Faith, Reason, and Consent
Legislating Morality in Early American States

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LFB Scholarly Publishing LLC
New York 2008

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CHAPTER 1

Legislating Morality: Four Streams of Thought

In contemporary American culture it has become commonplace to hear people on the street, and even politicians, arguing that government should not "legislate morality." In a 2005 debate over a law to regulate sexually suggestive cheerleading performances in Texas public schools, Representative Senfronia Thompson, a state legislator from Houston, was quoted as saying, "You can't legislate morality. This is a ridiculous bill. It's stupid and it's insulting."[i] It is striking to compare this statement to the statement of the leaders of Pennsylvania who wrote that state's first constitution in 1776:

> That a frequent recurrence to fundamental principles, and a firm adherence to *justice*, *moderation*, *temperance*, *industry*, and *frugality* are absolutely necessary to preserve the blessings of liberty, and keep a government free: The people ought therefore to pay particular attention to these points in the choice of officers and representatives, and have a right to *exact a due and constant regard to them, from their legislatures and magistrates, in the making and executing such laws* as are necessary for the good government of the state.[ii]

The difference in perspective between a 21st century Texas state legislator and those of 18th century Pennsylvanians is obviously extreme. The latter deems moral regulation as essential to the preservation of liberty. The former finds any attempts to write laws that

involve a commitment to regulating moral behavior absurd and intrusive. Lest one considers this a difference of historic eras only, some reflection reveals otherwise. The opinion that law should reflect certain moral principles remains in the 21st century, in spite of claims to the contrary. The same person who, like Representative Thompson, claims that laws should not restrict the free expression of cheerleaders may adamantly condemn the legal system of another country that does not protect women from being physically abused at will by their husbands. It is easy to be blind to the fact that we expect laws to restrict what we consider immoral and unjust. Perhaps, what Representative Thompson meant in her comment was that she did not think sexually suggestive cheerleading performances are wrong enough or harmful enough to regulate.

Moral regulation in laws is alive and well in the United States today. A significant degree of the fighting over the legislation of morality, whether it is over sexually suggestive cheerleading routines, homosexual marriage, or abortion rights, occurs on the battlefield of state politics.[iii] This book will address the topic of the legislation of morality as it was understood and implemented by early American state founders and legislators. It will focus attention upon founding state constitutions and legislative acts in the revolutionary period and the years following.

This first chapter will set the stage by discussing various streams of thought found in the modern era on the topic that are influential in current thinking about the legislation of morality. The second chapter will discuss the three foundational principles that were most influential in the thinking of the American state founders' approach to moral legislation. Chapters three and four will examine perspectives expressed in the early state constitutions concerning the nature of God and man. The fifth chapter will involve a study of each of the early state constitutions to determine what perspectives were prevalent in the various documents. Chapters six and seven will look at the legislative acts of early American states in order to see how the commitments and perspectives expressed in the states' constitutions worked out in practice. Chapter eight will discuss how the findings of this study compare with current scholarship on the topic of early American moral legislation. Finally, the book will conclude with a brief discussion of the relevance of early American state moral legislation to current American political thought on the subject.

LEGISLATION AND MORALITY

Laws are rules for behavior in a given political community, enforced by authorities, the breaking of which leads to the consequence of punishment. Thus, when laws are created, judgments are made by legislators that certain behavior is harmful to the community or individual citizens. Certain behavior is deemed acceptable and other behavior unacceptable. This act of judgment is a moral act. Morality involves making distinctions between right and wrong behavior. This is what legislators do. Whether they require all citizens to contribute to the costs of supporting the poor (e.g., in the form of welfare programs) or whether they ban high school cheerleading performances that are deemed sexually suggestive, lawmaking is a moral act.

