also be the intercession of some devil bent on misleading Saul. I shall put aside that possibility, since not many modern skeptics about conversion experiences are inclined to attribute them to devils. However, some of those who believe that their own conversion experiences lead them to truth may think conversion experiences that suggest contrary perspectives are the product of the intervention of malign forces.

15. One might think his persecution of Christians "set him up" psychologically for a guilt-induced reaction; one might further attribute the blindness to severe psychological stress that is relieved by Ananias.

will be “five” or that our favorite team will win a big game. Past experience has taught us that our intuitions on such matters are not reliable; in our reflective judgment we are aware that the chance that the die will come up “five” is only one in six. Conceivably, this is how Saul should view his own experience, giving it no more credit than would a reasonable outsider who was able to know Saul’s sincerity, memory capabilities, and emotional state as well as Saul. (Of course, some outsiders might grasp a person’s emotional state better than he himself does.) But Saul has no objective odds against which to compare his experience. And the experience, in a sense, presses on Saul for a decisive interpretation. He cannot comfortably say, as might an outsider, “People have all sorts of experiences, for all sorts of inexplicable reasons. I can’t know which to credit, and I can’t worry too much about it.”

When experiences relate to such “deep” subjects, a normal person assigns much more weight to his or her own experience than to the experience of others whom he or she thinks are sincerely reporting with accurate memory what they have perceived. Here precisely is the gap that conversion experiences and leaps of faith create, the gap that characterizes many religious feelings and other deep intuitions. The insights an experience suggests have much more weight for the person who has done the experiencing than for other people. That person does not suppose the experiences are replicable under similar sets of external circumstances; he does not reasonably think the basic convictions about truth that rest on the experiences can be conveyed with anything close to equal force for those who listen to him.

The existence of such a category was vigorously challenged at the Symposium. One challenge took the form of skepticism whether the kind of experiences I describe differ in quality from other experiences on which people rely. A striking example was the following: “Suppose Frances, alone in a remote location, saw creatures emerging from a flying saucer that had landed; the creatures then left without a trace. The relation of Frances to other people in respect to this experience would be basically similar to that of a person who has had a conversion experience.” It is true that Frances will have a hard time convincing others, and she will reasonably understand why they are skeptical. Nevertheless, Frances’ basic difficulties involve convincing others that she is not lying, that her memory is sound, and that she exercised ordinary perceptive capacities in ordinary conditions of observation at the time of the claimed event. Frances believes that other people of ordinary perception would have seen what she did if they had been there.

Saul’s circumstance is different. Others on the road to Damascus did not see what he perceived, and he does not suppose that identical external circumstances would produce the same perception in others.

In this sense, he does not believe the experience is replicable. Of course, if everything, including the characteristics of the person involved *and* God's will were identical, the experience of someone else might be the same. But, that is not replicability according to ordinary human standards for a broad range of human beings. Thus, I claim that Frances' perception is, in principle, replicable in a manner that Saul's is not, even if she faces great difficulties persuading others that she observed what she did.

A different challenge acknowledges that people do rely on experiences that are personal in the manner of conversion experiences, but asserts that such experiences are not *rationally* indicative of truth for the persons who have had them to a degree beyond their force for an outsider who does not doubt their honesty, memory, and perceptive capacities. According to this view, grounds for truth must be interpersonal. In a rational inquiry into truth, a person who has had a conversion experience should not assign it more force than would a fully informed outsider told of the experience.

As far as this challenge is concerned, it is important not to get too entangled in phraseology or the complexities of rational epistemology. The critical practical question, perhaps, is whether it is appropriate for the person who has had the experience to give it extra weight in deciding what will count as true for his own life. In answering this question, we can initially say that it is natural for people to live in this way; they do give special force to such personal experiences. One might say it is rational for them to live in this way (even if the experience should carry no extra force for their *rational evaluation of what is true*).¹⁶ Or one might say it is psychologically healthy and *not irrational* for them to live in this way. If someone denies that people *should* give their experiences extra force in deciding what will count as true in their lives, it will follow that they should not give the experiences extra force in political judgment and argument. But if one admits that giving extra force to one's own experiences is appropriate in personal ethical decisions, the question about their use for political decisions remains. I conclude that a category of personal, nonreplicable, experience does exist, and that reliance on such experience is natural and appropriate in people's

16. Thomas Nagel says about beliefs that other reasonable people can reject: "Considered as individual beliefs they may be adequately grounded, or at least not unreasonable: the standards of individual rationality are different from the standards of epistemological ethics." Thomas Nagel, *Moral Conflict and Political Legitimacy*, 16 PHIL. & PUB. AFF. 215, 230 (1987).

private lives, whatever the status of such experience for the rational assessment of truth.

