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The Gospel According to Dworkin.

Michael J. Perry

THE GOSPEL ACCORDING TO DWORKIN

*Michael J. Perry**

> The conception of human rights, based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships—except that they were still human. *The world found nothing sacred in the abstract nakedness of being human.*[1]

This brief commentary is a fragment of a longer work in progress. In the longer work, I address the question whether the idea of human rights is ineliminably religious.[2] The idea of human rights is complex. For present purposes, it suffices to say that the idea of human rights is the idea that because every human being, simply as a human being, is sacred (has "inherent dignity," is "an end in himself," or the like), there are certain things that ought not to be done to any human being and certain other things that ought to be done for every human being.[3] (For some "certain things," the "ought" or the "ought not" may be presumptive rather than unconditional or absolute.) The conviction that every human being is sacred is thus an essential, even foundational, constituent of the idea of human rights.

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1. Hannah Arendt, *The Origins of Totalitarianism* 299 (Harcourt Brace Jovanovich, 1973) (emphasis added).

2. I have addressed the meaning of "religious" in Michael J. Perry, *Love and Power: The Role of Religion and Morality in American Politics* 66-82 (Oxford U. Press, 1991) ("*Love and Power*").

3. See, e.g., Universal Declaration of Human Rights (1948) (Preamble) ("the dignity and worth of the human person"); International Covenant on Civil and Political Rights (1976) (Preamble); International Covenant on Economic, Social, and Cultural Rights (1976) (Preamble) ("rights derive from the inherent dignity of the human person"). These three documents together make up "The International Bill of Rights." See also American Declaration of the Rights and Duties of Man (1948) ("the essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality"); American Convention on Human Rights (1978) (Preamble) (same) ; African [Banjul] Charter on Human and Peoples' Rights (1986) (Preamble) ("fundamental human rights stem from the attributes of human beings").

In writing recently about the question of the constitutionality of abortion, Ronald Dworkin has asserted that "[w]e almost all accept, as the inarticulate assumption behind much of our experience and conviction, that human life in all its forms is *sacred*. . . ."[4] Dworkin then observes that "[f]or some of us, [the sacredness of human life] is a matter of religious faith; for others, of secular but deep philosophical belief."[5] It is easy to discern a religious version (or versions) of the conviction that every human being—or, as Dworkin says, every human "life"—is sacred. But is there really a coherent *secular* version of this conviction? In particular, does Dworkin succeed in portraying a coherent secular version of the conviction?

I

I want to begin by sketching a religious version—the Christian version, or at least *a* Christian version—of the conviction that every human being is sacred. We will then be in a better position to see whether there is—indeed, whether there can be—a coherent secular version of this conviction.

For Christians the basic shape of the good life is indicated by the instruction given by Jesus at a Passover seder on the eve of his execution: "I give you a new commandment: love one another; you must love one another just as I have loved you."[6] The "one another" is radically inclusive:

> You have heard how it was said, You will love your neighbor and hate your enemy. But I say this to you, love your enemies and pray for those who persecute you; so that you may be children of your Father in heaven, for he causes his sun to rise on the bad as well as the good, and sends down rain to fall on the upright and the wicked alike. For if you love those who love you, what reward will you get? Do not even the tax collectors do as much? And if you save your greetings for your brothers, are you doing anything exceptional? Do not even the gentiles do as much? You must therefore set no bounds to your love, just as your heavenly Father sets none to his.[7]

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4. Ronald Dworkin, *Life Is Sacred. That's the Easy Part*, New York Times Mag., May 16, 1993, at 36.

5. Id.

6. John 13:34. (This and the other translations here are those of *The New Jerusalem Bible* (Doubleday, 1985)). Cf. Friedrich Nietzsche, *The Will to Power* 183 (W. Kaufmann and R. Hollingdale tr. and W. Kaufmann ed., Random House, 1967): "'[L]ove': the ideal state of the herd animal that no longer wants to have enemies."

7. Matthew 5:43-48. Cf. Nietzsche, *The Will to Power* at 120 (cited in note 6): "One drives nature out of morality when one says 'Love your enemies': for then the natural 'Thou shalt love thy neighbor and hate thy enemy' in the law (in instinct) has become

But, *why* should we "love one another as I have loved you"? The Christian answer, nourished by what David Tracy has called "the analogical imagination,"[8] is that the Other (the outsider, the stranger, the alien), too, no less than onself and the members of one's family or tribe or nation, is a "child" of God—God the creator and sustainer of the universe, imag(in)ed, analogically, as loving "parent"[9]—and is therefore a "sister" or "brother." As Hilary Putnam has written, the moral image central to what Putnam calls the Jerusalem-based religions "stresse[s] equality and also fraternity, as in the metaphor of the whole human race as One Family, of all women and men as sisters and brothers."[10]

At the beginning of its "Pastoral Letter on Catholic Social Teaching and the U. S. Economy," titled *Economic Justice for All*, the National Conference of Catholic Bishops wrote: "This letter is a personal invitation to Catholics to use the resources of our faith, the strength of our economy, and the opportunities of our democracy to shape a society that better protects the dignity and basic rights of our *sisters and brothers both in this land and around the world.*"[11] In a recent essay on "The Spirituality of The Talmud," Ben Zion Bokser and Baruch Bokser state: "From this conception of man's place in the universe comes the sense of the supreme sanctity of all human life. 'He who destroys one person has dealt a blow at the entire universe, and he who saves or sustains one person has sustained the whole world.'"[12] They continue:

> The sanctity of life is not a function of national origin, religious affiliation, or social status. In the sight of God, the humble citizen is the equal of the person who occupies the highest office. As one talmudist put it: "Heaven and earth I call to witness, whether it be an Israelite or pagan, man or woman, slave or maidservant, according to the work of every human being doth the Holy Spirit rest upon him." . . . As the rabbis put it: "We are obligated to feed non-Jews residing

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meaningless; then this love of one's neighbor must also find a new basis (as a kind of love of God). Everywhere, God is inserted and utility withdrawn; everywhere the real origin of morality is denied: the veneration of nature, which lies precisely in the recognition of a natural morality, is destroyed at its roots—"

8. See David Tracy, *The Analogical Imagination* (Crossroad, 1981).

9. In the Bible, God—Ultimate Reality—is often imaged as "parent," sometimes as "father," sometimes as "mother." Cf. Elizabeth A. Johnson, *She Who Is: The Mystery of God in a Feminist Theological Discourse* (Crossroad, 1992).

