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Christopher J. Eberle

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RELIGIOUS REASONS IN PUBLIC: LET A THOUSAND FLOWERS BLOOM, BUT BE PREPARED TO PRUNE

CHRISTOPHER J. EBERLE*

In a recent speech, Senator Barack Obama claimed that democracy requires political actors to “translate their concerns into universal, rather than religion-specific, values.”¹ If I understand him correctly, we need to translate from the religious to the universal because, “in a pluralistic democracy. . . [p]olitics depends on our ability to persuade each other of common aims based on a common reality.”² And we cannot do that if we “simply point to the teachings of [our] church or evoke God’s will.”³ So it is the requirement of persuasion amongst a pluralistic population that requires us to advert to the universal.

I believe this argument is fallacious. In order to explain why, it will be helpful to reflect, if only briefly, on the kind of political reality that elicits such claims. More particularly, I will reflect on the sliver of political reality described by Allen Hertzke in his excellent book, “Freeing God’s Children: The Unlikely Alliance for Global Human Rights.”⁴

FREEING GOD’S CHILDREN

Hertzke begins by reminding us that, in the past century, the demographic center of Christianity has shifted decisively to the “global south,” so that the ‘average’ Christian is a poor, vulnerable, “female of color.”⁵ Because the United States is, as a

* United States Naval Academy

¹ Senator Barack Obama, ‘*Call to Renewal*’ Keynote Address, (June 28, 2006), http://obama.senate.gov/speech/060628-call_to_renewal/.

² *Id.*

³ *Id.*

⁴ (Rowman & Littlefield 2004).

⁵ *Id.* at 17, 21.

An unheralded demographic revolution, which accelerated in the last half of the twentieth

demographic matter, an overwhelmingly Christian country, because many Christians in the United States have robust social networks with their co-religionists around the world, and because their co-religionists are often both poor and persecuted, there is a large, wealthy and motivated body of religious citizens that can be tapped to use American power to further the well-being of the most vulnerable human beings on the planet. Not only can they be tapped, they have been. If Hertzke is correct, various churches, televangelists and denominational bodies were crucial constituents of a broad and diverse coalition that has had significant success in enacting legislation that exposes and prevents egregious violations of human rights around the world.

For example, intensive lobbying by Michael Horowitz and Nina Shea, aided by a groundswell of popular support,⁶ goaded Congress into passing the 1998 International Religious Freedom Act (IRFA), despite powerful opposition from some in the State Department, certain business interests, and a few human rights organizations. Among other things, the IRFA set up various mechanisms designed to expose the execution of converts, the jailing of clergy, and the torture of heretics by secular regimes like North Korea and China, as well as by religious regimes like Sudan and Iran.

As Hertzke tells the story, passage of the IRFA galvanized support for other morally important measures: the Trafficking Victims Protection Act of 2000 which, among other things, sanctions countries that systematically neglect to criminalize and punish those who sell women and young children into sexual

century, has produced a tectonic shift of the Christian population toward the 'global south.' A function of both lapsing faith in the West and dramatic indigenous growth elsewhere, this shift has momentous implications for both U.S. domestic politics and international relations. Consider the trends. In 1900, 80 percent of the world's Christian population resided in Europe and North America. By 2000, that figure was down to a rapidly declining 40 percent, leaving a rising 50 percent of the world's Christians living in Latin America, Africa and Asia. The most dramatic demographic transformation is occurring in Africa. While Christianity comprised less than 10 percent of the continent's population in 1900, it is now nearly half, with over a majority in sub-Saharan Africa professing Christianity.

Id. at 17; see generally PHILIP JENKINS, *THE NEXT CHRISTENDOM: THE COMING OF GLOBAL CHRISTIANITY* (Oxford University Press 2002).