C. *Relying on Nonaccessible Convictions for Political Coercion*

Whether people appropriately rely on convictions that rest on personal experiences to coerce others and to publicly justify that coercion presents a serious question. In 1987, Thomas Nagel argued that for political coercion people in liberal democracies should have not only impartial positions but also impartial justifications.¹⁷ Whatever else Nagel may have thought he was excluding, reliance on these sorts of experiences was among them. Joseph Raz, while sympathetic with Nagel's basic idea that some grounds of coercion might be excluded, responded that Nagel's limits were either too stringent or failed to exclude even the sorts of claims that Nagel had in mind.¹⁸ I shall try to show that although some of Nagel's formulations may have subjected him to Raz's critique (a critique that Nagel himself has found largely persuasive),¹⁹ Raz himself slides over the particular quality of this kind of reliance on personal experience and obscures the special questions it raises.

Nagel suggested that liberalism implies a higher-order impartiality: it distinguishes "between what justifies individual belief and what justifies appealing to that belief in support of the exercise of political power."²⁰

The idea is that when we look at certain of our convictions from outside, however justified they may be from within, the appeal to their truth must be seen merely as an appeal to our beliefs, and should be treated as such unless those beliefs can be shown to be justifiable from a more impersonal standpoint. . . .

This does not mean we have to stop believing them — that is, believing them to be *true*. Considered as individual beliefs they may be adequately grounded, or at least not unreasonable: the standards of individual rationality are different from the standards of epistemological ethics.

. . . . [U]nless there is some way of applying from an impersonal standpoint the distinction between my believing something and its being true, an appeal to its truth is equivalent to an appeal to my belief in its truth. . . . The appeal to truth as opposed to belief. . . must imply the possibility of some standard to which an impersonal appeal can be made, even if it cannot settle our disagreement at the moment.

. . . . [One must be prepared] to submit one's reasons to the criticism of others, and to find that the exercise of a common critical rationality and

17. *Id.*

18. Joseph Raz, *Facing Diversity: The Case of Epistemic Abstinence*, 19 PHIL. & PUB. AFF. 1, 31-46 (1990).

19. See THOMAS NAGEL, EQUALITY AND PARTIALITY 163 n.49 (1991). I am not clear just how far Nagel does accept the force of Raz's challenge. See *infra* note 23.

20. Nagel, *supra* note 16, at 229.

consideration of evidence that can be shared will reveal that one is mistaken. This means that it must be possible to present to others the basis of your own beliefs, so that once you have done so, *they have what you have* and can arrive at a judgment on the same basis.²¹

Raz points out that Nagel's standards do not exclude many claims for religious revelation, those of the sort I have already discussed. Raz also notes that all common sense notions of sharing evidence include claims based on personal experience (for example, "I know it snowed in New York because I was there and saw it"). Raz further recognizes that we hold ourselves open to extrasensory perceptions, such as those of diviners who have found water on previous occasions. He says that even claims of revelation that do not rely on trusted modes of acquiring knowledge can be public, as when thousands testify that they had a similar experience at the same time.

One may think that the fact that many had the same experience at the same time lends credence to the report of each one of them. But it does not differ in principle from the report of a single person of the same experience, even when it was not witnessed by others. Either such reports are acceptable by all, or they are not to be trusted even by the person who had the experience.²²

What Raz does not acknowledge is that for perceptions of truth whose accuracy is not testable in the manner of divination, the people who have had the perceptions reasonably give them more credit than those who listen and do not doubt that the claimed experiences have occurred. As I have suggested, Saul reasonably gives more weight to his conversion experience than does an outsider who believes Saul is accurately reporting what he experienced. Raz's quotation about acceptability and trust glides over this, or implicitly denies my conclusion. He suggests that a person should trust his own experience only if it is "acceptable by all." Perhaps if experiences are "not acceptable," they should not be trusted by the person who had them. But individual experiences pointing toward religious or ethical truths that count *only a little* for others reasonably count *a great deal* for the people who have had them. Raz seems to deny that the holder of beliefs will perceive any gap between justifiable bases for his beliefs and reasons that should persuade others. But, many religious people do perceive such a gap. A crucial issue about political coercion is whether a person who strongly believes something is true because of this sort of individual experience is justified,

21. *Id.* at 230-32.

22. Raz, *supra* note 18, at 41.

when deciding about political coercion, in assigning more weight to the experience than he could reasonably expect an outsider to give.²³

III. AUTONOMY OF A POLITICAL PRINCIPLE OF RESTRAINT?

A vexing problem about the relation between religious and other comprehensive views and politics is whether any political principle of self-restraint can stand independently of comprehensive positions themselves. I shall not deal here with this subject in its full complexity,²⁴ but rather attempt some relatively straightforward observations that should help guard against gross oversimplification. I concentrate again on the relation between religion and politics, but my comments apply as well to the relation between other comprehensive views and politics.