10. Hilary Putnam, *The Many Faces of Realism* 60-61 (Open Court, 1987).

11. National Conference of Catholic Bishops, *Economic Justice for All* v (1986) (emphasis added).

12. Baruch Bokser and Ben Zion Bokser, *Introduction: The Spirituality of the Talmud*, in *The Talmud: Selected Writings* 30 (Paulist Press, 1989).

> among us even as we feed Jews; we are obligated to visit their sick even as we visit the Jewish sick; we are obligated to attend to the burial of their dead even as we attend to the burial of the Jewish dead.[13]

Friedrich Nietzsche was relentlessly critical of what he called "the concept of the 'equal value of men before God.' " That concept, he wrote,

> is extraordinarily harmful; one forbade actions and attitudes that were in themselves among the prerogatives of the strongly constituted—as if they were in themselves unworthy of men. One brought the entire tendency of the strong into disrepute when one erected the protective measures of the weakest (those who were weakest also when confronting themselves) as a norm of value.
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> Confusion went so far that one branded the very virtuosi of life (whose autonomy offered the sharpest antithesis to the vicious and unbridled) with the most opprobrious names. Even now one believes one must disapprove of a Cesare Borgia; that is simply laughable. The church has excommunicated German emperors on account of their vices: as if a monk or priest had any right to join in a discussion about what a Frederick II may demand of himself. A Don Juan is sent to hell: that is very naive. Has it been noticed that in heaven all interesting men are missing?— Just a hint to the girls as to where they can best find their salvation.— If one reflects with some consistency, and moreover with a deepened insight into what a "great man" is, no doubt remains that the church sends all "great men" to hell—it fights *against* all "greatness of man."
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> . . .
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> The degeneration of the rulers and the ruling classes has been the cause of the greatest mischief in history! Without the Roman Caesars and Roman society, the insanity of Christianity would never have come to power.
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> When lesser men begin to doubt whether higher men exist, then the danger is great! And one ends by discovering that there is *virtue* also among the lowly and subjugated, the poor in spirit, and that *before God* men are equal—which has so far been the *non plus ultra* of nonsense on earth! For ultimately, the higher men measured themselves according to the standard of virtue of slaves—found they were "proud," etc., found all their higher qualities reprehensible.
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> When Nero and Caracalla sat up there, the paradox arose: "the lowest man is worth more than that man up there!" And the way was prepared for an image of God that was as remote

13. Id. at 30-31.

> as possible from the image of the most powerful—the god on the cross![14]

One might respond to the religious vision sketched here, if not as strongly as Nietzsche, then this way: "Even if I assume, for the sake of argument, that the Other is a 'child' of God and therefore my 'sister' or 'brother,' still, why should I love the Other? In particular, why should I give a damn about the well-being of her or him who is, in some deep sense, my sister or my brother?" For us—or, at least, for most of us—it is a fundamental conviction, born not merely of our own experience, but of the experience of the historically extended communities ("traditions") that for many of us have been formative, that an important constituent of one's own well-being—of one's authentic flourishing as a human being—is concern for the well-being of one's sisters and brothers. We believe, based on that experience, that a life of loving connection to one's sisters and brothers is, to that extent, a flourishing life and that a life of unloving—uncaring—alienation from one's sisters and brothers is, to that extent, a withering life. This fundamental conviction about human good—about what it means to be (truly, fully) human, about what is of real and ultimate value in life, about what makes a life most deeply meaningful[15]—is, for us, bedrock; this is where our spade is turned.[16] There may be little of resonance for us to say, if indeed there is anything, *to* one who rejects the conviction—which, it bears emphasis, is not necessarily a religious conviction. But there is this to say *about* one who rejects it: He is, by our lights, no less in the grip of a pathology of estrangement than if he were to reject that an important constituent of one's own well-being is concern for the well-being of one's child, or spouse, or parent.[17]

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14. Nietzsche, *The Will to Power* at 466-68 (cited in note 6).

15. See Martha C. Nussbaum, *Aristotle on Human Nature and the Foundations of Ethics* 22 (St. Lawrence Univ., 1990): "[T]o find out what our nature is seems to be one and the same thing as to find out what we deeply believe to be most important and indispensable [in a human life]."

16. See Ludwig Wittgenstein, *Philosophical Investigations*, sec. 217 (MacMillan, 1953) ("I have reached bedrock and this is where my spade is turned.") (quoted in Putnam, *The Many Faces of Realism* at 85 (cited in note 10)).

17. Cf. Robert Nozick, *Philosophical Explanations* 403 (Belknap Press, 1981). Nozick describes Glaucon's challenge to Socrates in Plato's *Republic* as asking how being moral is better for the agent, apart from its external consequences. "[T]he answer that [Plato] puts into the mouth of Socrates is that the just man is happy because his soul is harmoniously ordered, because, as we would say, he has an integrated personality, whereas the unjust man's personality is disintegrated, and the man who represents the extreme of injustice is psychotic, his soul is a chaos of internal strife." J.L. Mackie, *Ethics: Inventing Right and Wrong* 190-91 (Penguin, 1977). Should we take Socrates' response

The serious question among us—some of whom count ourselves religious, others of whom do not—is not whether a life of loving connection to our sisters and brothers is (to that extent) a flourishing life, but this: "Who is my sister? Who is my brother?"[18] Or, in a different but spiritually equivalent terminology: "Who is my neighbor?"[19]—which is the very question to which, according to Luke's Gospel, Jesus responded with the Parable of the Good Samaritan.[20]

One response to the question, a religious response, is that the Other, too, is, in the deepest possible sense—i.e., as a child of God—your sister or brother. To fail to "see" the Other as sister or brother is (according to this religious response) to succumb to a kind of blindness: blindness to the true nature or being both of the Other and of oneself, which consists partly in a profound kinship between self and Other. And to fail to love the Other as sister or brother—worse, to hate the Other—is to succumb to the pathology of estrangement; it is, to that extent, to wither as a human being rather than to flourish. That the estrangement is

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seriously? Bernard Williams suggests that the apparent existence of people who are both immoral and flourishing may be a trick of distance: "Some Renaissance grandee fills such a role with more style than the tawdry fascist bosses, gangsters, or tycoons who seem, even as objects of fantasy, to be their chief contemporary instances. Perhaps we deceive ourselves about the past." Bernard Williams, *Ethics and the Limits of Philosophy* 46 (Harv. U. Press, 1985).