The principles of morality that guide lawmakers may vary significantly from one nation to another, within the various legislatures of a given nation, and even within a single legislative session. This does not negate the fact that whenever any legislative act occurs, it involves morality.[iv] At the most basic level, the reality of this is evident when one considers the question of murder. Every nation in the world that has a system of law has some kind of prohibition against the arbitrary taking of another person's life. Even if a serial murderer claims that he feels good by taking the life of someone else—perhaps he was abused by his father and feels empowered by destroying others' lives—such behavior is prohibited by the community with the consequence of severe punishment. This prohibition, by force of law, is a moral judgment that is imposed upon everyone in the community.

Some legislation might seem less moral in content than others, but any law that regulates behavior is moral in nature. The crucial question is not, "Does law regulate morality?", but rather, "What kind of morality does law embody?" The latter question begs an additional question: "Whose morality does lawmaking embody?" In many ways, this third question has taken center stage in the debate of lawmaking in contemporary American life. Within a society that is committed to both democratic and liberal principles, the fear of majority tyranny is real when it comes to legislation. Equally fearful is the imposition of one elite minority group's morality upon the rest of society, whether that group is on the left or the right side of the political spectrum. Should the moral commitments of the majority be imposed upon minority groups whose moral commitments are in conflict with the majority?

Should one group be allowed to impose their morality upon the majority? One approach to the making of laws assumes that legislation should reflect established moral commitments of the community, as the excerpt from Pennsylvania's constitution exemplifies. However, many 21st century Americans seem committed to a process of lawmaking that seeks to embody the ever-changing moral inclinations of the people at a given point in time. "Our laws need to catch up with the times," one might hear among contemporary Americans.

Another perspective argues for a pluralistic approach in which the diverse voices of individuals and groups should be heard and respected, giving no special place to any one group's moral position. However, even a pluralistic approach to legislation ultimately comes to a point of making moral judgments. It presupposes that the best rules for a community are those that are acceptable to most or all people. It does not take long to realize that even when a pluralistic approach to lawmaking is utilized, there are still moral limits that all parties must share if any laws are to be made. A strong commitment to basic rights including the right to life (e.g., prohibition of murder) and right to property (e.g., prohibition of theft) exists in American society in spite of a great diversity of opinion about morality. There are even less fundamental moral commitments that are shared. For example, Americans maintain a commitment to provide people with the opportunity to be materially rewarded more for hard work and the use of one's talents than if one chooses not to work or not to exercise their talents. Some shared moral commitments might be easily overlooked because they are so implicit and obvious that no one takes the time to realize how much they impact legislative decisions.

The rest of this chapter will consider various ways of thinking about legislation that have been influential since the enlightenment and are still influential to various degrees in contemporary American society. The two questions, "What kind of morality does the law embody?" and "Whose morality does lawmaking embody?", are clearly central to the following discussion.

THE BATTLEGROUND OF MORAL LEGISLATION

In the culture wars that began in this country during and following the 1960's, law and morality have taken center stage. On one side has been the rhetoric of liberalism and individual expression, on the other, that

of conservative and religious values. Law has been the battlefield upon which the war has been fought, whether in the enacting of legislative bills (or their being defeated), in the vetoing of bills by the executive branch (i.e., the US *president or state governors)*, or in the judicial review process. Law has remained a primary concern in this war because of its authoritative place in American public life. It is largely respected as the final word on what is acceptable and unacceptable. Despite the existence of some cynicism about how "blind" the American justice system really is the public expects law to be enforced regardless of a person's position in society.

Appeals are made by those with opposing views about the extent to which law should regulate individual behavior, both in the formal debates on the floor of the U.S. Congress as well as the state legislatures and in the informal debates that occur in the media, in books, in schools, in homes, in local coffee shops, and increasingly on the Internet. On the public square, opinions are voiced in the form of popular clichés: "who are they to say how I can live," "that is just not right," "they are imposing their morality on us," "if we let people do that it will lead to chaos." In intellectual circles, the appeals are more sophisticated though, perhaps, not greatly different in substance.