We need at the outset to draw a distinction between ways of determining the validity of some principle and the status of a principle. Is religious truth known in ways different from political truth? Is political truth intricately related to religious truth or does it have an independent place?

A. *Ways of Discovering Truth*

For some people, for whom political truth is a rather simple subcategory of religious truth, the manner of knowing political truth is identical to the manner of knowing much religious truth. Someone might say, for example: "The way we know most of what we know about God and about how we should live is by interpreting an authoritative text, the Koran. It is by exactly the same means that we know how to organize society and resolve competing claims of justice." To suggest a rough analogue, it is as if everyone had great confidence in the founder of a camp who left instructions about how

23. Some reliance on religious experience, say as a ground for supporting religious education in the true faith, involves direct imposition of religious ideas and some lack of tolerance for competing ideas. But relying on religious faith to decide that factory farming of a particular sort should be illegal or to decide that the poor should get more material assistance does not involve imposition and intolerance in any straightforward sense. In his 1987 article, Nagel clearly meant to preclude reliance on religious convictions in all these instances. See Nagel, *supra* note 16. In his more recent book, *supra* note 19, at 163-68, he concentrates on acts that directly involve a lack of liberal toleration. He comments that he still believes in "the conclusion" of the article though not its particular argument. *Id.* at 163 n.49. But even here it is not quite clear how broad the conclusion is in which Nagel still believes. Thus, I am not sure whether Nagel continues to believe that reliance on religious grounds is inappropriate in the factory farming and welfare illustrations and, more importantly, whether he thinks the reasons that he now provides cover those illustrations.

24. For some significant contributions, see PERRY, *supra* note 1; Rawls, *supra* note 2; John Rawls, *The Idea of an Overlapping Consensus*, 7 OXFORD J. OF LEGAL STUD. 1 (1987); Raz, *supra* note 18. Raz and Perry challenge Rawls' claim that a liberal theory of justice can be autonomous.

people should occupy themselves and about organization and bases of coercion within the camp. The subjects would be different but the manner of deciding what should be done would be the same; one would read and interpret the founder's directions.

For almost everyone, the way religious truth is determined is significantly linked to the way political truth is determined. One form of linkage is what may be called negative checks. What we confidently believe about ordinary facts and ethics will serve as checks on what we are willing to accept as true in the religious realm and as sound political philosophy. Ethical and factual beliefs may, of course, shift as we become persuaded of religious or political claims; but ordinarily we are hesitant to accept claims of truth that we recognize fly in the face of our beliefs about the world and how we should live. Similarly, our religious beliefs are a check on our political beliefs and vice-versa. We will not accept claims that we recognize as seriously incompatible. (Since political beliefs do not have the supremacy of religious beliefs it may be doubted if they will serve as a check on what is believable in the religious realm; but many people have a confidence about certain political beliefs that does make them hesitant to accept incompatible religious perspectives.)²⁵ Of course, few people scrutinize their sets of beliefs with great rigor. In actual life, there is room for people holding views that do not fit together comfortably. Nevertheless, grossly contradictory beliefs are not usually found together; members of Christian groups that emphasize the severe and inherent sinfulness of human beings do not typically subscribe to a political philosophy that rests on the capacity of people to become completely unselfish in human history.

Another related form of linkage in methods of discovery is more positive.²⁶ For most people, the methods by which they evaluate political principles are similar to the methods they use to discover some religious truths. In the search for religious understanding, there are various levels and techniques. Reasoned deliberation from fundamental premises, for example, so important in secular political philosophy, is certainly one method of ascertaining some religious truths.

25. See Rawls, *supra* note 2, at 242.

26. This distinction between negative and positive linkage is largely artificial. A positive way to put the "negative check" linkage is that we reason from our beliefs about facts and ethics to help decide what is true in religion and political philosophy.

In spite of these kinds of connections between ways of understanding religious and political truth, for many people very significant differences remain between criteria for religious knowledge and criteria for sound political principles. Some people who believe that conversion experiences and other special individual insights are important sources of religious truth do not believe that these are important sources for the truth about desirable principles of governance. Of course, some who regard individualized experience as vital to discovering religious truth *may* take a similar view about political truth, believing, for example, that reliance on felt responses to prayer is the best way to resolve thorny issues of political justice. But, many people who regard nonaccessible means of discovering truth as crucial for religion rely much more heavily on “ordinary” modes of reasoning for their views about political justice. Their religious understanding leaves open many possibilities in politics; they do not think one can simply derive political philosophy from religious truth. They believe that central claims in political philosophy, like claims in math and science, are subject to arguments that are publicly accessible (in the sense of not depending on privileged insights),²⁷ whereas central claims about religious truth are not subject to such arguments.

