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## Audi, RELIGIOUS COMMITMENT AND SECULAR REASON

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## BOOK REVIEWS

*Religious Commitment and Secular Reason*, by Robert Audi. New York: Cambridge, 2000. Pp. xix, 355. \$54.95 (cloth).

FRANCIS J. BECKWITH, Trinity International University

Robert Audi's latest work on church/state relations is an important contribution to the ongoing debate in political philosophy and legal theory over political liberalism and its requirement that the state remain neutral between competing views of the good life and for the state's citizenry and elected officials to use public or secular reasons and motivations when advancing particular policies. Its purpose is to address "the delicate problem of how a free and democratic society can achieve an appropriate harmony between religion and politics" (2)

This monograph is a highly nuanced, though clearly and tightly argued, defense of one form of political liberalism. Thus, I will attempt to briefly, though no doubt inadequately, summarize its contents. I will then discuss two points that I believe some Christian philosophers may have particular interest.

### *Overview of Book*

This book consists of seven chapters, each of which deals with some aspect of church/state relations. Part One (The Foundations of Democracy and the Separation of Church and State) contains three chapters. Chapter 1 (The Plurality of Paths to Liberal Democracy) presents a definition of liberal democracy and then considers a number of different moral traditions on which one may ground liberal democracy (Utilitarianism, Instrumentalism, Kantianism, Virtue Ethics, Communitarianism, Theology, Intuition and Common Sense). Audi explores the strengths and weaknesses of each, concluding that "liberal democracy is supportable from a variety of plausible starting points" (27). It is unclear why Audi does not mention the natural law tradition as a basis on which one may ground liberal democracy (though he does mention natural law elsewhere in the text), especially since the American Founders,<sup>1</sup> President Abraham Lincoln,<sup>2</sup> and a number of contemporary philosophers<sup>3</sup> defend liberal democracy by appealing to natural law. Audi concludes this chapter with an analysis of freedom and coercion, concluding that when a proposed public policy demands coercion, liberty is the default position if the coercion's justification is in dispute among reasonable citizens.

Chapter 2 (The Separation of Church and State) is the core of Audi's view of church/state relations. In this chapter he discusses, among other things, his three central principles of church-state separation: the libertarian principle ("the state must permit the practice of any religion, though within limits" [32]), the equalitarian principle ("the state may not be given preference to one religion over another" [33]), and the neutrality principle ("the state should neither favor nor disfavor religion. . . *as such*, that is, give positive or negative preference to institutions or persons simply because they are religious" [33]). Combining these principles, Audi defends his version of political liberalism as it pertains to church/state relations. He applies his view to a number of issues including the role of clergy in a liberal state and certain issues in public policy (e.g., public observances, educational policy, and tax exemption).

Although I do not know how conversant Audi is in the leading church/state cases decided by the U.S. Supreme Court, it is interesting to note that his philosophical reasoning is consistent with the dominant interpretation of those decisions. I make this point because it is a testimony to Audi's philosophical acumen that his case for the logic of the Court's holdings in these decisions is, in my judgment, far more sophisticated and compelling than the arguments made by the justices who authored those opinions. If I were to embrace Audi's view, it would be because of Audi's first-rate arguments and not because of the second-rate philosophy that permeates the Court's modern church/state jurisprudence.

Chapter 3 (Church-State Separation and the Justification of Government Power) deals with the relationship between government coercion and religious reasons, and the role of those reasons in developing and supporting public policies. Audi suggests what he calls a surrogacy model of justified coercion: the justification of coercion can rely only on public reasons that are not connected to any particular ethical tradition and which any rational citizen would accept. As he writes elsewhere in the book: "If fully rational citizens in possession of the relevant facts cannot be persuaded of the necessity of coercion—as is common where the coercion is based on an injunction grounded in someone else's scripture or revelation—then from the point of view of liberal democracy, the coercive action lacks an adequate basis." (123) Audi does not deny that one may have religious reasons, but that in order to coerce fellow citizens one must have appropriate secular reasons as well.

Part Two (The Ethics of Citizenship and the Balance of Religious and Political Arguments) is perhaps Audi's most creative contribution to church/state relations. In chapter 4 (Religious Convictions and Secular Reasons) Audi explores further what he introduced to the reader in chapter 3. Although his general focus is on advocacy, he delves into numerous other questions including the responsibility of citizenship, public persona, virtuous conduct, and the delicate balance between the free exercise of religion and its establishment.

