

There is a final question about legislators: Insofar as they properly vote in accord with their constituents' views on issues, should they follow constituent opinion that is based on religious convictions? Suppose most constituents have religious reasons for thinking fetal tissue research is wrong. Should that affect a legislator's vote, or should a legislator ideally disregard sentiments formed in this way?

The answer to this question depends substantially on how ordinary citizens should make up their own minds and discuss issues. In my view, citizens properly give effect to what they believe are valid sources of understanding, even though they recognize that these are not shared. They are not and should not be educated to restrain their judgments and discourse in the manner of legislators. Asking citizens to distill the judgments they would have if they put their religious convictions aside on each of the issues that influence their voting behavior would be asking a great deal, and it is unrealistic to think that most citizens could be very successful. Certainly most citizens would be skeptical that *other* citizens would be very successful, and the most conscientious among them in sticking to public reasons would suspect that they were unfairly forgoing grounds of judgment employed by others.

If citizens properly rely on religious grounds to develop positions on political issues, legislators will often become aware of these positions. They may not know exactly the grounds on which citizens rely; but if they do discover that the grounds are religious, the legislators should not then disregard them. Legislators should care, to a degree, what citizens believe is right, on whatever grounds are appropriate for them. However, the weight that they accord is *to the fact of this belief*. Legislators should not take citizen judgments based on religious grounds primarily as some kind of evidence of what is really right in an independent sense.

— Kent Greenawalt

Kent Greenawalt, University Professor at the Columbia University School of Law, is the author of *Private Consciences and Public Reasons* (Oxford University Press, 1995), in which the concerns of this article are treated in greater detail. An earlier version of the article, entitled "Religious Liberty, Non-Establishment, and Political Discourse," was presented as the 1994 Jacob and Jennie L. Lichter Lecture at the University of Cincinnati.

A Theological Argument against Theopolitics

One of the most striking features of the contemporary American political scene is the entry of religious fundamentalists into partisan politics. Until relatively recently — perhaps the past fifteen years — many fundamentalists intentionally steered clear of the political arena, rendering unto Caesar that which is Caesar's. Nowadays, of course, groups such as the Christian Coalition are among the major players in policy debates over a wide variety of social issues such as gay rights, school prayer, and public school curricula. This is the phenomenon of "theopolitics" — the intervention of religious activists in the political arena in order to sway public policy in directions congenial to their faith.

Theopolitics is nothing new in America. As Kent Greenawalt has pointed out, Protestant groups were instrumental in enacting nineteenth-century laws against dueling; Northern churches were active in the abolitionist movement; and it was largely a coalition of Protestant churches that brought about Prohibition. Likewise, the Catholic Church was instrumental in enacting laws against contraception and keeping them on the books long after officials had abandoned even the pretense of enforcement. Contemporary theopolitics, however, is distinctive in at least three ways: first, it mainly involves fundamentalist churches that until the early 1980s kept aloof from political activism;

second, these groups endorse political positions on a wide variety of issues that seem remote from specific religious teachings; and third, these groups have adopted a strictly partisan orientation, instead of lobbying whatever political party is in power in order to advance their agenda.

It is these last two points that raise troubling questions. Nobody doubts the propriety of churches speaking out on religious issues; but what makes an issue religious? Is every political issue religious? Is partisan politics religious? Most fundamentally: Are there any limits on the proper role of religious considerations in public debate?

Religious and Secular Reasons

Sometimes, religious groups offer explicitly religious arguments on behalf of their political positions, but activists also try to offer secular reasons for the policies that they promote. The Christian Right is a force in American politics precisely because it understands that it must appeal to the interests and values of citizens outside the Christian Right. In years past, Sunday blue laws were defended on the secular ground that it is socially valuable to have a single, unified, business calendar. Currently, those who back the teaching of creationism in the public schools claim that creationism has good scientific credentials.

Now, some skeptics might argue that this strategy amounts to hypocrisy: the religious activists are offering secular reasons that they themselves think much less important (if they believe them at all) than overtly religious reasons. Robert Audi, a philosopher at the University of Nebraska, has argued that religious activists are violating the moral demands of honesty by offering secular arguments largely for tactical reasons. Yale law professor Stephen Carter also objects to the withholding of religious arguments from political debate, but he places the blame for this practice on our "culture of disbelief," which *requires* religious activists to suppress their own religious reasons for backing the policies they do in favor of secular reasons. Like Audi, Carter wants religious activists to make their case on explicitly religious grounds.

