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Religion in the Public Square: The Debate

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In the United States, as in any vibrant democracy, the government is profoundly impacted by the public square – that forum in which the people discuss, debate, and evaluate public activities with the idea of persuading their compatriots and influencing the state in the development, enactment and enforcement of public policy. It is a forum, by definition, available to all, whether citizens or not, including those who represent them (such as the media or organized groups). The state also participates in the public square in its efforts to explain or justify its policies or activities.

The place of religion in the public square has generated great controversy. In essence, the debate centers on one fundamental question: in a religiously pluralistic country with a policy of separation between religion and the state, what place should religion have in a forum in which state action is debated, shaped, and, to some extent, implemented? That is to say, if we accept that the state should not adopt or implement religious positions or policies, to what extent should religious language, concepts or beliefs be used to publicly justify, support or opposed government actions or policies? How do we distinguish between religious advocacy in the public square and state implementation (if that occurs)?

Most people assume that this question raises First Amendment concerns. Citing the popular Supreme Court dicta in **Everson v. Board of Education* (1947) that the First Amendment erects a “wall of separation” between Church and State , they assume that the law prohibits religion being invoked or a participant in the public square. However, simply reading the provisions of the **First Amendment* reveals this to be an error. The First Amendment provides that “Congress shall make no law respecting an establishment

of religion [the *Establishment Clause] or prohibiting the free exercise thereof [the *Free Exercise Clause].” Under the *Fourteenth Amendment, this prohibition has been extended to cover the States as well.

Thus, the amendment targets state action, as evidenced by the vast litigation over Establishment and Free Exercise cases. This jurisprudence carefully segregates the state from the public square (a domain also protected by the Free Speech clause of the First Amendment) in two ways. First, it shields the public square from undue governmental influence. The government cannot publicly endorse one religion over another, religion over non-religion, nor non-religion over religion. The state cannot justify a law solely on religious ground, nor can it use a law to repress the free exercise rights of a religion. Finally, the government cannot favor or disfavor religion within an open public forum that it creates. Second, the courts have protected the viability of the state and the public domain by assuming a clear distinction between the two and adopting a presumption that state actions are motivated by secular reason (absent clear proof to the contrary.) The state is thereby protected against having every justification for public policy offered in the public domain imputed to it, with an obligation to refute or deny those justifications that suggest some form of religious freedom violation. At the same time, religious participants in the public square are freed from the fear that religiously grounded advocacy for a public policy might prove counterproductive simply because the courts could use the religious nature of the advocacy to defeat the state’s adoption of the policy.

The legal question with respect to individuals (or religious groups) is similarly clear. The state cannot prohibit an individual or groups representing that individual from participating in the public square, supporting or opposing public actions based on

religious grounds, or using religious arguments to advance those positions. This is true, even in the case where the individual is a government official, so long as that official is speaking on his or her own behalf.

To say that the state cannot preclude people of faith from advancing their religious beliefs within the process of public policy formation does not address the wisdom or morality of doing so. Indeed, many critics argue that the unique characteristics of traditional religion are so disruptive of the public polity as to justify a moral prohibition against the participation of religion in the public square. Their arguments can be summarized as follows.

Violence First, many secularists argue that the purpose of Church/State separation was to avoid the violence of religiously inspired conflict. They cite the historic religious wars and their current manifestations in areas such as Afghanistan, the Middle East, Bosnia, and Northern Ireland. In this country, they cite the violence surrounding abortion and the radical right to life movement.

Authoritarianism One critic of a governmental bioethics panel's interaction with religious representatives complained that the sole task of religion is "theological hermeneutics - the interpretation of sacred texts.....[Religion] abolish[s] the hard ethical questions" because the answers are to be found in the texts of revelation. This cuts religious believers off from the public square because they neither contribute meaningfully to public discussion of public policy issues (other than to cite their religious proof text), nor can they learn from the public discourse because it stands apart from their grounding belief.

Accessibility Related to the issue of authority, many critics argue that religious arguments are not accessible to non-believers. That is to say, they do not provide information sufficient for the non-religious person to evaluate and understand the arguments being made by the person of faith. Insofar as governmental action should rest upon arguments that are acceptable and understandable by those subject to them, then a justification based upon religious faith would not satisfy this requirement.

Religious Argument Prevents Public Discussion A more serious version of the accessibility critique is that the use of religious argument precludes public discussion and prevents political consensus. Michael Perry adopts a version of this argument when he argues that people of faith should be prepared to offer secular reasons for their judgments without imposing a similar requirement on people of non-faith. He argues that because people of non-faith do not believe, they cannot be expected to offer religious reasons for their positions.