18. See James Tunstead Burtchaell, *The Source of Conscience*, 13 Notre Dame Mag. 20, 20-21 (Winter 1984-85). On our neighbor always turning out to be the most unlikely person, see note 20 and accompanying text (Parable of the Good Samaritan). (For a revised version of Burtchaell's essay, and for several other illuminating essays by Father Burtchaell, see James Tunstead Burtchaell, *The Giving and Taking of Life* (U. of Notre Dame Press, 1989).)

19. See Matthew 22:34-40: "But when the Pharisees heard that he had silenced the Sadducees they got together and, to put him to the test, one of them put a further question, 'Master, which is the greatest commandment of the Law?' Jesus said to him, 'You must love the Lord your God with all your heart, with all your soul, and with all your mind. This is the greatest and the first commandment. The second resembles it: You must love your neighbor as yourself. On these two commandments hang the whole Law, and the Prophets too.'" See also Mark 12:28-34; Luke 10:25-28. (On the relation between the two commandments, see note 7.) Cf. Mackie, *Ethics: Inventing Right and Wrong* at 243 (cited in note 17): "D. D. Raphael, in 'The Standard of Morals,' in Proceedings of the Aristotelian Society 75 (1974-75) follows Edward Ullendorff in pointing out that whereas 'Thou shalt love thy neighbor as thyself' represents the Greek of the Septuagint (Leviticus 19:18) and of the New Testament, the Hebrew from which the former is derived means rather 'You shall treat your neighbor lovingly, for he is like yourself.'" (Thus, Bruce Ackerman need not worry that he is being asked to love the "stranger" as himself. *That*, protests Ackerman, "[o]nly a god could do . . .: there are too many strangers with too many strangenesses." Bruce Ackerman, *The Future of Liberal Revolution* 21 (Yale U. Press, 1992).)

20. See Luke 10:29-37. In the annotation of *The New Jerusalem Bible*, a footnote appended to "Samaritan" says that "[t]he contrast is between the element in Israel most strictly bound to the law of love, and the heretic and stranger, . . . from whom normally only hate could be expected."

radical—indeed, that it is estrangement even from "the Lord your God"[21]—and involves the most fundamental and enduring failure to achieve human well-being, is emphasized in the searing "Last Judgment" passage of Matthew:

> When the Son of man comes in his glory, escorted by all the angels, then he will take his seat on his throne of glory. All nations will be assembled before him and he will separate people one from another as the shepherd separates sheep from goats. He will place the sheep on his right hand and the goats on his left. Then the King will say to those on his right hand, "Come, you whom my Father has blessed, take as your heritage the kingdom prepared for you since the foundation of the world. For I was hungry and you gave me food, I was thirsty and you gave me drink, I was a stranger and you made me welcome, lacking clothes and you clothed me, sick and you visited me, in prison and you came to see me." Then the upright will say to him in reply, "Lord, when did we see you hungry and feed you, or thirsty and give you drink? When did we see you a stranger and make you welcome, lacking clothes and clothe you? When did we find you sick or in prison and go to see you?" And the King will answer, "In truth I tell you, in so far as you did this to one of the least of these brothers of mine, you did it to me." Then he will say to those on his left hand, "Go away from me, with your curse upon you, to the eternal fire prepared for the devil and his angels. For I was hungry and you never gave me food, I was thirsty and you never gave me anything to drink, I was a stranger and you never made me welcome, lacking clothes and you never clothed me, sick and in prison and you never visited me." Then it will be their turn to ask, "Lord, when did we see you hungry or thirsty, a stranger or lacking clothes, sick or in prison, and did not come to your help?" Then he will answer, "In truth I tell you, in so far as you neglected to do this to one of the least of these, you neglected to do it to me." And they will go away to eternal punishment, and the upright to eternal life.[22]

The response of the Gospel to "Who is my sister or brother or neighbor?"—and kindred responses—are religious in the fundamental sense that such a response is embedded in a religious vision of the world and of our place in it. Of course, there are differences among religious visions within the relevant range—

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21. See note 19.

22. Matthew 25:31-46. In Matthew's Gospel, these are Jesus's final words to his disciples before the beginning of the passion narrative. Matthew 26:1-2 states: "Jesus had now finished all he wanted to say, and he told his disciples, 'It will be Passover, as you know, in two days' time, and the Son of man will be handed over to be crucified.'"

sometimes large differences, sometimes small. The analogical imagination does not yield precisely the same vision in every time or in every place. How a person or a community arrives at a religious vision is a difficult question—as is the question how one brings another to such a vision. Moreover, different religious traditions, and even different theologies within the same broad religious tradition, proffer different answers to such questions.

It bears emphasis that a theistic religious vision does not necessarily include a conception of "God" as a kind of divine legislator, issuing directives for human conduct. (Indeed, a religious person may well believe that such a "God"—such an idol—is dead.[23]) The imperative to "love one another as I have loved you" can be understood (and in my view should be understood) not as a piece of divine legislation, but as a (truly, fully) human response to the question of how to live. However, to say that the response is a human one does not entail that it is not also a religious response. What makes the imperative a *religious* human response and not merely a secular one is that the response is the existential yield of a religious conviction about how the world (including we-in-the-world) hangs together: in particular, the conviction that the Other is, finally, one's own sister or brother—and should receive, therefore, the gift of one's loving concern.[24]

Indeed, a theistic religious vision is not necessarily attended by confident, much less dogmatic, God-talk. (I have developed the point elsewhere.[25]) If that statement seems strange, consider what one scholar has recently stressed about Thomas Aquinas, perhaps the greatest Christian theologian:

> [M]uch of [Aquinas's] doctrine about talking about God is in truth a carefully qualified *via negativa*. . . . Aquinas would simply agree with modern antitheists that we cannot say what God is; and that human language is inadequate to the claimed reality of God; and that there is something improper even in saying that God is a being. But not only does Aquinas think

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23. On the death of such a "God," see Charles Larmore, *Beyond Religion and Enlightenment*, 30 San Diego L. Rev. 799 (1993).

24. In Buddhism, the relevant conviction is that the Other—who, appearances (illusions) to the contrary notwithstanding, is not really other at all, not, at any rate, in any deep sense—is an object of infinite compassion. (The Buddhist greeting "Namasté" means, roughly, "I greet the place within you where we are one.")

25. See Perry, *Love and Power* at 72-73 (cited in note 2). Nor is such a vision necessarily attended by belief in an afterlife. Cf. Timothy P. Jackson, *The Disconsolation of Theology: Irony, Cruelty, and Putting Charity First*, 20 J. Religious Ethics 1, 19 (1992) (arguing that "a future heaven and/or hell ought not to play much of a role in [Christian] ethics, whatever role they may play in cosmology").