The culture wars have their roots in philosophical debates that have been going on much longer than four decades. These debates, while reflecting in some sense issues at least as old as the recorded political philosophy of the ancients, have taken their current shape largely from the enlightenment period and the rise of liberalism. There are several streams of thought that result from the political theory of this period and influence contemporary American life.

Each of the following streams of thought is a kind of pure approach and, we shall see, an extreme approach. Though they have been influenced by great political thinkers and writers, in their unsophisticated, simple form they are often a kind of caricature of what is found in the political philosophers and theorists. The first stream has a relationship to the thought of Thomas Hobbes.[v] This approach to legislation is based upon the absolutization of *authority* in the ruler-ruled relationship. The second stream has ties to the thought of Rousseau. The absolutizing of the authority of the people, or *public will*, is foremost in the version of popular sovereignty that results from this stream. The third stream of thought is based upon an absolutization of *theory* and the power of human reason to deduce systems, methods,

or constructs for ordering human communities. It is akin to Kant in its abstract rationalism.[vi] The fourth stream of thought flows from the older religious tradition that remained. The theological principles revealed in *religion,* whether Christian, Muslim, Jewish or the theological principles of any particular sect within one of these major religious traditions, is the final standard by which legislation is judged (i.e., the ideas and concepts relevant to legislation that emerge out of authoritative religious texts).

THE FOUR STREAMS

Authority—The First Stream

The authoritarian approach to legislation asserts that the body (or individual) bestowed with the authority to make and enforce law is accountable to no external constraints in the form of public opinion, moral principles, or religious authorities. The basis for such authority may differ but ultimately, in whatever way the ruler or ruling body is recognized as being authoritative, lawmaking is imposed on the ruled by the ruler.

This perspective on lawmaking is alive and well in the 21st century. It often finds expression in a deep cynicism towards the modern democratic experiment—a rejection of the claim that Western democracies are governed by the will of the people. According to these cynics, legislators in democratic regimes will do whatever it takes to get elected and then make laws according to their own self-interest or the interests of their elite supporters. In other words, one can claim that democracy incorporates public opinion, but at the end of the day, an elite group of people run things as they wish. People who hold this view may express their position in a variety of ways, for example, indifference (e.g., “What difference does it make who I vote for, it won’t matter.”) or insolent deviance (e.g., “I have no qualms about breaking the law anytime it’s in my own interest and I can get away with it. I’ve got to look out for Number 1. No one else will.”).

Political thinkers have been acutely aware of this approach to political rule and lawmaking since antiquity. The argument put forward by Thrasymachus in Plato’s *Republic* is a classic example of this “might makes right” stream of thought. “Each [ruler] makes laws to its own advantage,” says Thrasymachus, “ … and they declare what they

have made … to be just for their subjects, and they punish anyone who goes against this as lawless and unjust."[vii] The Divine Right of Kings was a later doctrine of unrestricted monarchical authority. The king was supposed to be accountable to God in the use of his power, but practically speaking was not accountable to any person or agreed upon moral or constitutional principles.

Hobbes provided an alternative doctrine to the divine right of kings with his version of social compact theory. Everyone, according to Hobbes, must lay down all his or her rights to one supreme sovereign in order to create a peaceful society. Thus, Hobbes argues that the sovereign (monarch or ruling body) should have "the whole power of prescribing the Rules".[viii] There are no principles of justice or morality external to the will of the sovereign ruler by which to judge the rightness of law. "By a Good Law, I mean not a Just Law: for no Law can be Unjust. The Law is made by the Sovereign Power, and all that is done by such Power, is warranted, and owned by everyone of the people."[ix] Law is merely what the political ruler says it is.

This stream of thought has continued in 20th century philosophic discourse, to a certain extent, in the form of legal positivism. One of the major thrusts of legal positivism has been to attempt to separate morality from legality. For legal positivists, law is a social construct.