⁶ ALLEN HERTZKE, *FREEING GOD'S CHILDREN: AN UNLIKELY ALLIANCE* 195 (Rowman & Littlefield 2004). Support included adroit use of scarce resources, for example, information packets on religious persecution the Southern Baptist Convention sent to its 40,000 member congregations, and radio spots by James Dobson and Charles Colson that reached millions. *Id.*

servitude,⁷ and the Sudan Peace Act of 2002, which demanded that the “world’s most violent abuser of the right to freedom of religion and belief” terminate a policy of “forced Islamicization” that sparked a two-decade long civil war and cost the lives of 2 million black Africans.⁸ If Hertzke is correct, the Sudan Peace Act was a crucial precursor to “a historic 2004 peace treaty ending civil war between the Khartoum regime and southern rebel groups.”⁹

Hertzke’s piece is a rather hopeful narrative in a political story that is all too often both farce and tragedy. He describes a willingness to compromise, cooperate, and acquiesce, exhibited by the occasional alliance of religious and secular combatants, often portrayed as mortal enemies, destined to drag us back to the bad old days of religious warfare and sectarian strife. To take only one of many revealing vignettes, Hertzke tells us that in the final push to pass the Trafficking Victims Protection Act, “members of Congress received a letter from Gloria Steinem and other feminist leaders at the very moment they were being lobbied by such figures as Charles Colson of Prison Fellowship [Ministries], Richard Land of the SBC, . . . and John Busby of the Salvation Army.”¹⁰ As one participant recounted, “A conference was held in the Senate caucus room in which ‘Bill Bennett got up and gave a speech and then after that we read Gloria’s statement.’ . . . The gist of the conference was [that] ‘Bill Bennett and Gloria Steinem and Chuck Colson . . . all are saying the same thing.’”¹¹ Despite determined opposition from select human rights groups and business interests, Congress passed the legislation. Shortly thereafter, witnesses at a celebration in a Capitol Hill Room could overhear Paul Wellstone declare Sam Brownback “a joy to work with,” and Barbara Mikulski greet her “fellow abolitionists,” to include evangelical activist Gary Haugen, who took the opportunity to inform his audience that “the lowest circle of Hell is not hot enough” for those who traffic people into sex slavery.¹²

⁷ *Id.* at 316.

⁸ *Id.* at 239.

⁹ *Id.*

¹⁰ *Id.* at 330.

¹¹ *Id.* (quoting Laura Lederer interview, March 2001).

¹² *Id.*

"UNIVERSAL VALUES" IN POLITICAL ARGUMENT

Hertzke's story seems to belie Senator Obama's understanding of the requirements of political persuasion. So far as I can tell, Hertzke's primary protagonists were able to garner support from a dizzying array of diversely committed groups, not by appeal to 'universal values,' but by showing how the particularities of distinct and contending worldviews provided their adherents with reason that should persuade them to support the IRFA, Trafficking Victim's Protection Act, and the Sudan Peace Act. This piecemeal approach is how a Jewish activist like Michael Horowitz addressed the many conservative Protestants who eventually supported the IRFA, arguing as if to say 'how can you not use your political clout to prevent the suffering that repressive governments around the world inflict as a matter of policy on the very people—made in God's image and so worth no less than any of you—that your returning missionaries speak about on Sunday mornings?'.¹³

Moreover, and more importantly, this case-by-case approach indicates a broader point about persuasion: even in a pluralistic society, political persuasion need not proceed by appealing to commonly, much less universally, shared or sharable claims. If Hertzke's story has any moral, it is that democracy requires neither an aspiration to universality, nor an avoidance of intractable disagreements by retreating to common ground,¹⁴ but a willingness to enter into the mindset of those with whom one has profound disagreements in order to discern particular commitments that might lead them nevertheless to support one's favorite policies.

Not only does a well-functioning democracy not require that citizens and legislators advert to the universal, widely shared, or

¹³ See generally *id.* at 150.

¹⁴ CHARLES E. LARMORE, PATTERNS OF MORAL COMPLEXITY 53 (Cambridge University Press 1987)