> that none of these admissions disqualifies him from theism; he actually thinks that the theist should make these admissions.[26]

Of course, and as Aquinas understood, to insist that we cannot say what God is—that we can only follow a *via negativa* and say what God is not—is not to deny that we can try to mediate our experience of Ultimate Reality analogically—for example, by speaking of God as *like* a loving "parent," and of the Other as *like* a "sister" or "brother." In addition to his "carefully qualified *via negativa* . . . Aquinas also has, of course, a *via positiva* about God-talk, namely, the 'doctrine of analogy.' . . ."[27] However, to insist, with Aquinas, that in talking about God we must either follow a *via negativa* or speak analogically is *not* to say that God-talk is merely metaphorical or figurative or poetic. Aquinas was, after all, a committed theological realist.

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To forestall predictable misunderstanding, let me make two points. First, in presenting a religious version of the conviction that every human being is sacred, I have relied on the religious materials I know best. In relying primarily on Christian materials, however, I do not mean to suggest that there are not ample materials in other religious traditions out of which one can construct, or reconstruct, a relevantly similar version of the conviction. Of course, just as there are differences among the precise religious visions adhered to by different sects within Christianity, there are differences among the precise visions adhered to by different world religions. (Again, the analogical imagination does not yield precisely the same vision in every time or place.) But such differences as there are ought not to obscure the fact that the experience of all human beings as sacred is widely shared among different sects and religions, albeit expressed—mediated—differently in different traditions. And that common ("ecumenical") ground helps to explain the emergence of the idea of human rights as a point of convergence among peoples from different religious traditions.[28]

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26. T.D.J. Chappell, *Why Read Aquinas?*, Times Literary Supp., May 1, 1992, at 25 (reviewing Brian Davies, *The Thought of Thomas Aquinas* (Clarendon Press, 1992)).

27. See Chappell, *Why Read Aquinas?* at 25 (cited in note 26).

28. See Dan Cohn-Sherbok, ed., *World Religions and Human Liberation* (Orbis, 1992); Hans Küng and Jürgen Moltmann, eds., *The Ethics of World Religions and Human Rights* (Trinity Press, 1990); Leroy S. Rouner, ed., *Human Rights and the World's Religions* (U. of Notre Dame Press, 1988); Arlene Swidler, ed., *Human Rights in Religious Traditions* (Pilgrim Press, 1982); Robert Traer, *Faith in Human Rights: Support in Religious Traditions for a Global Struggle* (Georgetown U. Press, 1991).

Second, in presenting a religious version of the conviction that every human being is sacred, and in relying primarily on Christian materials in doing so, I do not mean to deny that the lived practice, as distinct from the professed ideals, of every religious tradition, including Christianity, offers at best equivocal support for what we now call human rights. Indeed, I do not mean to deny even that the professed ideals of religious traditions—at least on some quite plausible constructions of those ideals—fail to support, and may even oppose, some of what we now think of as human rights. Christianity is a conspicuous example. There has been an obvious tendency on the part even of the world's "great" religious traditions to tribalism, racism, and sexism. No person who takes seriously the resources of one or another religious tradition should deny "the brokenness and ambiguity of every tradition" or repress "one's own inevitably ambivalent relationship to [the tradition]."[29] A self-critical attitude towards one's own tradition is "the route to liberation from the negative realities of [the] tradition."[30]

II

The religious-cosmological context of the conviction that every human is sacred—the context I sketched in the preceding section—is not appealing to everyone. It was very unappealing to Nietzsche. And even for one to whom it is greatly appealing, it may not be credible. It is not credible, for example, to Jürgen Habermas, who has written:

> [By confronting] the conscientious question about deliverance for the annihilated victims[,] we become aware of the limits of that transcedence from within which is directed to this world. But this does not enable us to ascertain the *countermovement* of a compensating transcedence from beyond. That the universal covenant of fellowship would be able to be effective retroactively, toward the past, only in the weak medium of our memory . . . falls short of our moral need. But the painful experience of a deficit is still not a sufficient argument for the assumption of an 'absolute freedom which saves in death.'[31]

Even if one finds incredible the religious-cosmological context of the conviction that every human being is sacred, the ques-

29. Tracy, *The Analogical Imagination* at 105 (cited in note 8).

30. Id. at 100.

31. Jürgen Habermas, *Transcendence from Within, Transcendence in this World*, in D. Browning and F. Fiorenza, eds., *Habermas, Modernity, and Public Theology* 226, 238 (1992).

tion persists whether the religious version of the conviction is the only coherent version. Can there be a coherent secular version—a version not finally rooted in a religious vision of the world and of our place in it? Can the conviction be embedded either in a nonreligious cosmology or in cosmological agnosticism?[32] Consider Glenn Tinder's statement:

> Nietzsche's stature is owing to the courage and profundity that enabled him to make all this unmistakably clear. He delineated with overpowering eloquence the consequences of giving up Christianity, *and every like view of the universe and humanity*. His approval of those consequences and his hatred of Christianity give force to his argument. Many would like to think that there are no consequences—that we can continue treasuring the life and welfare, the civil rights and political authority, of every person without believing in a God who renders such attitudes and conduct compelling. Nietzsche shows that we cannot. We cannot give up the Christian God—*and the transcendence given other names in other faiths*—and go on as before. We must give up Christian morality too. If the God-man is nothing more than an illusion, the same thing is true of the idea that every individual possesses incalculable worth. The standard of *agape* collapses. It becomes explicable only on Nietzsche's terms: as a device by which the weak and failing exact from the strong and distinguished a deference they do not deserve. Thus the spiritual center of Western politics fades and vanishes.[33]

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32. Real moralities—the moralities that various human communities have actually lived—have always been cosmologically embedded: In every human community across time and space, "moral norms are closely linked to beliefs about the facts of human life and the world in which human life is set. . . . To know what people find good in human action, we must know something about the powers and vulnerabilities they find characteristically human, and about how they explain the constraints that nature, power, finitude, and mortality impose on persons. . . . [W]hen they formulate moral norms and impose them on themselves and others[, persons] are trying to formulate relationships between realities and human purposes that allow them 'to live as [they] would in a world that is the way it is.'" Robin W. Lovin and Frank E. Reynolds, *Focus Introduction*, 14 J. Religious Ethics 48, 56-57 (1986). See Robin W. Lovin and Frank E. Reynolds, "*In the Beginning*," in R. Lovin and F. Reynolds, eds., *Cosmogony and Ethical Order: New Studies in Comparative Ethics* 1 (U. of Chicago Press, 1985).