Someone who concludes easily that claims of religious truth are or are not subject to the same techniques of understanding as claims of validity in political philosophy may express his or her (possibly accurate) view about the relation of correct religious claims and correct political claims. But *any single vision* of this relation would misdescribe the bases of understanding in the working approach to truth of many other people.

B. *Relative Status*

The question of how truth in each realm is discovered matters less than their relative status. Those who deny that any principle of political restraint can stand alone are mainly denying that a political principle can have a status independent of religious perspective.

A typical religious view is comprehensive, addressing itself not only to theological possibilities such as the existence of God, but encompassing some perspective on how to lead a good life and how to treat fellow human beings. Whether or not a particular religious view speaks directly to matters of political organization and justice, some political principles will invariably fit better with it than will others. At a minimum then, virtually any religious view will have

27. One possible reason for such a belief, developed with considerable richness by John Rawls, is that once one accepts the basic requisites of liberal democracy, it will follow that a theory of justice must appeal to persons with a variety of comprehensive views.

some bearing on acceptable political principles.²⁸

As a comprehensive view, a religious perspective is not only wide in what it covers, but also overarching in its significance. If one's religious views call for certain practices, one believes the practices should be instituted; it is not as if the reasons can be outweighed by other considerations. (In actual life, things can be more complicated; some people do feel sometimes that what they regard as genuine religious considerations not only give way in the face of temptation, but actually can be outweighed by other considerations.) Given that religious views are both comprehensive in scope and paramount in importance, no room exists in someone's reflective understanding for a political principle that is actually at odds with one's confidently held religious convictions. To this degree, the argument against the autonomy of a political principle is sound. There is no domain of sound political philosophy that is somehow totally unrelated to sound religious understanding.

There is, however, much more to say. As I have already noted, one's religious views might say relatively little directly about political organization and justice. One may think that the main techniques for deciding these issues need not rely on religious premises and are consistent with a wide variety of, though not all, religious premises. (Any particular substantive political principles and the techniques for arriving at them are bound to be at odds with some religious views.) One can believe that political philosophy is autonomous in the sense that sound principles can be developed without reliance on propositions about God or other controversial religious subjects. I say "one can believe." One who is rigorously self-reflective "will believe" only if his religious views fit with *that understanding*. Someone who believed that all facets of life should be regulated according to a divine text would not believe that political justice could be determined independent of religious premises, unless he or she were confident that such an independent determination would yield the same

28. Is this true not only for what we may call "positive" religious views that claim belief in God etc., but also negative "religious" views (mainly an atheism that denies the existence of positive religious truth) and "agnostic" religious views (which eschew assertion of positive or negative religious truth about God), and perhaps about other central religious subjects? A negative atheist or agnostic approach requires that the manner of leading a good life and acting toward other persons must be determined independently of religious understanding. An exception would be an understanding of life largely determined by despair that the universe lacks meaning. Although atheism or agnosticism does not fit well with a principle that the state should enforce or support positive religious beliefs, each has less bearing on what political life should be than many "positive" religious views.

answers as correct textual interpretation.²⁹ Many religious believers think, however, a great deal can be said about political organization and justice that does not rest on disputed religious premises.

A related point has to do with the conditions of society. A political theory must be appropriate for the society to which it applies. Suppose that Donna believes that ideally everyone would accept the true religion, and that the government would appropriately support that religion. In actual society, however, there exists a plurality of faiths and only one-sixth of the people accept the true religion. Under actual conditions, Donna might think it appropriate for the government to withdraw from claims of religious truth. Now we can imagine Donna accepting this principle of withdrawal in one of two ways. The first might be as a kind of second-best compromise, even as applied to actual circumstances. In this event, Donna would think it preferable for the government to support the true religion even though it is accepted by only one-sixth of the populace. But, realizing that is unlikely to occur, Donna is willing to settle for government abstaining from supporting any vision of the true religion. Instead, given pluralist conditions, Donna might accept the principle as an actual requirement of justice. She might suppose that it is inappropriate for one-sixth of the population to dictate religion, even when it is right in its religious view. Dictating a mandatory religion would inadequately respect freedom and consent as grounds of human community. Thus, Donna's overall understanding, including her religious convictions, would include principles of respect for nonbelievers. Such principles might call for different principles of justice in religiously diverse societies than in societies in which the correct religious view overwhelmingly predominates. Of course, her view about justice in her own society corresponds with her religious views, when those views are applied to pluralist social conditions. But, her sense of justice is unlikely to be derived in some easy way from the religious views.