Religion is not Shared One of the rationales supporting the demand for secular justification is that it is assumed that secular reasoning is neutral - that it is shared by all members of society. Religion, on the other hand, is distinctly idiosyncratic, unique to each separate believer and/or his/her tradition. Clearly, arguing from vastly different grounding perspectives (for example, an argument between a radical Marxist and a radical capitalist) is unlikely to result in agreement in that neither side shares enough common understanding with the other to provide a basis for agreement. More significantly, the process of democratic governance requires a sense of community. Individuals must make sacrifices (e.g. paying taxes) for the benefit of the common good.

Discourse that emphasizes difference and the lack of commonality interferes with this necessary sense of community.

Religion is Divisive Many people believe that religion is uniquely divisive. It evokes passions and emotion as well as reason and judgment. As acknowledged by Michael McConnell, “in the current political climate, many of the most heated political controversies involve a clash between largely religious forces of cultural traditionalism and largely secular forces of cultural deconstruction. It would be difficult to say which side in these conflicts was more strident, more intolerant, or more absolutist.”

Faction The Founders of the American Republic feared political faction as one of the great threats to stable government. A “zeal for different opinions concerning religion” was Madison’s first example in Federalist No. 10 of the causes of this type of faction. The faction argument is, essentially, the political extension of the decisiveness argument. Religion is not only a potential source of passionate conflict, but also a unifying force giving that conflict political power. It is not just that religion has the power to divide individuals, one against the other—it may lead to political conflict between religious groups.

Religious advocates challenge that each of the foregoing arguments can be individually rebutted as resting upon one of two major misconceptions about religion. First, many of the arguments present an incomplete or distorted understanding of religion and religious belief. For example, the fact that a person of faith uses religious scripture as a starting point for their moral or political reflections does not necessarily mean they will be any less reasonable or rational than a person starting from any other comprehensive philosophy. Both could be unreasonable or irrational, but neither must

be. Second, and related to the first, separatist critics draw unwarranted distinctions between the religious and the secular, in large part by assuming that the secular is religiously neutral. However, as noted by thinkers such as McConnell, the secular is not neutral – it is competitive with religion, reflecting a particular world-view of a particular group of people. Indeed, in many instances secular world views function in religion-like ways, including serving as ideological goads towards violence and conflict (e.g. Stalin’s purges, the Chinese Cultural Revolution, the killing fields of Cambodia.)

Some critics, like Robert Audi, respond that the problem is not any one individual critique of religion – but the multiplicity of arguments arising around religious (particularly theistic) belief. While some may agree, it remains unclear how this, in fact, distinguishes religion from any other powerful worldview.

A much more persuasive reading of the situation suggests that separationists and religious advocates approach the public square with radically differing understandings of the public square and the nature of public discourse. Specifically, advocates for a secular public square favor the use of abstract reason and logical argument, while appearing suspicious of—if not hostile to—passion. Religion, as the ultimate expression of emotional commitment, represents a powerful threat to this vision of dispassionate discourse. This has led separationists to attempt to repress religion by finding a single, common (i.e. secular) belief system that all citizens can share freed from deep emotional commitments to particularist communities.

Religious advocates reject this approach, believing it impossible to separate out their deepest beliefs and commitments from their approach to the public square. They appear to stand on strong historical footing. Passionate disagreement is a part of

American history and the political process. From the Revolutionary War and the conflict between Loyalists and the Revolutionaries, through the Abolitionist movement, the Civil War, the early labor movement, the Civil Rights movement and the anti-war movement, it has been a feature of American governance. While religion was present in some of these conflicts, it was not in others. Restricting religious participation will not end the reality that people of conviction bring their passion to the political arena.

Moreover, the effort to secularize the public sphere has alienated many people of faith creating a backlash feeding the emergence of the religious right. As argued by Stephen Carter, “Nothing creates political energy quite so well as insults, and nothing makes [members of the religious right] harder to slow than the ignorance of their critics.”

Religionists, specifically the Christian right, appear prone to a historicist essentialism that is equally troubling. They tend to blur the traditional hegemony of Christianity in America with a normative reading of the First Amendment, ignoring the reality of religious evolution in the United States. They lose sight of the need not only for tolerance of difference, but of respect for those who are different.

In summary, individually the arguments of constitutional morality do not demonstrate that religion is disruptive of the public square—or at least no more so than competing secular worldviews. However, the vehemence of the arguments does suggest that significant problems exist within the public square itself. Current discourse appears intolerant of diversity—unwilling to acknowledge the importance (or even the acceptability) of arguments reflecting the religious and non-religious pluralism of the nation. Moreover, the sense of community, the fabric of civilization necessary to sustain public engagement and sacrifice for the common good, appears fragile and growing

thinner. Arguments against religious participation in the public square reflect this deeper malaise.

References and Further Reading

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Cases cited:

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