33. Glenn Tinder, *On The Political Meaning of Christianity: Can We Be Good without God?*, Atlantic Monthly, December 1989, at 69, 80 (passages rearranged and emphasis added). Tinder's emphasis on the Christian tradition will surely and understandably be, for some non-Christians, a provocative distraction from his fundamental point. Tinder's (and Nietzsche's) point loses nothing, however, if the emphasis is placed not on the Christian tradition but on the Jewish, for example. Recall the comment on the Talmud quoted earlier in this chapter. Nor does the point lose anything if the emphasis is put, for example, on the (Mahayana) Buddhist tradition, with its insistence on compassion for all sentient creatures as the fitting response to the true—as distict from the illusory—nature of the world.

Is Tinder right? We may agree with Charles Larmore that morality is now widely understood (or, at least, understood by many of us, religious or not, who read pieces like this one) to be independent of a God conceived of as the supreme moral legislator.[34] But is it plausible to think that morality can be independent of *any* cosmological convictions—any convictions about how the world (including we-in-the-world) hangs together? After Nietzsche, is it plausible to think that a morality embedded in religious convictions about how the world hangs together can be more or less equivalent to a morality embedded in the conviction that the world is nothing but a great cosmic process utterly bereft of ultimate meaning and therefore, from a human point of view, absurd?[35] ("There is no moral meaning hidden in the bowels of the universe."[36]) Nietzsche declared: "'Naiveté: as if morality could survive when the *God* who sanctions it is missing! The 'beyond' absolutely necessary if faith in morality is to be maintained."[37] Writing recently of "anthropocentrism, [which] by abolishing all horizons of significance, threatens us with a loss of meaning and hence a trivialization of our predicament," Charles Taylor has said: "At one moment, we understand our situation as one of high tragedy, alone in a silent universe, without intrinsic meaning, condemned to create value. But at a later moment, the same doctrine, by its own inherent bent, yields a flattened world, in which there aren't very meaningful choices because there aren't any crucial issues."[38]

Consider a cosmology according to which the world is, finally and radically, meaningless—or, even if meaningful in some sense, not meaningful in a way hospitable to our deepest yearnings for what Abraham Heschel called "ultimate relationship, ultimate belonging."[39] Consider, for example, Clarence Darrow's bleak vision (as recounted by Paul Edwards):

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34. See Larmore, 30 San Diego L. Rev. at 000-00 (cited in note 23).

35. Cf. Nietzsche, *The Will to Power* at 169 (cited in note 6):

> Man a little, eccentric species of animal, which—fortunately—has its day; all on earth a mere moment, an incident, an exception without consequences, something of no importance to the general character of the earth; the earth itself, like every star, a hiatus between two nothingness, an event without plan, reason, will, self-consciousness, the worst kind of necessity, *stupid* necessity— Something in us rebels against this view; the serpent vanity says to us: "all that *must* be false, *for* it arouses indignation— Could all that not be merely appearance? And man, in spite of all, as Kant says—"

36. Bruce A. Ackerman, *Social Justice in the Liberal State* 368 (Yale U. Press, 1980).

37. Nietzsche, *The Will to Power* at 147 (cited in note 6).

38. Charles Taylor, *The Ethics of Authenticity* 68 (Harv. U. Press, 1992).

39. Abraham J. Heschel, *Who Is Man?* 75 (Stanford U. Press, 1965). See Nozick, *Philosophical Explanations* at 586 (cited in note 17): "If the cosmic role of human beings was to provide a negative lesson to some others ('don't act like them') or to provide

> Darrow, one of the most compassionate men who ever lived, . . . concluded that life was an "awful joke." . . . Darrow offered as one of his reasons the apparent aimlessness of all that happens. "This weary old world goes on, begetting, with birth and with living and with death," he remarked in his moving plea for the boy-murderers Loeb and Leopold, "and all of it is blind from the beginning to the end." Elsewhere he wrote: "Life is like a ship on the sea, tossed by every wave and by every wind; a ship headed for no port and no harbor, with no rudder, no compass, no pilot; simply floating for a time, then lost in the waves." In addition to the aimlessness of life and the universe, there is the fact of death. "I love my friends," wrote Darrow, "but they all must come to a tragic end." Death is more terrible the more one is attached to things in the world. Life, he concludes, is "not worth while," and he adds . . . that "it is an unpleasant interruption of nothing, and the best thing you can say of it is that it does not last long."[40]

One prominent contemporary proponent of a Darrowian cosmology, the physicist (and Nobel laureate) Steven Weinberg, "finds his own world-view 'chilling and impersonal.' He cannot understand people who treat the absence of God and of God's heaven as unimportant."[41]

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needed food for passing intergalactic travelers who *were* important, this would not suit our aspirations—not even if afterwards the intergalactic travelers smacked their lips and said that we tasted good."

40. Paul Edwards, *Life, Meaning and Value of*, 4 *Encyclopedia of Philosophy* 467, 468 (MacMillan and The Free Press, 1967). Whether Clarence Darrow was in fact "one of the most compassionate men who ever lived" is open to serious question. For a revisionist view of Darrow, see Gary Wills, *Under God: Religion and American Politics* 97-114 (Simon & Schuster, 1990).

41. John Leslie, *Is it all quite simple? The physicist's search for a Theory of Everything*, Times Literary Supp., Jan. 29, 1993, at 3 (reviewing, *inter alia*, Steven Weinberg, *Dreams of a Final Theory* (Hutchinson, 1992)). Cf. Paul Davies, *The Holy Grail of Physics*, New York Times Book Rev., Mar. 7, 1993, at 11 (reviewing, *inter alia*, Weinberg's book): "Reductionism [in physics] may be a fruitful research method, but it is a bleak philosophy. . . . If the world is but a collection of inert atoms interacting through blind and purposeless forces, what happens to . . . the meaning of life?" For a controversial critique of such scientific reductionism, see Bryan Appleyard, *Understanding the Present: Science and the Soul of Modern Man* (Picador, 1992). On philosophical inquiry into cosmology, see Derek Parfit, *The puzzle of reality*, Times Literary Supp., July 3, 1992, at 3.