If principles of justice are to regulate society, it may be important that they have fairly wide acceptance, or at least that they *could* win fairly wide acceptance. Assuming a plurality of comprehensive views, John Rawls has sought to develop principles of justice from widely shared premises in liberal democracies.³⁰ This effort to offer principles appropriate for liberal societies seeks to develop political principles autonomously, not relying on any particular religious perspectives.

There remains the question why Donna or any other particular

29. A common Christian view has been that natural law (discoverable without reliance on religious premises) and revelation yield the same conclusions.

30. See Rawls, *supra* note 2; Rawls, *The Idea of an Overlapping Consensus*, *supra* note 24.

individual should accept the principles that correspond with shared premises. If the principles conflict with what Donna thinks is desirable in pluralist societies, she will not accept the principles as a guide to all she should do. She may think there is some reason to abide by what can be derived from shared premises for the time being, but she will want to encourage political change (even if she is not able to bring about the change in religious convictions which will almost certainly matter most to her.)

What we may conclude is that if Donna is rigorously reflective, acceptable political principles will have to be consonant with her overall religious view; they will not be autonomous in the sense of floating free and unaffected by religious views. However, their status and the techniques she uses to determine them may be largely autonomous from the religious truth in which she believes. Principles of justice for diverse societies may have a fairly remote relation to many particular religious views (except insofar as those views include notions of equality and of respect for the autonomy of nonbelievers).

Those who are skeptical about Rawls' theory are not likely to believe the divorce of comprehensive views and convincing political theory can be as great as he claims.³¹ They may question whether a society requires a unified theory of justice and may claim that any person's defensible views will bring comprehensive understandings, including religious views, more directly to bear on their political views. I shall not try to deal with this complex topic here. My present sense is that the feasible divorce is less than Rawls suggests but more than most critics argue.

IV. GENERALITY OF POLITICAL PRINCIPLES ABOUT DECISION AND ARGUMENT

This section considers the related questions of the appropriate generality of a political principle of restraint *at* any time and place and appropriate generality *over* time and place.

A. Generality Here in the Present

Various principles of restraint have been suggested for modern liberal democracies.

We can imagine at least two different levels for political principles

31. See, e.g., PERRY, *supra* note 1; Raz, *supra* note 18.

of self-restraint. One would be a principle applicable for highly conscientious, self-reflective citizens who have a nearly full understanding of the reasons behind the principle, and are able and willing to apply it with precision. Another would be a principle that could actually be recommended as appropriate for real people in an actual society. I shall concentrate on the second.

In this section, as in the last, I shall mainly omit specific reference to nonreligious comprehensive views. Since I do consider nonaccessible reasons, these views would require separate treatment only if based on accessible reasons. Given what people have written and the prior discussion in this Article, the following principles for political decision or political argument, or both, concerning nonaccessible grounds and religious grounds of judgment are possible.

For political decision or for general public discussion of political issues, or for both:

1) Citizens and officials may freely rely on any grounds they believe yield judgments about which political decisions are appropriate, whether or not the grounds are religious and whether or not they are accessible. (Thus, a strong belief based on revelation or a flash of insight that embryos are entitled to protection from the moment of conception could appropriately underlie a vote for a restrictive abortion policy.);³²

2) Citizens and officials should not rely on grounds that are tied to religious views, whether accessible or not;

3) Citizens and officials should not rely on nonaccessible grounds, whether religious or not;

4) Citizens and officials should not rely on nonaccessible grounds, whether religious or not, *and* they should not rely on religious grounds, whether accessible or not.

5) Citizens and officials should not rely on religious views except those that are tied to natural arguments or meet other limiting specifications.

6) Citizens and officials should rely first on accessible nonreligious grounds, that is, reasons based in natural arguments or shared social premises. But if these are radically inconclusive, they may properly rely on accessible religious grounds and nonaccessible grounds.

7) Citizens and officials should rely on accessible grounds for "constitutional" issues and basic issues of justice, but may rely on other grounds for ordinary issues.

32. I assume that the relevant vote here does not contravene constitutional standards. Whether someone should vote for a law that he or she believes violates constitutional norms (1) that are already laid down by the Supreme Court, (2) that are highly likely to be adopted or followed by the Supreme Court, or (3) that would be adopted or followed by a Supreme Court acting as it should, are complicated issues this illustration is not meant to cover.

In expanding on any of the principles that suggest restraint, one would have to decide what makes a reason accessible or religious for that purpose. One might recommend approaches that differ between law making and exercising discretion within the law, or between what officials do and what citizens do. I shall focus on legislative choice and assume that officials and citizens should be governed by similar principles of restraint.