> The concept of law presupposed by legal positivism could be recognized in the assumption that "the existence of laws is not dependent on their satisfying any particular moral values of universal application to all legal systems; the existence of laws depends then upon their being established through decisions of human beings in society."[x]

There is no use having theoretical discussions about what law *should have been* enacted; there is no room for appeals to universal principles of morality when it comes to what law is or says. Many legal positivists admit that morality is relevant when discussing the merits of laws, but when it comes to the making and enforcing of the law, the only fact that matters is what the legal authorities say the law is.

Many modern regimes operate according to the authoritarian position without any significant attempts to hide the fact. Stalin's communism in the 20th century is one example of this approach on a large scale. Many dictatorships still exist across the globe, in which law

and legislative process operate according to the dictates of a single ruler or a single party that wields absolute power.

Public Will—The Second Stream

The second stream is akin to the first. Instead of the will of a single ruler or ruling body being the basis for lawmaking, ultimate authority for the making of law resides in the will of all the people. The development of the concept of the *general will* by Rousseau has had a critical role in the formation of this highly influential way of thinking about the proper ordering of human communities. Rousseau's concept of the general will is not simply a compilation of individual wills, like a public opinion poll. Rather, it conceives of political communities having a corporate will that is based upon common interest, i.e., what is good for the entire community.

> There is often a great difference between the will of all and the general will. The latter considers only the common interest; the former considers private interest, and is only a sum of private wills. But take away from these same wills the pluses and minuses that cancel each other out, and the remaining sum of the differences is the general will.[xi]

While there is debate about what exactly Rousseau meant by his concept of general will, one thing is clear: it is a concept that entails absolute authority. "It is no longer necessary," writes Rousseau, "who should make laws, since they are acts of the general will."[xii] He goes on to dispel any idea that the law can be judged by any external constraints or principles. There is no possibility that "the law can be unjust, since no one is unjust toward himself; nor how one is free yet subject to the laws, since they merely record our wills."[xiii] Any law made according to the dictates of the general will is self-imposed law. Every person in the community, as a consequence of being a participant of the general will and a subject of the state, is both ruler and ruled.

The recent developments in this stream of thought have largely dropped Rousseau's philosophical approach, which discussed general will to a significant extent in an esoteric manner. Political science today is largely concerned with public opinion polls and the preference

of registered voters, not with seeking to determine what the true general will or true common interest is. What can be measured and quantified is what the people say is good or bad behavior at a point and time—and the people should get laws that coincide with what they believe.[xiv] This approach to public policy has been used extensively in the 20th century and does not appear to be lessening as we entered the 21st century.

> Public opinion has achieved a remarkable, though largely unnoticed, ascendancy. The burden of proof is now on those who oppose public opinion … Indeed, recent polls suggest that the public has become enamored of its own wisdom: in one 1999 survey, some 80 percent of respondents believed that the nation would be better off if leaders followed public views.[xv]

In general, this stream of thought finds a great deal of support in western democratic regimes, even if in a form somewhat alien to and at odds with Rousseau's general will. It appeals to the belief that the people are really in charge. Legislators have no right to do as they wish; they are accountable to the public. If they diverge significantly from public opinion, they will pay during the next election. The same can be said for political parties and their agendas. They will pay the price of being marginalized if they do not keep their finger on the pulse of public opinion and march according to its heartbeat. The public will dictates the decisions of elected officials; they are puppets of the people.

Theory—The Third Stream

While the enlightenment spawned a democratic ideal, it also put a new emphasis upon human reason and its powers to order political life. Kant's moral philosophy is representative of the second stream's reliance on theoretical reason. His categorical imperative is a rational construct that attempts to determine a method for identifying good versus bad behavior. Kant's moral philosophy promises a framework that is universal. This can then be translated into laws that punish bad and reward good behavior. Enlightened human reason, in this stream of thought, is deemed able to attain objective certainty about whether a proposed law should or should not be enacted.