The neutral justification of political neutrality is based upon what I believe is a universal norm of rational dialogue. When two people disagree about some specific point, but wish to continue talking about the more general problem they wish to solve, each should prescind from the beliefs that the other rejects, (1) in order to construct an argument on the basis of his other beliefs that will convince the other of the truth of the disputed belief, or (2) in order to shift to another aspect of the problem, where the possibilities of agreement seem greater. In the face of disagreement, those who wish to continue the conversation should retreat to *neutral ground*, with the hope either of resolving the dispute or bypassing it. *Id.*

commonly acceptable, neither is it the case that just democratic outcomes require anything like a translation from the religious to the universal.¹⁵ In order to see why, imagine an idealized world – a distant possible world, no doubt – in which everyone supports the Trafficking Victims Protection Act, but in which each is led to do so by various distinct and incompatible reasons. In this situation, it seems that no-one has any legitimate complaint about the enactment of that law. So long as Bill Bennett, Gloria Steinem, Paul Wellstone, Sam Brownback, Barbara Mikulski, and Chuck Colson have what each severally regards as adequate reason to support the act, why should any of them care if no-one is convinced by an argument persuasive to all, most, or even many? So long as Bennett has what he regards as a compelling reason to support some legislation, and Steinem has another reason, different from, and even incompatible with Bennett's, and so on for everyone else, so that all agree that the policy is correct, but disagree about why, then no-one has adequate reason to object. Precisely because there can be convergence on a law without consensus with respect to the reasons for that law,¹⁶ it is doubtful that we have anything more than merely pragmatic reason to want citizens or legislators to support favored policies by appeal to universal values. I doubt that we have even that pragmatic reason.

Not only do just outcomes not require anything like recourse to the universal, shared or common, I see no good reason to follow Obama in pitting the "religion-specific" against the "universal" or "common." Of course, whether there is good reason to do so depends on what we mean by the 'religious' and the 'universal' or 'common' – and those are murky concepts indeed. There are many different ways to construe the claim that religious reasons are, as a class, sectarian, particularistic, inaccessible, or otherwise narrow in a way that renders them politically troubling. And differing construals will have differing degrees of plausibility.

Consider in this regard one construal that I suspect captures Senator Obama's line of thought. We might adopt a *sociological*

¹⁵ Such as, for example, to support only those policies for which there is a sound argument that contains only widely affirmed or commonly shared premises.

¹⁶ I owe this formulation to Jerry Gaus, for whose help on this topic I am much indebted.

gloss on Obama's disjunction between the religion-specific and the universal: religious claims are less popular (affirmed by fewer people) than other sorts of reasons—secular reasons, or some subset of secular reasons. But I doubt that that construal of Obama's distinction obtains the result he intends. I gather that religious reasons are pretty unpopular in, say, Sweden, Denmark, and the Harvard faculty lounge. But that is hardly the case in the United States generally. The first moral language of a good many Americans is religious and biblical, not secular. Consider in this regard a claim at the heart of the American, and indeed any liberal polity, viz. that each and every human being has great and equal worth. Surely a biblical justification for that politically ramifying claim is far more likely to garner support than available secular justifications; the biblical reasoning being that because each and every human being has been created in God's image, each human being has great worth, and because being created in God's image does not come in degrees, it follows that each and every human being has great and equal worth.¹⁷ Some religious claims, to include some political ramifying religious claims, are extremely popular. Very many secular claims—Kantian claims about the moral importance of rational autonomy, for example—are highly sectarian. Given that the religious is, as a sociological matter, the universal (or at least the common), it is doubtful that we must translate from the religious to the universal.

Of course, this hardly settles the matter. Perhaps some other variation on this position will fare better. Let me just register skepticism and move on. I see no good reason to disjoin the accessible, natural, common, shared, universal, or otherwise 'broad' from the inaccessible, unnatural, uncommon, sectarian, particular or otherwise 'narrow,' and then to relegate all religious reasons to the narrow backwater.¹⁸

THE IDEAL OF CONSCIENTIOUS ENGAGEMENT

If we need not accept Senator Obama's claim that we translate

¹⁷ As happens to be the case, it is this kind of claim that played an important role in persuading religious citizens, activists and legislators to support the IRFA, Trafficking Victim Protection Act, and Sudan Peace Act. See HERTZKE, *supra* note 6, at 162, 326.

¹⁸ See CHRISTOPHER J. EBERLE, RELIGIOUS CONVICTION IN LIBERAL POLITICS, (Cambridge University Press 2002) (attempting to defend this skepticism).

from the religious to the universal, common or shared, how should religious believers conduct themselves in political decision-making and advocacy? I will briefly sketch an alternative.