My own published views are the following. Accessible, nonreligious grounds should be given a kind of priority. However, citizens and officials will frequently be reduced to relying on religious and nonaccessible reasons. With some qualifications, their general public discussion of positions should be in terms of accessible, nonreligious reasons. By "accessible reasons," I mean here reasons that not only are believed by proponents to be accessible to others but that also are widely understood to have force within a society. By "religious reasons," I mean reasons that rely on some truth about God or other distinctly religious premises.

My aim in what follows is not to defend this position,³³ or to provide any comprehensive challenge to opposing views. Rather, I want to illustrate why one needs to think in terms of political principles that one could recommend to actual citizens and officials and that are appropriate for the society in which we live. For example, I think that a suggestion of different permissible grounds for "constitutional" and other issues³⁴ is impractical. Even if people could determine which issues are constitutional, they cannot comfortably extirpate sources of understanding for constitutional issues that they appropriately use as sources of understanding for nonconstitutional issues.

I want to focus my main attention on the suggestions of Franklin Gamwell,³⁵ Robin Lovin,³⁶ and Michael Perry³⁷ that religious

33. For previous works in which I have defended this position, see KENT GREENAWALT, *RELIGIOUS CONVICTIONS AND POLITICAL CHOICE* (1988), and Kent Greenawalt, *Religious Convictions and Political Choice: Some Further Thoughts*, 39 *DEPAUL L. REV.* 1019 (1990). In the two years that have passed since this Symposium, my views have altered somewhat. My present views are contained in KENT GREENAWALT, *PRIVATE CONSCIENCES AND PUBLIC REASONS* (forthcoming 1994).

34. This is a proposal John Rawls has made in recent writing. His fullest explication of the distinction and defense of its relevance is made in JOHN RAWLS, *POLITICAL LIBERALISM* (1993). My comments here are hardly in sufficient depth to constitute a plausible response; but I address the question more fully in *PRIVATE CONSCIENCES AND PUBLIC REASONS supra*, note 33.

35. See Franklin I. Gamwell, *Religion and Reason in American Politics*, 2 *J. OF L. AND RELIGION* 325 (1984).

36. Robin W. Lovin, *Perry, Naturalism and Religion in Public*, 63 *TULANE L.*

grounds should not be excluded from political decision and argument in liberal democracies. All three are naturalists in their understanding of ethical truth, and Gamwell at least makes clear that his understanding of religious truth is similar. All three think the essential basis for perceiving what is good and right is natural argument, which is generally accessible. If natural grounds are, as Gamwell claims, the bases for religious understanding, there is no good reason to exclude them. Whether or not grounds for religious belief are fully natural, Perry and Lovin suggest that specifically religious understanding is interwoven with natural ethical understanding and that it would be inappropriate to tell religious people that they must exclude reference to their religion.

Since Gamwell, Lovin, and Perry think ethical judgments should be based on natural arguments, they do not acknowledge that nonaccessible means of reaching such judgments are appropriate. From this perspective, no special principle of exclusion for nonaccessible reasons is needed for politics because nonaccessible grounds for moral judgments are inappropriate in the first place. Thus, one way to interpret some arguments of Gamwell, Lovin, and Perry is the following. A sound comprehensive philosophy is naturalist about ethical and social judgments. Different approaches to morality and justice are misguided. Therefore all good arguments in the political process should be of a naturalist sort, permissibly colored by some religious claims.

Under such an approach to the subject, all misguided and mistaken arguments should be excluded. So understood, this approach definitely does not yield an *independent political principle*. If one thinks a naturalist approach to ethics is mistaken or incomplete, one will not yet have been presented with reasons to eschew non-naturalist arguments in politics. It would not be a plausible *political principle* simply to say, "Rely on naturalist arguments, and their religious accompaniments but do not rely on other grounds for political positions."

Such a principle, without further justification, could be persuasive only to those who believe in the first place that naturalist grounds are valid and other claimed grounds are invalid. It *is* reasonable, independent of one's own particular views about religion and ethics, to emphasize the importance in a pluralist society of public discussion in terms of grounds that are accessible to others. Thus, "Do not publicly rely on grounds that are not accessible to others" is a plausible political principle.

REV. 1517 (1989).