On the streets, on the floors of legislatures, and in the back offices of government in democratic regimes, rational theories and the use of reason in general still finds a great deal of support as the best way to judge the merits of proposed legislation. When the media wants to hear the definitive answer to tough questions about some legislative battle, they interview professors of universities and writers of academic books. The objective views of rational academicians are often perceived as carrying more weight than the opinions of random people interviewed on the street, the views of religious leaders, or the agendas of partisan politicians. Legislators have also been known to call upon experts in sociology, psychology, and other fields of study when they want an objective analysis or judgment.

Absolutized rational approaches to politics have as their disadvantage a disconnection with real life. They lead to policies and legislation that is supported by sound rationalistic theories but which may fail to connect with real people and real circumstances in political communities. They also assume that people in general, or at least decision-makers, have the capacity to be completely rational and objective. And then, one wonders, who is capable of judging what it truly means to be rational? As Sandel puts it:

> Now what is to guarantee that I am a subject of this kind, capable of exercising pure practical reason? Well, strictly speaking, there is no guarantee; the transcendental subject is only a possibility. But it is a possibility I must presuppose if I am to think of myself as a free moral agent.[xvi]

Religion—The Fourth Stream

Some would say that religion and theology have become completely irrelevant to politics. This has certainly been the view held by many with respect to European society. Consider the viewpoint of the current Pope:

> The state came to be understood in purely secular terms, as grounded in rationalism and the will of the citizens …. Public life came to be considered the domain of reason alone, which had no place for a seemingly unknowable God: from this

> perspective, religion and faith in God belonged to the domain of sentiment, not of reason. God and His will therefore ceased to be relevant to public life.[xvii]

Though viewed as outdated and irrelevant on many counts, religion's influence on political life in America and, specifically on issues related to legislation, remains surprisingly profound at the outset of the 21st century.[xviii] While tolerance has been praised and the influence of secularism has spread extensively in the 20th century, religion has refused to be vanquished from public life. This truth is most evident in American life as compared to the other western democracies found in Europe and Asia-Pacific.

Religion has been a major influence in political life during ancient times (e.g., Egypt, Persia, Rome, and China) as well as in the Middle Ages in Christian Europe and Muslim empires. During certain times religion was merged with politics, for example, in the form of an emperor who embodied both supreme religious and political authority (e.g., the Egyptian Pharaoh and the Roman Emperor). Other times, a distinction between political and religious authority existed, but religion maintained a significant, rival position vis-à-vis politics (e.g., Medieval Europe). During the period leading up to the Enlightenment in Christian Europe, religion was tightly bound up with public life as a whole.[xix] Since that time, politics in Europe has significantly broken away from the influence of religion.

While Europe may now claim to be secularized, leaving behind the times when the church was a relevant and influential voice in public dialogue about political matters, religion in the United States has sustained its public voice. This has been possible, if not for other reasons, because Americans have remained religiously active. Of course, religion remains a critical factor in politics in democracies in the Muslim world, the foremost example being Turkey, and in parts of Asia, for example in India. When it comes to legislation, religion has its loudest voice on moral issues. The resistance to abortion rights legislation has gained its support in the United States largely from the activism of churches and religious groups, or groups whose objectives are grounded in religious principles. In the Islamic world, the status of Sharia law in society is one of the major battles being fought.

The two sides of the debate about the degree to which religion should influence legislation are often zealous in their positions.

Secularists are intentional and active in seeking to ban religious influence in the formal process of politics (e.g., ACLU in the United States). They hold a suspicious view toward religion and can point to numerous historical examples of the religious oppression of individuals and minority groups. Religious groups, on the other hand, fear the chaos and immorality that they claim will result from secularizing society.[xx] They view religion as a stabilizing factor that contributes to the necessary moral formation of citizens, whose moral principles should be generally embodied in the laws. In addition, religious groups are often zealous in their conviction that their morality is right and good, and should be reflected in the laws. This conviction is sometimes supported by a view that America has always embraced Christian moral principles and embodied them in its laws. The Christian conservatives would like to keep it that way. Their opponents, however, are offended and view Christian conservatives as backward-looking and dangerous.