Chapter 5 (Religion and Ethics) concerns the web of interconnected philosophically-derived and theologically-derived ethical beliefs embraced by religious people. Audi carefully, and with philosophical deftness, defends what he calls the principle of theo-ethical equilibrium: "a rational integration between religious deliverances and insights and, on the other

hand, secular ethical considerations, including sociopolitical principles of the kind that determine the level of permissible freedom in a democracy" (130). So, for example (this is my example, not Audi's), if the deliverances of one's philosophical reflection leads one to the well-grounded belief that the unborn are members of the human community and ought to be protected by the wider post-natal community, but one's reading of Scripture leads one to an ambiguous conclusion about the unborn, one should reexamine one's understanding of Scripture, since one has independent reasons to affirm the unborn's personhood. Thus, one must continually balance one's philosophical and theological insights in order to achieve equilibrium.<sup>4</sup> Audi maintains that given God's nature theo-ethical equilibrium is to be expected. He applies this concept to both institutions and individuals.

Although while reading Part Two I found myself at times disagreeing with Audi, I was struck and moved by his deep concern for the church and his sincere desire to preserve its integrity against the temptation of using the power of the pulpit to further partisan political ends. On the other hand, Audi is careful not to discourage political activism in the church; he is simply calling for religious people to make principled and theologically sensitive decisions that will encourage the church's moral vision for society while at the same time protecting it from the corruption of partisan politics.

In Part Three (Civic Virtue and Political Activism in a Religiously Pluralistic Democracy) Audi cashes out the principles laid out in Parts One and Two. The focus of chapter 6 (Civic Virtue) is the role of citizens and their communities in participating in liberal democracy. Audi stresses the importance of developing certain virtues in order to nurture good citizenship. In this rich chapter, he discusses the moral ground of civic virtue (tying it to some notions outlined in chapter 1), civic virtue and the grounds of sociopolitical action, civic virtue and the balancing of religious and secular reasons, the place of religious considerations in civic discourse, and the institutional dimensions of civic virtue.

Chapter 7 (Religious Conviction and Political Activism) concerns several questions surrounding the use and justification of violence and coercion employed by those who oppose abortion. This chapter proposes "a framework for peaceful coexistence among these parties" in the abortion debate (182). Audi believes this framework may be applied to other controversial issues such as assisted suicide, protection of the environment, animal rights, and genetic research. (More on this below).

#### *Some Critical Observations.*

The above is a superficial overview of Audi's book. There are many issues that he discusses that I simply could not present in the space allotted me. However, there are some questions that one may raise about Audi's thesis. The following is a brief presentation of two of those questions.

### **1. Definition of Religion**

Audi defines religion, for church-state purposes, as theistic. Because he maintains that one needs a secular reason in order to justifiably shape public policy, it would seem that Audi needs a secular reason for defining reli-

gion in the way that he does. He provides one: "Non-theistic religions (if indeed there are such in any full-blooded sense of 'religion') pose—other things equal—far less serious church-state problems. This is in good part (though not entirely) because theistic religions tend to be in certain ways authoritarian." (34). But some theists maintain that it is secularism's arrogant, indeed authoritarian, intrusion in public life, and its commitment to a controversial metaphysics cloaked in neutrality, that has provoked numerous religious believers, who would otherwise be apathetic, to resist this intrusion. These believers would argue contra Audi that secular liberal ideology, and the religiously held philosophical commitments of its advocates, raise the most important church-state issues.

Consequently, because Audi asserts "that one has a *prima facie* obligation not to advocate or support any law or public policy that restricts human conduct, unless one has, and is willing to offer adequate secular reason for this advocacy or support" (86), one may reject his definition of religion on *that* ground. After all, he is asking theists to restrict their conduct in the public square by requiring them to have secular reasons,<sup>5</sup> but many of them may not accept his definition of religion as adequate, because, among other things, it defines religion in a way that gives an unfair advantage to philosophical perspectives that function as religions (epistemologically, ontologically, and metaphysically) in the public and private lives of many people.<sup>6</sup>

Because it seems reasonable to believe that Audi's view of religion is flawed (and that non-theistic worldviews are "religious"),<sup>7</sup> and because he concedes that "we are unlikely to find any simple, uncontroversial definition of 'religion,'" (56) it seems that Audi is employing a disputed view of religion as a means to restrict the conduct of his fellow citizens, people who want to employ (what he calls) "religious" reasons in the public square. Recall one of Audi's principles:

If fully rational citizens in possession of the relevant facts cannot be persuaded of the necessity of coercion—as is common where the coercion is based on an injunction grounded in someone else's scripture or revelation—then from the point of view of liberal democracy, the coercive action lacks an adequate basis. (123)

Let us apply this principle to Audi's definition of religion: If fully rational citizens (in this case, theistic believers) in possession of the relevant facts cannot be persuaded of the necessity of coercion (in this case, requiring that they be legally restrained by the state accepting Audi's definition of religion)—as is common where the coercion is based on an injunction grounded in someone's controversial definition of "religion"—then from the point of view of liberal democracy, the coercion lacks an adequate basis.