For a number of fairly obvious reasons, it would be a morally terrific thing if each and every citizen had what each regards as adequate reason to support every piece of legislation to which they are subject. We therefore have some reason to try to approximate that ideal state. In order to do so, we would do well to abide by an account of the terms of political engagement between committed liberal democrats that I prefer to call an ideal of conscientious engagement.

This ideal has roughly two parts. First, we should do the best we can to determine which of the feasible political options before us is morally best, and then we should support the very policy we believe to be morally best. When we do so, we should employ the epistemic resources available to us, and we may do so by relying on *any* of the truths we responsibly take to bear on the matter at hand. So if I am a secularist who believes that some version of utilitarianism is the sober moral truth, then I have all the reason I need to employ my utilitarian convictions to determine which of the policy options before me maximizes the relevant good. In that case, *my* support for some legislation might properly depend on a rationale I know that many of my compatriots properly reject. A comparable point applies forthwith to other believers, whether Christian, Wiccan, Hindu, Kantian, and so on. It should go without saying that I cannot do the best I can to determine which policy option is best without listening to my compatriots, learning from them and, in particular, opening up my political convictions to their critical scrutiny.

Second, we should do the best we can to persuade our compatriots to support the policies we take to be morally best. In my view, respect for our compatriots as having great and equal worth requires us to do what we can to approximate the ideal state of affairs in which all have what each regards as adequate reason for the laws we must obey.¹⁹ With respect to some of our compatriots, this will involve articulating the arguments that actually persuade me. Hopefully some others will be persuaded

¹⁹ For arguments, see *id.* at 84-151.

by the arguments that I actually find persuasive. But for those who have fundamentally different normative commitments, the arguments that convince me will ring hollow. And in that case, I have to exit from my parochial point of view, see how things look from my compatriots' perspective, and then do my level best to articulate reasons that persuade them. To the secular utilitarian, I can try to show that my favored policy maximizes net value; to Conservative Protestant I can appeal to the Bible; to the Muslim the Koran; to the Catholic, church authority or natural law. That being said, I need not exit my parochial point of view by aspiring to some common, shared or universal perspective.²⁰

I should form my political commitments as best I can, given my epistemic resources, listen to others, and revise my commitments in light of what they say. I should try to persuade others by appealing to their commitments, and hopefully get them to see matters my way, though not necessarily in my way. Moreover, I should expect my compatriots to return the favor: they should form their political commitments as best they can, given their epistemic resources, they should listen to me, and revise their commitments in light of what I say. They should try to persuade me by appealing to my commitments, and hopefully get me to see things their way, though not necessarily in their way. In so doing each of us strives to maximize the number of people who support the policies they believe, in good conscience, to be morally correct.

But of course, in the real world, we not only never reach consensus as to why the laws that govern us are appropriate, we seldom reach convergence on the laws to which we must submit. We disagree about both *what* and *why*. No matter how assiduously we strive to articulate arguments that persuade others that our favored policies are correct, there will always be some epistemically competent and morally sensitive peers who are utterly unpersuaded—and rightly so given their noetic endowment. That is the cost of living in a pluralistic liberal

²⁰ Of course, as a practical matter, I might try to articulate some widely shared reasons. But I need not do so, and if I have enough time on my hands, I can address to each person some rationale that articulates with their deepest, most heartfelt, and perhaps their most parochial, commitments. Moreover, I can be explicit about the fact that I am articulating various arguments that I do not, but that I hope members of my audience do, find sound. So long as I am forthcoming in that respect, I insure that I am not manipulating my compatriots.

polity. Disagreement is endemic and ineradicable. Moreover, at some point the conversation has to stop, and we have to make a collective decision about what to do. Forced choices are unavoidable. Faced with such forced and contentious choices, each of us should act as conscience dictates, with the result that some of us win and some lose. The cost of living in a pluralistic society is that some of us will inevitably be subject to laws we take ourselves to have adequate reason to reject. This is how it has been, is now, and ever will be.