37. MICHAEL J. PERRY, *MORALITY, POLITICS AND LAW* (1988). PERRY, *supra* note 1.

In his most recent book,³⁸ Michael Perry stresses that public accessibility is crucial for the ecumenical dialogue he recommends. But his discussion leaves one unclear on how constraining his view is of what is appropriate in public discussion and of how far apart he and I are about what is proper.³⁹ In a chapter on ecumenical political dialogue, Perry says, "Two attitudes essential to the practice of [such] dialogue are fallibilism and pluralism."⁴⁰ A fallibilist always entertains a self-critical awareness of possible error; a pluralist, in the relevant sense, understands that a morally pluralist context can be a fertile source of deepening moral understanding. In the same chapter, Perry suggests that appropriate reliance on religious understanding does not present religious beliefs as unchanging and unquestionable,⁴¹ and does not rely on experiences, or premises, or persons, or institutions that have little if any authority beyond the confines of one's own moral or religious community.⁴² Religious stories and symbols are properly presented as human testimony to [human] possibility itself;⁴³ the idea that a life animated by love is the most fully human may be defended "*as the yield of the lived experience of many historically extended communities struggling to discern what it means to be human.*"⁴⁴

If all of Perry's comments were taken as excluding other religious positions and arguments, a great deal would be excluded. And if reference to religious background were to be taken as a reference to a deposit of human experience within a tradition, what Perry accepts as religious argument *might* not extend beyond what I would regard as appropriate nonreligious argument. (On this question, I think only a range of specific illustrations would expose the extent of our disagreement.)

In his conclusion, Perry responds to a critic who says that many religious groups do not accept fallibilism and pluralism.⁴⁵ While remaining firm about public accessibility, Perry comments: "Perhaps

38. PERRY, *supra* note 1.

39. For Perry's comment on the range of our possible disagreement, see PERRY, *supra* note 1, at 18-22.

40. *Id.* at 100.

41. *Id.* at 104-05.

42. *Id.* at 106.

43. *Id.* at 110.

44. *Id.* at 120.

45. The critic, David M. Smolin, subsequently responded to Perry's book in print, *Regulating Religious and Cultural Conflict in a Postmodern America: A Response to Professor Perry*, 76 IOWA L. REV. 1067 (1991) (arguing that Perry's approach strongly discriminates against traditionalist religious views).

fallibilism and pluralism are better understood not as prerequisites to ecumenical political dialogue, but as attitudes or positions for which it is sometimes fitting to contend, depending on the particular question at issue, *in* ecumenical dialogue."⁴⁶ What then of the person who claims that historical evidence and other accessible standards indicate to a near certainty that the *Bible* is the authoritative word of God, and that biblical passages indicate that political coercion should be used against consenting homosexual behavior? I am not sure whether Perry's standard, understood in light of his conclusion, would exclude that.

It is partly because of the intractability of differentiations among religious views that I suggest that direct religious arguments should not be made about narrow political issues. But my main point here is broader. If one is to suggest a political principle that is more than a self-evident corollary of religious and ethical views concerning the validity of some forms of reason and the invalidity of others, then one must present reasons for the political principle that have appeal to persons of religious and ethical views different from one's own. The principle must also be one that people of various views are actually capable of applying.

B. *Generality in Time and Space*

I now turn to the domain of coverage of possible political principles of restraint. We may distinguish here (1) fundamental principles good for all social orders, (2) fundamental principles for liberal democracies, (3) practical principles good for all liberal democracies, (4) practical principles good for a time and place, and (5) prudential strategies for effective persuasion. We can quickly exclude the first possibility as not relevant for our topic. A social order founded on a narrow claim of religious truth would certainly not exclude religious grounds from political decision. A social order founded on belief that inexplicable insights are the best sources of truth in all domains would not exclude all nonaccessible insights as grounds of political judgment. Of course, it may be said that such social orders are themselves indefensible. But if *that* is the basis for a principle of restraint, the claim must rest on some much broader argument about what are acceptable social orders.

Roughly what I mean by a fundamental principle of liberal democracy is a principle that is basic enough so that a failure to recognize it would either disqualify a government from being a liberal democracy or would constitute a very serious defect. Such fundamental principles include notions that citizens are essentially equal,

46. PERRY, *supra* note 1, at 140.

that they should have opportunities for political participation, and that they should enjoy liberty of speech and religious exercise. By a practical principle good for all liberal democracies, I mean some principle that does not appear to be fundamental, but which always will prove to be desirable to follow. A practical principle good for a time and place is one that should be accepted by citizens in some social orders at certain stages of their history. A prudential strategy for effective persuasion is not by itself a *principle* of restraint at all (although it might conform with a principle of restraint); it is the most effective means to achieve one's political objectives. Thus, it might be said that in a pluralist society, the most effective means to persuade others is usually public argument in nonreligious accessible terms. One could believe this without thinking that any principle of restraint is appropriate. Indeed, as we shall see, if it is very clear to everyone that effective strategy dictates accessible argument, that may actually be a reason not to have any political principle against nonaccessible argument.