BY WILL OR BY PRINCIPLE

Of the four streams of thought discussed above, the former two bear a resemblance to one another as do the latter two. In the former two, the will of either one person or a group of people is the controlling factor. What is the will of the ruler? What do the people want? The will of the sovereign, whether in the form of one, a few or the many, is the basis for legislation. It defines the morality that is embodied in law. Thus, the legislation of morality is simply a fleshing out of the morality that is present in the opinions of the ruler or the people at a given time.

The latter two streams of thought both build a basis for law that is principled. They incorporate fixed principles of morality that are the ultimate standard. Good laws embody these principles and should be sustained. Bad laws conflict with these moral principles and should, therefore, be repealed. An *oughtness* is involved in viewing legislation through the lens of moral philosophy or religious theology. Laws can and should be subject to scrutiny according to moral principles derived from philosophy or theology. Cicchino has succinctly expressed this point well:

> In his discussion of human law in the Summa Theologica, St. Thomas Aquinas argues: “[T]he force of a law depends on the extent of its justice. Now in human affairs a thing is said to be

> just, from being right, according to the rule of reason." St. Thomas is by no means alone in his sentiments about the law. For a wide variety of thinkers throughout history from Plato to Martin Luther King, Jr., a law opposed to justice, a law that inflicts harm on human beings without sufficient justification, is unworthy of the name "law." It has no claim on our obedience. As Aquinas quoted approvingly from Augustine, "That which is not just seems to be no law at all."[xxi]

The individual streams of thought discussed above represent extreme approaches to the legislation of morality. By absolutizing authority, the public will, a theory, or one particular religious perspective as a basis for moral legislation, laws have a tendency to become oppressive. The proof of this judgment is found in considering the logical outcomes of such approaches. Extreme approaches justify the arbitrary rule of dictatorships, severe oppression of minorities by majority tyrannies, rigid rationalistic rule, and religious liberty-crushing theocracy. The absolutized rule of a sovereign Leviathan, in spite of all Hobbes' claims about its security, is likely no better consolation for the subjects than the absolutized rule of materialistic rationalism, such as is found in the politics of "The World State" in Huxley's *Brave New World*.

THE MERGING OF STREAMS

A merging of streams is often sought as a way of mitigating the negative affects that results when only one stream is incorporated. A merging of the streams seeks to appreciate and incorporate the legitimate advantages of each approach while moderating the negative aspects. The early American tradition of legislating morality is one such approach to the merging of streams.

Faith, reason, and consent were the instruments, one could say, by which moral standards were identified and embraced as worthy to provide a foundation and justification for moral legislation. As shall be demonstrated in more detail later, the early American state founders were convinced of certain principles on the basis of faith and reason. Faith revealed to them certain principles of divine law, while principles of natural law were deduced by reason. They believed the principles of divine and natural law were sound and reliable. However, they also believed that those principles necessitated a commitment to consent, or

what has been called popular sovereignty. Since they were convinced that "all men were created equal", they believe the people must have some role in how their rules were made. Popular sovereignty was primarily understood, as we shall see in the following chapters, to be derived from faith and reason but also required by principles of divine and natural law. This work will seek to demonstrate these claims and to discuss the distinct manner in which the state founders weaved these commitments together.

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[i] *Quick: a product of the Dallas Morning News*, Wednesday, May 4, 2005, page 4. Lest one think this an exceptional case, consider the views of Justice William L. Brennan who one writer as claimed "has captured the spirit of mainstream liberalism nicely in his notion that the political order established by the Constitution of the United States is 'facilitative.' According to a facilitative conception of politics, government—whether federal, state, or local—has no authority to judge matters of 'personal' morality. The question of whether a concept of the good is 'valid' or 'evil' is for individuals to decide for themselves free of governmental intrusion. The proper concern of government is to preserve the freedom of individuals to pursue *whatever* conceptions of the good they happen to favor (so long as they do not violate the rights of others)." (Robert P. George, "The Unorthodox Liberalism of Joseph Raz".) However, is not the judgment about whether someone has violated another's rights is itself a moral judgment?