Several recent papers in a fierce and ongoing debate about the consistency or inconsistency of claims made in evolutionary biology with Christian claims are relevant here. All the papers are by persons who identify themselves as Christians. In the September 1991 issue of *Christian Scholar's Review*, see Alvin Plantinga, *When Faith and Reason Clash: Evolution and the Bible*; Howard Van Till, *When Faith and Reason Cooperate*; Ernan McMullin, *Plantinga's Defense of Special Creation*; Alvin Plantinga, *Evolution, Neutrality, and Antecedent Probability: A Reply to Van Till and McMullin*. In the June/July 1993 issue of *First Things*, see Howard Van Till and Phillip E. Johnson, *God and Evolution: An Exchange*.

Where in a cosmological view like Weinberg's can the conviction that every human being is sacred (has inherent dignity, is an end in himself, etc.) gain a foothold? Indeed, embedded in the view that the world is merely a process devoid of ultimate meaning, what would the conviction that every human being is sacred even mean? If the only coherent version of the conviction is religious—if indeed the only *intelligible* version is religious—then cosmological agnosticism, which neither affirms nor denies the ultimate meaningfulness of the world, entails agnosticism about the sacredness *vel non* of human beings.

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Let us return to Dworkin's statement that although for some of us the sacredness of human life "is a matter of religious faith," for others it is a matter "of secular but deep philosophical belief."[42] Now, many folks who believe that every human being is sacred do not count themselves religious; some of them even embrace nonreligious views like Weinberg's. The question nonetheless persists whether there is a coherent secular version of the conviction about the sacredness of every human being. Imagine a nonreligious person saying: "That every human being is sacred is not, for me, a religious tenet; it is a secular but deep philosophical belief." We may ask: "Please tell us something about the constellation of views—views about how the world, including we-in-the-world, hangs together—in which, for you, that philosophical belief is embedded." Imagine this answer: "For me the conviction that every human being is sacred is not only axiomatic; it is unconnected to any of my views about how the world hangs together." (Perhaps the answer includes this statement: "I have no confident views about how the world hangs together. I'm agnostic about all such 'religious' or 'cosmological' matters.") It seems, then, that the premise that every human being is sacred is, for our nonreligious interlocutor, less a conviction about (a part of) the world than a kind of free-floating aesthetic preference. In Dworkin's view, however, the premise is, even for most nonreligious persons who hold it, much more than an aesthetic preference.

In his recent book, *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freeedom*, Dworkin writes that "one of [his] main claims [is] . . . that there is a secular as well as a religious interpretation of the idea that human life is

42. Dworkin, *Life is Sacred. That's the Easy Part* at 36 (cited in note 4).

sacred."[43] Dworkin purports to explain, in his book, how the conviction that every human being (or, as Dworkin says, "life") is sacred "may be, and commonly is, interpreted in a secular as well as in a conventionally religious way."[44] To say that a human life is sacred is partly to say, according to Dworkin, "that it has *intrinsic* and *objective* value quite apart from any value it might have to the person whose life it is."[45] Emphasizing in particular the notion of "intrinsic" value, Dworkin writes: "[M]uch of our life is based on the idea that objects or events can be valuable in themselves. . . . [T]he idea that some events or objects are valuable in and of themselves . . . is . . . a familiar part of our experience. . . . The idea of intrinsic value is commonplace, and it has a central place in our shared scheme of values and opinions. . . . Something is intrinsically valuable . . . if its value is *independent* of what people happen to enjoy or want or need or what is good for them."[46]

Dworkin's comments about "intrinsic" value obscure rather than clarify that value is always and everywhere value *for* someone(s) or something(s). The notion of something being valuable independently of a beneficial relation to anyone or anything—whether a human being, a nonhuman but living entity, or God—is perfectly opaque. Putting aside things that are values either for nonhuman entities or for God, we may say that "the category

43. Ronald Dworkin, *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom* 195 (Alfred A. Knopf, 1993) ("*Life's Dominion*").

44. Id. at 25. Curiously, elsewhere in his book Dworkin writes that that he "can think of no plausible account of the content that a belief must have in order to be deemed religious that would rule out convictions about why and how human life [is sacred], except the abandoned notion that religious belief must presuppose a god." Id. at 163. He also says that "why and how human life is sacred" is an essentially religious issue. Id. at 165. It is not obvious why, if (as Dworkin insists) there is a secular interpretation or version of the idea that human life is sacred, the issue of why and how human life is sacred is *essentially* religious. If the idea that human life is sacred is *not* essentially religious, why is the issue of why and how human life is sacred essentially religious? Dworkin's principal incentive to claim that the idea that human life is sacred can be interpreted in a secular as well as in a religious way is that, for purposes of his characterization of the abortion controversy, he wants to be able to attribute the idea (in its secular version) to secular folks as well as (in its religious version) to religious ones. His principal incentive to claim that the issue of why and how human life is sacred is essentially religious is that, for purposes of his argument about the (un)constitutionality of restrictive abortion legislation, Dworkin wants to be able to rely on a constitutional premise according to which government may not take coercive action predicated on nothing more than a contested position on an essentially religious issue. See id. at 160-68. That there is such a constitutional premise is open to question. Cf. Michael J. Perry, *Religious Morality and Political Choice: Further Thoughts—and Second Thoughts—on* Love and Power, 30 San Diego L. Rev. 703 (1993).)

45. Dworkin, *Life is Sacred. That's the Easy Part* at 36 (emphasis added) (cited in note 4).

46. Dworkin, *Life's Dominion* at 69-71 (cited in note 43).

of values is anthropocentric, in that it corresponds to interests which can only take root in creatures with something approaching our own affective make-up. . . . [V]alues are only ascribable from points of view constituted by human patterns of affective response. A wholly dispassionate eye would be as blind to them as a black-and-white camera to chromatic colours."[47] The relevant distinction here is between "intrinsic" value and "instrumental" value. To say that something has intrinsic value is to say, not that something has value even if it has no value for anyone (not even God) or anything—what would *that* mean?—but that something has value for someone (or something) *not merely as a means to an end but as an end in itself.* And to say that something has "objective" value and not (or not merely) "subjective" value is to say that something has value for someone (for example, that it is good for her, that it is conducive to or perhaps even consti-

47. A.W. Price, *Varieties of Objectivity and Values*, 83 Proc. Aristotelian Soc'y 103, 106 (1983). See David Hume, *A Treatise of Human Nature* 469 (L. A. Selby-Bigge ed., Clarendon, 2d ed. 1978): "Vice and virtue, therefore, may be compar'd to sounds, colours, heat and cold, which, according to modern philosophy, are not qualities in objects, but perceptions in the mind: And this discovery in morals, like that other in physics, is to be regarded as a considerable advancement of the speculative sciences; tho', like that too, it has little or no influence on practice." See also Anthony T. Kronman, *A Comment on Dean Clark*, 89 Colum. L. Rev. 1748, 1755 (1989): "[The view] that there are goods which are not the goods of any human beings at all, is likely to appear . . . wholly unintelligible, for it conflicts with what is perhaps the deepest and most widely shared orthodoxy of modern moral thought—the assumption that only the goods of human beings (or perhaps sentient beings) count in assessing different practices and institutions." Cf. Robin W. Lovin, *Empiricism and Christian Social Thought*, Annual of Soc'y of Christian Ethics 25, 41 (1982): "Ethics will never be like physics, chemistry, or certain types of sociology, because it understands the moral reality to be about an interaction between persons and the world which can only be known from the reports of those who experience that interaction."