There is, of course, an alternative to this view. According to some versions of 'public reason liberalism,' respect for persons forbids us to support laws that our morally sensitive and epistemically competent compatriots have good reason to reject.²¹ But, to substitute dogmatic assertion for lengthy argument, this position is untenable, for it forbids us to enact legislation that we have powerful moral reason to enact. In a pluralistic society, some morally sensitive and epistemically competent peers will reject laws that are in fact morally crucial, in which case the balance of moral considerations decides in favor of imposition. We cannot allow the mistakes of even our moral and epistemic peers to prevent us from supporting morally necessary policies.

EQUAL TREATMENT OF THE RELIGIOUS AND THE SECULAR

Now, the ideal of conscientious engagement mentions nothing in particular about the proper role of religious reasons in political decision-making and advocacy. But its implications for that topic are not difficult to draw out. I will mention two and then draw a general conclusion.

First, the ideal of conscientious engagement requires us to do our level best to articulate some rationale that our compatriots find persuasive, and because a pluralistic society will inevitably include some secularists, it follows that those who support some policy on religious grounds must do what they can to articulate some secular rationale for that policy. Religious citizens must attempt to articulate secular reasons for their favored policies. Note, though, that what is good for the religious goose is equally fine for the secular gander. If secularists support some policy to

²¹ Although typically associated with John Rawls, I find Jerry Gaus' formulation of the position the most compelling.

which their compatriots have religious objections, then secularists have an obligation to exit their parochial perspective, inhabit the mindset of their religious compatriots, and do what they can to persuade their religious compatriots to support their favored policy. Of course, I am assuming here that a secularist who provides a religious believer with a secular rationale, does not thereby provide any reason that does, or should, persuade the believer. This assumption seems correct.

Second, although the ideal of conscientious engagement requires us to strive to persuade our compatriots, it recognizes that our aspirations will sometimes meet with failure, and it permits us to support laws for which some of our compatriots lack what they regard as an adequate rationale. This general claim applies to religiously grounded laws. It is possible, in principle, that we support some law for which we have an exclusively religious rationale even though we fully comply with the ideal of conscientious engagement, and hence it is possible that we permissibly pass some law that has only a religious rationale. This possibility is not, so far as I can tell, a political feasibility in the contemporary United States, where any law that is passed must, as a practical matter, have the support of no doubt a variety of secular reasons. Nevertheless, it is a logical possibility, and should it be realized, nothing morally wrong need have been done. A law that lacks adequate secular support need not be morally defective in any respect. Of course, a comparable point applies to laws that are unpersuasive to religious believers. It is logically possible, though politically infeasible, that we pass some law that lacks any rationale that is persuasive to religious believers, and such a law would not necessarily be morally defective in any respect.²²

These two implications of the ideal of conscientious engagement for the proper political role of religious reasons, exemplify an important principle: not only does the ideal of conscientious engagement treat religious and secular reasons equally, *any* normative constraint that applies to the reasons on the basis of which we make political decisions, or advocate for our favored policies, must apply impartially to religious and secular

²² It is at this point that a liberalism of conscience, guided by the ideal of conscientious engagement, diverges most crucially from what I take to be the most plausible version of public reason liberalism.

reasons. Equal treatment of religious and secular reasons is the order of the day. Religious believers have no more, and no less, a responsibility to aspire to persuade their secular compatriots than secularists have an obligation to aspire to persuade their religious compatriots. If laws that lack a plausible religious rationale are permissible, then so are laws that lack a plausible secular rationale. If secularists may support laws solely on the basis of reasons that fail to persuade religious believers, then so also may religious believers support laws solely on the basis of reasons that fail to persuade secularists.

Now, for some, the ideal of conscientious engagement is objectionable precisely *because* it requires us to treat religious and secular reasons equally. Somehow or other, ‘the religious’ is relevantly different than ‘the secular’ and so *deserves* differential treatment. On the basis of some such claim, it is plausible to suppose that religious believers must translate their religious arguments into some other language – secular, accessible, or universal – but that secularists need not translate their secular arguments into religious language. I take Senator Obama to endorse this sort of asymmetry.

I cannot address all of the moves available to advocates of this religion-discriminating view. Certain moves I will not discuss, other than to dismiss them outright. So for example, it is not the case that religious believers are more likely to support morally unjust or otherwise defective policies than secularists. Nor are religious believers likely to be more dogmatic and intolerant than their secular counterparts. Nor, as I have already indicated, are religious claims less popular as a sociological matter than secular claims. Other possibilities merit more serious, though abbreviated, treatment.