I believe that self-restraint about the use of religious or nonaccessible reasons is not part of a set of fundamental principles for liberal democracy. Suppose a liberal democratic society was made up of people with essentially similar views about religion, and these people thought religious perspectives were important for social policy. They would not bar reliance on them. Or, suppose that people had very diverse religious views (so diverse that no one feared imposition on the basis of any set of religious premises), that the history of religious interaction had been harmonious, and that all were strongly interested in dialogue about various religious views. Such people would be unlikely to exclude reliance on, or public arguments from, religious views in the consideration of narrow political topics. We can also imagine conditions in which people would feel comfortable about open reliance on nonaccessible grounds and justification in those terms. It is by definition illiberal to deny religious freedom. It is not illiberal in the same way to rely upon nonaccessible religious understanding to decide that factory farming as presently constituted is immoral and should be stopped, or that certain forms of genetic research should not be allowed. If virtually everyone in the country shared a certain Christian view about these matters, that would be an appropriate basis for policy.⁴⁷

47. This is contrary to what Nagel suggests, but what these illustrations show is that there is a kind of circularity in arguments that it is unfair to rely on nonaccessible grounds. If people generally feel that such reliance is fine, and there are not independent

Someone might concede this much yet claim that, given the nature of people and social orders, some principle of restraint is appropriate for all liberal democracies. If there is freedom of religion, diverse religious views are bound to emerge. Religion is something people feel so strongly about that it will inevitably be a source of tension that will be aggravated by reliance on religious grounds in political decision and arguments. Relatedly, social unity in liberal democracies will be fragile enough so that argument in terms of nonaccessible grounds will be harmful. In such ways the argument might be made that the favored principle(s) of exclusion will be appropriate for all liberal democracies.⁴⁸

Full examination of such a thesis would require a lengthy excursion into the conditions of liberal democracies. I shall content myself with two brief abstract assertions and an illustration. The first abstract assertion is that within liberal democracies, the vitality of religion and confidence in nonaccessible sources of insight can vary greatly enough so that no simple political principles about these are good for all such societies. The second assertion is that if the human race and liberal democracy manage to survive a few more centuries, liberal democracy in 1992 will have been in its comparative infancy, with origins strongly related to religious controversy. It is too early to predict the various conditions in which it may flourish.

I spent two weeks in Holland in the summer of 1991. Students in that fairly homogeneous society told me that very few people took religion seriously any longer, that tolerance was high and religious tension was virtually nonexistent, that religious arguments for political positions would be wholly ineffective. In these respects, I suspect that a number of Scandinavian countries are now similar. In such conditions, there would seem no good reason to suggest an exclusionary principle of restraint. The same conclusion might hold if most people were religious, but accepted highly rationalist forms of religion based on naturalist arguments.

I think we need to acknowledge that what principles of restraint, if any, are appropriate may depend on time and place, on a sense of present realities within a society, its history and its likely evolution.

If this is correct, then judgments about appropriate principles for the United States at this time cannot be based solely on abstract conclusions about liberal democracy and the nature of religion and nonaccessible bases for judgment. Religion is still taken very seriously by many people in this country. The population is highly diverse and becoming even more so with immigration from all parts of

arguments against it, then it is not unfair. In our society everyone assumes that parents may sometimes coerce children (to go to Sunday school) based on beliefs that rest on nonaccessible reasons.

48. See Rawls, *supra* note 2; Rawls, *supra* note 24.

the world. In some sections of the country, people with one or two religious perspectives are dominant enough so that imposition is a serious danger. Although religious violence is now rare, we are far from a state of bland tolerance. For me, these factors counsel some restraint about casting public political issues in terms of competing religious grounds. This is not just because restraint is more effective political advocacy; sometimes religious arguments may be effective for a sizeable audience. Rather, it is because restraint minimizes dissensus and resentment, and feelings of being excluded.

These comments lead me briefly back to the issue of autonomy. Can the judgment about an appropriate political principle stand independently of comprehensive religious and philosophical schemes? The answer is both yes and no. There are general arguments for and against some principles of restraint that appeal to people of widely differing religious and other comprehensive views. Few thoughtful people in liberal democracies will welcome religious conflict or suppression of religious liberty. On the other hand, the slightest risk of these would not appropriately result in restraint in decision and public justification. One's own religious view will have much to do with whether one thinks open religious controversy is healthy, and with whether one thinks that religious criticism of secular culture is both of urgent importance *and* will be significantly promoted by religious argument over particular political issues. How one weighs the various arguments for and against restraint may depend to a considerable extent on one's own religious or other comprehensive view.

Thus, we can conceive powerful arguments for and against self-restraint that float nearly free of other philosophical assumptions because their force is so widely accepted. We can also imagine fairly wide acceptance of some rough principle of restraint among those of differing comprehensive views. I think it is now widely accepted in most parts of the country that public officials should not make explicit religious (positive or negative) arguments for particular political positions. However, the weighing of arguments for and against particular principles of restraint will be affected by comprehensive views, and the principles that are accepted will somehow have to fit with those views.