Does Dworkin disagree? It's difficult to tell. Cf. Dworkin, *Life's Dominion* at 248 n.1 (cited in note 43): "I do not mean to take any position on a further, very abstract philosophical issue not pertinent to this discussion: whether great paintings would still be valuable if intelligent life were altogether destroyed forever so that no one could ever have the experience of regarding paintings again. There is no inconsistency in denying that they would have value then, because the value of a painting lies in the kind of experience it makes available, while still insisting that this value is intrinsic because it does not depend on any creatures' actually wanting that kind of experience."

At one point in his discussion of "intrinsic" value, Dworkin writes: "David Hume and many other philosophers insisted that objects or events can be valuable only when and because they serve someone's or something's interests. On this view, nothing is valuable unless someone wants it or unless it helps someone get what he does want." Id. at 69. The second sentence here is a glaring non sequitur. It does not follow, from the Humean view, that nothing is valuable unless someone wants it or unless it helps someone get what he does want. It follows only that nothing is valuable unless it serves someone's or something's interests. That something serves my interests does not entail that I want it (or that it helps me get what I do want). After all, I may not know that something serves my interests, or I may not know what my real interests are. Indeed, that I want something (or that it helps me get what I do want) does not entail that it serves my interests: I may want things that are not good for me—indeed, that are bad for me.

tutive of her flourishing) *even if she is unaware that it has value for her—indeed, even if she believes that it has disvalue for her.*[48] Now, that something has both objective and intrinsic value for someone does not mean that it is sacred. An end to my itch has both objective and intrinsic value for me (or so we may assume), but it is not thereby sacred. For some persons who count themselves religious, to say that every human being is sacred is to say (speaking analogically) that every human being is the beloved child of God (God who is love). For persons who do not count themselves religious, what does it mean to say that every human being is sacred?

According to Dworkin, "[t]he nerve of the sacred lies in the value we attach to a process or enterprise or project rather than to its results considered independently from how they were produced."[49] The sacredness of human beings is rooted, for nonreligious persons, in two basic facts about human beings (argues Dworkin). First, every human being is "the highest product of natural creation. . . . [T]he idea that human beings are special among natural creations is offered to explain why it is horrible that even a single human individual life should be extinguished."[50] Second, "each developed human being is the product not just of natural creation, but also of the kind of deliberative human creative force that we honor in honoring art."[51] "The idea that each individual human life is inviolable is therefore rooted . . . in two combined and intersecting bases of the sacred: natural *and* human creation."[52]

> The life of a single human organism commands respect and protection, then, no matter in what form or shape, because of the complex creative investment it represents and because of our wonder at the . . . processes that produce new lives from old ones, at the processes of nation and community and language through which a human being will come to absorb and continue hundreds of generations of cultures and forms of life and value, and, finally, when mental life has begun and flourishes, at the process of internal personal creation and judgment by which a person will make and remake himself, a mysterious, inescapable process in which we each participate, and which is therefore the most powerful and

48. To say that something has *merely* subjective value for someone is to say that she believes it to have value for her even though it does not.

49. Dworkin, *Life's Dominion* at 78 (cited in note 43).

50. Id. at 82. See id. at 81-84.

51. Id. at 82.

52. Id. at 83.

> inevitable source of empathy and communion we have with every other creature who faces the same frightening challenge. The horror we feel in the willful destruction of a human life reflects our shared inarticulate sense of the intrinsic importance of each of these dimensions of investment.[53]

This, then, is Dworkin's rendering of a secular version of the conviction that every human being is sacred. Even if in truth the world is nothing but a process bereft of ultimate meaning, every human being is nonetheless sacred, according to Dworkin, because "each human being . . . is a creative masterpiece"[54]—a masterpiece of "natural *and* human creation."[55]

Does Dworkin succeed in portraying a coherent secular version of the conviction that every human being is sacred? Important questions need to be answered—or so it seems to me. How does the fact that something is a masterpiece of natural and human creation make that something not merely a creative masterpiece but sacred? What is the precise sense of "sacred" in play in Dworkin's portrayal? Let us agree that every human being is a creative masterpiece and, as such, inspires (or should inspire) awe in us. That something justifiably inspires awe in us, however—James Joyce's *Ulysses*, for example—entails neither that we believe it to be sacred nor that it is sacred.

To say that every human being is sacred (and therefore inviolable) is ordinarily to say something about (what is believed to be) the true nature of every human being. Of course, something may inspire awe in us, and we may value it, because it is sacred (or, at least, because we believe it to be sacred). But to suggest, as in his book Dworkin at least sometimes does, that something is sacred *because* it inspires awe in us, because we value it, is to reverse the ordinary order of things.[56] Dworkin seems to be using "sacred" in what we may call a weak, or "subjective," sense—something (e.g. a human life) is sacred *because*, or *in the sense that*, it inspires awe in us and we attach great value to it—rather than in the strong, or "objective," sense—something is sacred and *therefore* it inspires awe in us and we attach great value to it. Moreover, in using "sacred" in the weak or subjective sense,

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53. Id. at 84.

54. Id. at 82.

55. Id. at 83.

56. Recall, for example, Dworkin's statement that "the nerve of the sacred lies in the value we attach to a process or enterprise or project rather than to its results considered independently from how they were produced." Id. at 78. Or his statement that "[t]he life of a single human organism commands respect and protection . . . because of our wonder at the . . . processes that produce new lives from old ones . . ." Id. at 84.

Dworkin is trading on the greater strength of the objective sense in which the word is ordinarily used.