If, as Audi argues (see below), difference of opinion between rational citizens over the nature of the fetus is adequate to permit abortion, why cannot a difference of opinion between rational citizens over the definition of religion be adequate to permit "religious" reasons in the public square? If, as Audi argues, the abortionist's practice should be protected by the state by requiring that other citizens including his adversaries presume

him innocent of unjust killing, why cannot we extend that tolerance, presumption, and protection to include the deliberations of religious citizens who see their reasons for particular policies as inexorably tied to their theological commitments and religious practice?

## 2. Abortion and the Benefit of the Doubt Argument

In his discussion of abortion (in chapter 7), Professor Audi introduces the reader to an argument he believes will help resolve the political conflict that the issue has engendered. Audi maintains that because reasonable people disagree over fetal personhood, the state would err against liberty of its citizens by prohibiting abortion. Although Audi is correct that reasonable people do disagree on this issue, it does not follow from that correct observation that all arguments produced by these reasonable people are equally reasonable. In addition, if disagreement between reasonable people is sufficient to jettison a viewpoint from being reflected in our laws, as Audi suggests of the prolife position, then Audi's political liberalism should be rejected on the same grounds: reasonable people disagree with it. But perhaps I have misunderstood Audi. Maybe he is saying something a bit more modest: when reasonable people disagree on an issue over which liberty itself hangs in the balance, we should err on the side of liberty. But that does not do the trick for at least one reason: it is not clear that in the abortion debate liberty is really the good that is at stake. Let me explain.

Audi argues that there is a good case to permit abortion, for if it were prohibited on the grounds articulated by proliferators—"someone else's religious attitudes or views" (201)—then we would be violating the principles of liberal democracy. Audi writes: "If, for instance, [abortion's] moral status is unclear or, in a certain way, controversial, or both, then there may be great difficulty in deciding it should be legally prohibited" (195). Audi's case rests on what he calls the *presumption of innocence*, "the presumption that, by treating actions as innocent (permissible) unless appropriately proven to be wrong, in effect corresponds to our normal rights of liberty, moral and sociopolitical" (200). Ironically, Audi's presumption argument is similar to one employed by proliferators to argue the very opposite of his position.<sup>8</sup>

Briefly, the argument goes something like this. If it is true that no one position on fetal personhood wins the day, this is an excellent reason *not* to permit abortion, since an abortion *may* result in the death of a human entity who has a full right to life. If one kills another being without knowing whether that being is a person with a full right to life, and if one has reasonable grounds (as Audi admits) to believe that the being in question is a person, such an action would constitute a willful and reckless disregard for others, even if one later discovered that the being was not an other, a person.

Audi seems to imply that the different positions on fetal personhood all have able defenders, persuasive arguments, and passionate advocates, but none really wins the day. To put it another way, the issue of fetal personhood is up for grabs; all positions are in some sense equal, none is better than any other. But if this is the case, then it is safe to say that the odds of the fetus being a human person are 50/50. Given these odds, it would seem that society has a moral obligation to err on the side of life, and therefore, to legally prohibit virtually all abortions.

Consider this illustration. Imagine the police are able to identify someone as a murderer with only one piece of evidence: his DNA matches the DNA of the genetic material found on the victim. The police subsequently arrest him, and he is convicted and sentenced to death. Suppose, however, that it is discovered several months later that the murderer has an identical twin brother, who obviously has the same DNA. This means that there is a 50/50 chance that the man on death row is the murderer. Would the state be justified in executing this man? Surely not, for there is a 50/50 chance of executing an innocent person. Consequently, if it is wrong to kill the man on death row, it is then wrong to kill the fetus when the arguments for its personhood are just as reasonable as the arguments against it.

Oddly, Audi grants the presumption of innocence to the abortionist rather than the fetus, a being whose status makes the essential moral difference. Thus, it is not clear that in the abortion debate that liberty should be the default position when there is an even chance that the exercise of that liberty will result in the unjustified homicide of a human person.