[ii] Pennsylvania Declaration of Rights, sec. XIV. (Italics added by author.)

[iii] Kimberly A. Hendrickson, "The Survival of Moral Federalism".

[iv] See Kent Greenawalt, "Legal Enforcement of Morality". Greenawalt provides a thorough and convincing argument that lawmaking is inherently a moral activity.

[v] In practice, this line of thought has surely been expressed from the very beginning of human politics. Individuals or groups claimed the authority to make the rules for how everyone in a community must behave. In the philosophical tradition, it was present in the writings of Plato (e.g., Thrasymachus in *The Republic*) and Machiavelli. Of course, Hobbes version differs in terms of the basis of authority. For Thrasymachus the basis of authority is blatant force, while for Machiavelli it is a kind of shrewd intelligence. For Hobbes it is a social compact to grant supreme authority to one political ruler or group in order to overcome the chaos that results when limitless human desire is unrestrained.

[vi] As Von Dohlen succinctly puts it, "Kant affirms the possibility of rational universal ethical norms that enable individuals to exercise control over there desires and determine morally right action *independently of any consequences*." Richard F. Von Dohlen, *Culture War and Ethical Theory*.

[vii] Plato, *Complete Works*.

[viii] Thomas Hobbes, *Leviathan*.

[ix] Ibid.

[x] Giorgio Pino, "The Place of Legal Positivism in Contemporary Constitutional States". This description of legal positivism is an attempt by Pino to identify a typical view of legal positivism, though it is a contested label.

[xi] Jean-Jacques Rousseau, "On the Social Contract".

[xii] Ibid.

[xiii] Ibid.

[xiv] This approach is along the lines of Delvin's concept of the legislation of morality. For a good discussion of Delvin and his conception of laws which embody a shared morality, see C.L. Ten, "Enforcing a Shared Morality".

[xv] Robert Weissberg, "Why Policymakers Should Ignore Public Opinion Polls". See Steven Kull, *Expecting More Say: The American Public on Its Role in Government* (Washington: Center on Policy Attitudes, 1999).

[xvi] Michael J. Sandel, "The Procedural Republic and the Unencumbered Self".

[xvii] Joseph Ratzinger, "The Spiritual Roots of Europe: Yesterday, Today, and Tomorrow".

[xviii] An example of this is found in Marx and Hopper, who complain about too much faith-based influence on public policy dealing with the problem of the teen pregnancy problem and not enough "fact-based" influence. "The social work profession has a historical relationship with organized religion, and many religious institutions have developed excellent social services. However, politically driven, faith-based social policy threatens to further erode the quality of the U.S. social welfare system and the professional status of social work. An understanding of and appreciation for, the historical significance of professional social work is needed, which, in turn, might produce a renewed emphasis on 'fact-based' social policy development." Jerry D. Marx, and Fleur Hopper, "Faith-Based Versus Fact-Based Social Policy: The Case of Teenage Pregnancy Prevention".

[xix] During the period of Christian Europe, prior to the secularizing influences that began in the 19th century, "religion governed the whole of life, both individual and collective; it presided over all social activities, nothing escaped its vigilance and control, and the state ensured that its rules of worship as well as its moral directions were respected … It had in its charge welfare assistance to the poor and eduction; universities and hospitals were institutions

of religious origin and ecclesiastical status." Rene Remond, *Religion and Society in Modern Europe.*

[xx] For example, see Donald P. and Kenneth J. Meier Haider-Markel, "The Politics of Gay and Lesbian Rights: Expanding the Scope of the Conflict". Haider-Markel and Meier discuss religious groups involvement on the issue of gay and lesbian rights and their appeal to biblical principles of morality.

[xxi] Peter M Cicchino, "Reason and the Rule of Law: Should Bare Assertions Of 'Public Morality' Qualify as Legitimate Government Interests for the Purposes of Equal Protection Review?"