Some claim that religious and secular reasons deserve differential treatment because religious reasons lack some important epistemic property possessed by secular reasons. This is, of course, a claim with many more than a few formulations—one for each epistemic property. Consider, for example, the claim that religious reasons lack, but that secular reasons possess, the crucially important epistemic desideratum of being open to critical evaluation. The claim is that secular reasons are grounded in ‘evidence’ and amenable to rational critique, but that religious reasons are grounded on non-rational faith

commitments, are immune to contrary evidence, and thereby function as 'conversation-stoppers' when employed as a basis for supporting public policy.²³ But this strikes me as risible. From my experience, religious believers disagree, debate, and declaim incessantly. Whatever else they do, faith commitments do not end conversations. Of course, in order to have a productive and illuminating conversation with a religious believer, one has to know about the particularities of the interlocutor's faith tradition. And some might not be interested in doing what it takes to enter into a productive conversation with religious believers—perhaps debates between utilitarianism and Kantianism seem attractive in a way that Koranic interpretation does not. But we should not confuse the claim that a Christian, Jew, or Muslim's religious convictions are immune to criticism with the very different claim that others are not sufficiently interested in Christianity, Judaism, or Islam to put themselves in a position to articulate convincing criticisms.

We cannot address each plausible formulation of the claim that there is some crucial epistemic desideratum that separate the secular wheat from the religious chaff. Nevertheless, there is a general reason to reject this view, however formulated. Secular reasons are an epistemically mixed bag. The secular reasons that advocates of the religion-discriminating view must regard as justifying legislation exhibit a diverse array of epistemic desiderata. Some justifying secular reasons—introspective claims about the contents of one's state of mind, sense-perceptual claims about middle-sized physical objects, or scientific claims about the human genome—exhibit a large number of important epistemic desiderata, and so fall on the upper end of the epistemic spectrum. Other justifying secular reasons—moral claims about the proportionality of waging war against an aggressor—exhibit comparatively fewer important epistemic desiderata, and thus fall rather lower on the epistemic spectrum. Now it would be objectionably arbitrary to deny a justifying role to religious reasons that have the very epistemic status possessed by epistemically inferior but justifying secular reasons. And it seems that some religious reasons have an epistemic status no

²³ The locus classicus for this view is RICHARD RORTY, *PHILOSOPHY AND SOCIAL HOPE, RELIGION AS A CONVERSATION-STOPPER* 168-174 (Penguin Books 200).

lower than that enjoyed by some justifying secular reasons that fall on the low end of the epistemic spectrum. Compare, for example, the epistemic status of the politically important claim (1) that a given war satisfies the proportionality criteria advocated by Just War theorists with the claim (2) that each human being has great worth by virtue of being created in God's image. Does (1) possess epistemic desiderata that (2) lacks, that are significant enough to grant to (1) a political role that we deny to (2)? I doubt it, and that is why it seems objectionably arbitrary to deny that, as a general matter, religious reasons can justify legislation. Not, that is, on the basis of the claim that they lack some crucial epistemic desideratum.

Of course, there is much more to say. This short discussion serves only as a placeholder for a much longer and far more complicated argument in support of the claim that there are no differences between religious reasons and secular reasons that serve as a principled basis for denying that religious reasons may play the political role permitted to secular reasons. I am confident that it is possible to articulate a convincing case for that claim. If so, then the ideal of conscientious engagement is not vulnerable by virtue of its assumption that the secular and religious deserve equal treatment. Of course, that we should accord religious and secular reasons equal treatment implies that religious reasons do *not* get a free pass. We should treat religious reasons for a policy with which we disagree just as we should any other kind of reason for a policy with which we disagree. Our compatriots may rely on the reasons they conscientiously and responsibly believe to be compelling, but we are free to expose flaws in logic or substance. All reasons are to be included, but all are dissected, scrutinized, criticized. The watchword is, in short, let a thousand flowers bloom, religious and secular, but be prepared to take out the pruning shears.