### Conclusion

Given the rising importance of religion in our nation's political life, Professor Audi's careful and thoughtful study is much needed. Although one may raise questions about some aspects of Audi's work, as I have in this review, it brings a distinctly Christian voice into the conversation, a voice that for too long has been drowned out by the secular defenders of political liberalism and the long and growing list of its Christian and non-Christian critics.<sup>9</sup>

### NOTES

1. See the Declaration of Independence.
2. Harry Jaffa, *The Crisis of the House Divided* (New York: Doubleday, 1959)
3. See, for example, Jaffa *The Crisis of the House Divided*; Hadley Arkes, *First Things: An Inquiry Into the First Principles of Morals and Justice* (Princeton, NJ: Princeton University Press, 1986); Robert P. George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Clarendon Press, 1993); John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon, 1980)
4. John Rawls defends a similar view—"reflective equilibrium"—though, unlike Audi, he does not have a theological component.
5. That is, by requiring that religious citizens have secular reasons and motivations *in addition to* religious ones, Audi is in fact restricting their conduct, for he is saying that they ought not to shape public policy *unless* they have such reasons. But if his very definition of "religion" is in dispute among reasonable people, and that definition is used as a standard by which to assess the permissibility of a citizen's reasons, Audi is in fact employing his disputed view of religion in order to coerce his fellow citizens, some of whom do not believe, for good reason, that the definition is adequate.
6. For philosophical and legal defenses of a broader definition of religion that includes secular, philosophical, and religious commitments in addition to theism, see Roy Clouser, *The Myth of Religious Neutrality* (Notre Dame, IN: University of Notre Dame Press, 1991); and Joel Inorvaia, "Teaching Transcendental Meditation in Public Schools: Defining Religion for

Establishment Purposes," *San Diego Law Review* 16 (1978-79)

7. See, for example, Clouser, *The Myth of Religious Neutrality*; and Incorvaia, "Teaching Transcendental Meditation in Public Schools."

8. See, for example, Francis J. Beckwith, "Ignorance of Fetal Status as a Justification of Abortion: A Critical Analysis," in *The Silent Subject: Reflections on the Unborn in American Culture*, ed. Brad Stetson (Westport, CT: Praeger Books, 1996)

9. Special thanks to the Board of Regents of Trinity International University which graciously awarded me a sabbatical for the 2000-01 school year so that I may do work on religion, law, and the public square as part of my completion of the Master of Juridical Studies degree (M.J.S.) at the Washington University School of Law in St. Louis. Thanks also to the Discovery Institute and W. Howard Hoffman, M.D., for their financial support.

*Body and Soul: Human Nature and the Crisis in Ethics*, by J.P. Moreland & Scott B. Rae. Downers Grove, IL: InterVarsity Press, 2000. Pp. 384. \$22.99.

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It takes a lot of spunk to swim against the intellectual tide; to do it well and convincingly takes serious intellectual work. The authors, an ethicist and a biblical scholar, demonstrate plenty of both in their spirited defense of Thomistic dualism. They are not alone in their anthropological assessment; their company includes noted contemporary Christian philosophers like Richard Swinburne, Alvin Plantinga, Charles Taliaferro, and William Hasker, who espouse divergent types of dualism. But their view will not be popular in the current cultural milieu.

The first chapter, which sets the stage for the rest of the discussion, establishes the approach the authors intend to take in addressing the issue of the human person. Rejecting the view that we should "'re-examine the claimed cognitive content of Christian theology in the light of the new knowledge derivable from the sciences'" (Peacock), the authors hold that "when it comes to addressing the nature of human persons, science is largely incompetent either to frame the correct questions or to provide answers" (40-1). Their method, following the Reformed theological model, is first to "formulate an adequate Christian worldview, beginning with biblical teaching and the contours of church history, then to employ philosophy with a special emphasis on scriptural teaching, ...guided by common sense beliefs ... and our own first-person awareness of ourselves and our inner states" (44). "Philosophy," they conclude, "is autonomous from and more authoritative than science even in some areas that are properly within the domain of science itself (e.g., the nature of time, space, causation, consciousness, the person)." Finally, "ethical knowledge [is] a source of information for adjusting the ontological model when appropriate and relevant" (46).

Thus, as expected, the opening chapter contains their fundamental theological and biblical arguments. The philosophical argument goes: "God is the paradigm case (i.e., clearest example) of a person, and arguably angels are as well.... God is an immaterial reality, most likely an immaterial sub-