Other citizens, however, dissent from this view. If secular reasons exist for teaching creationism in the public schools or forbidding gay marriages, it seems perfectly legitimate to offer them for public debate, regardless of one's religious reasons for wanting creationism taught or gay marriages forbidden. Indeed, resting the case on secular reasons may be not merely one legitimate strategy but the only legitimate strategy. Philosopher John Rawls has argued that in a pluralistic society only so-called "public reasons," that is, reasons that could be accepted by any member of the public regardless of religion, should be offered on behalf of

public policies. Thus, where Audi would require fundamentalists to rest their case on religious arguments, Rawls would require them to seek secular ones.

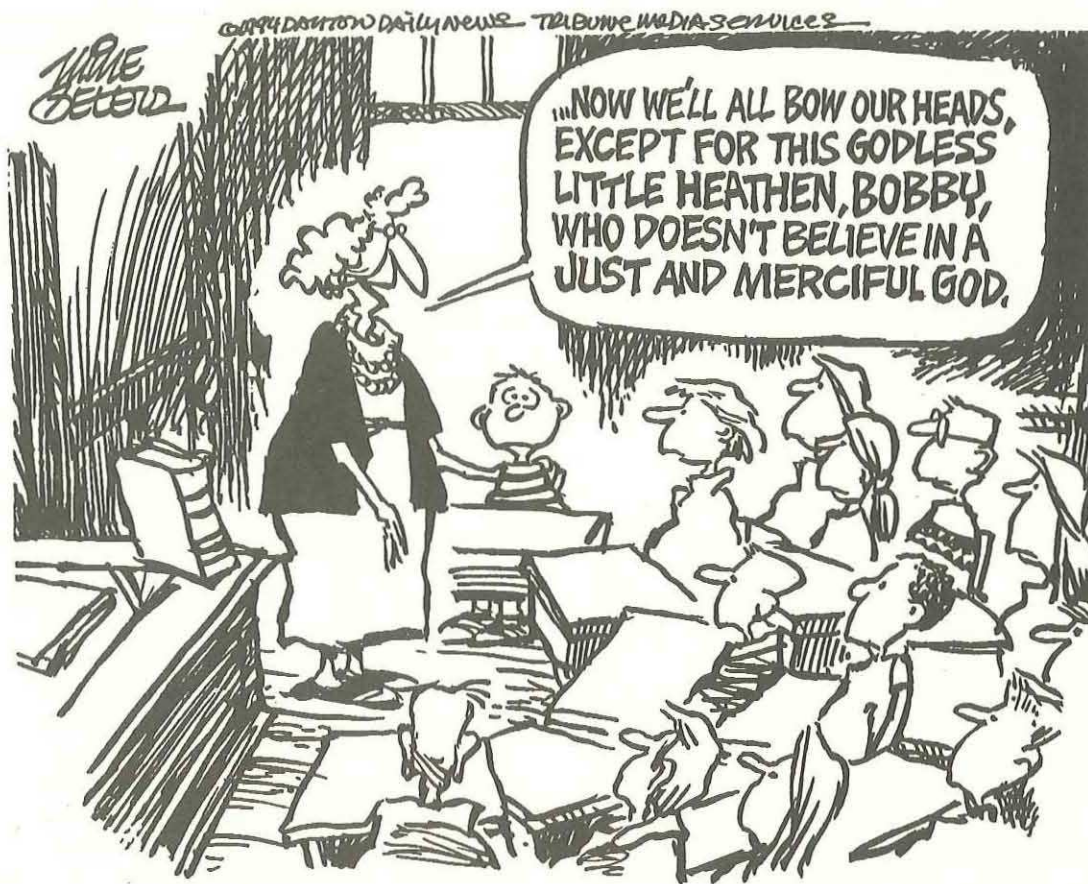
In this requirement, Rawls partly echoes Immanuel Kant, who argued in 1795 that "justice can be conceived of only as publicly knowable." By this, Kant meant that any acceptable conception of justice must be defensible by public reasons alone. Kant is perhaps the first major thinker to advance the idea that an acceptable conception of justice must be defensible by public reasons.