That rhetorical strategy, however, is problematic. The premise that every human being is sacred-in-the-subjective-sense cannot begin to bear the weight of the premise that every human being is sacred-in-the-objective-sense. Imagine someone saying to a Bosnian Serb: "The Bosnian Muslim, too, no less than you, is sacred. It is wrong for you to rape her." If "sacred" is meant in the subjective sense, the Bosnian Serb may reply: "Sacred to you and yours, perhaps, but not to me and mine. In the scheme of things, we happen not to attach much value to her life." By contrast, "sacred" in the objective sense is not fundamentally a matter of "sacred to you" or "sacred to me"; it is, rather, a matter of how things really are. (Of course, one may disbelieve the ontology, but that's a different problem.) If every human being is sacred in the objective sense, then, in violating the Bosnian Muslim, the Bosnian Serb does not merely violate what some of us attach great value to; he violates the very order of creation.

Now, Dworkin may insist that he's been misunderstood. He may insist that he means "sacred" in the objective sense, and that on his account of "sacred" the Bosnian Serb is indeed violating the very order of creation. He may say that the Bosnian Muslim has intrinsic value even for the Bosnian Serb—and objective value too: that the welfare of the Bosnian Muslim is an intrinsic good for the Bosnian Serb even if the Bosnian Serb will remain forever unaware of that fact. But if Dworkin wants to respond in some such way, then he must forswear any explanation of the sacredness of someone or something in terms of, or by reference to, "the value we attach to" that someone or something. He must explain it solely in other terms. It is not clear, however, what that other explanation might be; in particular, it is not obvious that either a secular cosmology or cosmological agnosticism can yield the requisite conviction about how things really are. How do we get from "the universe is (or might be) nothing but a cosmic process bereft of ultimate meaning" to "every human being is nonetheless sacred (in the strong or objective sense)"? Of course, even in an absurd universe, a universe bereft of transcendent meaning, there can be creative masterpieces. But, again, that something is a creative masterpiece and understandably inspires awe in us entails neither that it is sacred nor even that we believe it to be sacred (in the strong sense).

Has Dworkin identified a coherent secular version of the conviction that every human being is sacred? It seems not, if "sa-

cred" is meant in the objective sense. If, however, "sacred" is meant in the subjective sense, perhaps Dworkin has identified a coherent secular version. But if he has, Dworkin's secularized claim that every human being is sacred is a substantially weaker claim than the paradigmatic claim about the sacredness of all human beings. In any event, Dworkin has said nothing to diminish suspicion that the conviction that every human being is sacred—sacred in the strong/objective sense, sacred because of how the world really is, and not because of what we attach value to in the world—is inescapably religious. The challenge is to identify a coherent secular version of *that* conviction. In his review of Dworkin's book for the London *Times Literary Supplement*, Robert Grant concluded that "[i]n *Life's Dominion*, Professor Dworkin makes considerable play with, indeed frankly exploits, the idea of the sacred, but shows no understanding of it."[57]

III

Let me emphasize that nothing I have said here—nothing at all—is meant to defend, as credible or even as appealing, any particular religious-cosmological beliefs or any religious-moral beliefs, much less to commend any such beliefs to anyone. One certainly need not count oneself a religious person in order to

57. Robert Grant, *Abortion and the Idea of the Sacred*, Times Literary Supplement, June 18, 1993, at 11.

Martha Nussbaum has asserted, in a recent essay, that "the good of other human beings is an end worth pursuing in its own right, apart from its effect on [one's] own pleasure or happiness." Martha C. Nussbaum, *Skepticism about Practical Reason in Literature and the Law*, 107 Harv. L. Rev. 714, 718 (1994). (It is clear in the context of her work that by "other human beings" Nussbaum is referring not just to *some* other human beings but to *all* other human beings.) But *why* is the good of each and every human being an end worth pursuing in its own right? Nussbaum doesn't say. She merely reports, in the final paragraph of her essay, that "it seems to be a mark of the human being to care for others and feel disturbance when bad things happen to them." Id. at 744. Now, few will deny that it seems to be a mark of the human being to care for *some* other human beings—the members of one's family, say, or even of one's tribe or nation or race or religion. But it is painfully clear that it is not a mark of all human beings—it is not a mark of "the human being" as such—to care for *all* other human beings. If it were a mark of all human beings to care for all other human beings (and to feel disturbance when bad things happen to them), the "why" question would lack urgency. But because very many human beings—indeed, perhaps most human beings—have not in the past cared for, nor do they today care for, all other human beings, the question is urgent: Why is the good of each and every human being an end worth pursuing in its own right? Nussbaum says nothing, in her essay, of relevance to that question. One answer—the answer that informs the international law of human rights—is that the good of each and every human being is an end worth pursuing in its own right *because each and every human being is sacred.* My suggestion here is that there may be no coherent secular vision of that answer—no coherent secular version of the conviction that every human being is sacred.

wonder—indeed, one can be one of those "good many professors and other intellectuals [who] display a hostility or skeptical indifference to religion that amounts to a thinly disguised contempt for belief in any reality beyond that discoverable by scientific inquiry and ordinary human experience"[58] and *nonetheless* wonder—whether the conviction that every human being is sacred isn't inescapably religious. One need not count oneself religious in order to wonder whether much secular moral-philosophizing hasn't been, for a very long time now, a kind of whistling in the dark.[59]

Nietzsche asked: "Now suppose that belief in God has vanished: the question presents itself anew: 'who speaks?'"[60] Echoing Nietzsche's question a brutal century later, Art Leff wrote:

> Napalming babies is bad.
> Starving the poor is wicked.
> Buying and selling each other is depraved.
> Those who stood up to and died resisting Hitler, Stalin,
> Amin, and Pol Pot—and General Custer too—have earned salvation.
> Those who acquiesced deserve to be damned.
> There is in the world such a thing as evil.
> [All together now:] Sez who?
> God help us.[61]

58. Kent Greenawalt, *Religious Convictions and Political Choice* 6 (Oxford U. Press, 1988). See Perry, *Love and Power* at 67 & 173 n.1 (cited in note 2).

59. See J.D. Goldsworthy, *God or Mackie: The Dilemma of Secular Moral Philosophy*, 1985 Am. J. Jurisprudence 43; Phillip E. Johnson, *Nihilism and the End of Law*, First Things, March 1993, at 19; Arthur Allen Leff, *Unspeakable Ethics, Unnatural Law*, 1979 Duke L.J. 1229.

60. Nietzsche, *The Will to Power* at 157 (cited in note 6).

61. Leff, 1979 Duke L.J. at 1249 (cited in note 59).