From the standpoint of religious fundamentalists, Kant's idea creates a major problem, however. The problem is that many of their favorite policies simply don't have a plausible secular basis. Opposition to gay marriages offers an illuminating example. The Christian Right opposes gay marriage because it finds homosexuality sinful, basing this judgment on Scriptural authority. That is *not* a public reason, and Kant would debar it from debate over the justice of bans on gay marriage.

Of course, some nonreligious people also oppose legalizing gay marriage, because they find homosexuality revolting. But mere public prejudice is never an adequate reason for discrimination, any more than the fact that some people find interracial marriage revolting is an adequate reason for anti-miscegenation statutes. Apart from public prejudice against gay marriage, there are no secular reasons to forbid it, only religious reasons.

If Kant and Rawls are right, then, religious fundamentalists would be unable to argue against gay marriage. But why, Carter asks, should men and women of faith limit themselves to secular arguments if doing so prevents them from pursuing an obligation to God that in their view is quite literally the most important thing in the world? All of the great religions began in revelation, and revelation contains teachings about how man must live and what justice requires. Why should religious believers leave revealed justice at home when they enter into public debates about what justice requires? Why should they refrain from theopolitics?

In his fair-minded and lucid article in the current issue, Professor Greenawalt endorses a position midway between Rawls and Kant, who would limit political debate to public reasons, and Audi and Carter, who would encourage frankly religious arguments. According to Greenawalt, private citizens may legitimately base their political positions on any reasons, including religious convictions, but public officials should offer only secular reasons for their positions (although their religious convictions will necessarily affect their judgments, and their obligation to represent their constituents' views requires them to take their constituents' religious convictions into account).



Mike Peters

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Professor Greenawalt argues on largely secular grounds of political theory that his solution offers a reasonable accommodation of religious views. I want to address the same question from a different, and somewhat unusual, perspective. As a religious believer, I shall argue against theopolitics, and for the view of Rawls and Kant, on theological grounds.

Reason and Revelation

Consider, then, Kant's proposition that any argument about justice must be based on public reasons. This proposition rejects a traditional line of thought, according to which the true conception of justice is based on an ineliminable kernel of divine revelation. One crucial difference between reason and revelation is that divine revelation is *esoteric*. God doesn't reveal His will to everyone, only to a few chosen prophets or teachers, and the rest of us depend on their preaching to know God's will. To believe the Book of Mormon is to believe the prophecy of Joseph Smith; to follow the Koran is to follow the prophecy of Muhammad; and to

base one's faith on the Gospel is to accept the divinity of Christ and the authenticity of Matthew, Mark, Luke, and John's testimony.

Of course, nothing in principle prevents a precept of justice from forming part of a prophetic revelation *and* forming part of a conception that we would be moved to adopt by publicly accessible reason alone. That is precisely the situation when secular reasons as well as religious reasons can be offered for a public policy. Indeed, most of religiously based morality coincides with moral precepts that we would find reasonable even without the revelation. In the case of such precepts, reason and revelation are redundant alternative paths to the same conclusions. Fundamentalists may not believe that the sanction of reason in any way bolsters the claims of revelation; they may even insist that acting justly because it is reasonable rather than because it is God's commandment is sinful and impious. But the fact remains that publicly defensible precepts are not esoteric, even if they also form part of an esoteric revelation.

If this were true of the whole of our conception of justice, then the opposition between reason and revelation would lose most of its force. It would boil down, in fact, to quibbling over the word "only" in Kant's claim that justice "can be conceived of *only* as publicly knowable." Rather than split theological hairs, we may simply give up the word "only" in Kant's formula, and observe that if in fact the best conception of justice is publicly knowable, religious activists have no reason to insist on revelation rather than public reason to back their policy preferences.

Thus, the argument that revelation, not reason, is the true basis of justice is important only if we suppose that, in addition to its independently reasonable precepts of justice, revelation contains precepts of justice that cannot be defended by reasoned argument.

This creates an interesting problem, however, for a precept of justice that cannot be defended by reasoned argument is very likely to be one that can be *attacked* by reasoned argument. Many religions, for example, believe that women must be excluded from many of the goods of society, or — to take an earlier example — that gay marriage is an abomination. Neither of these dogmas can be defended by reasoned argument, and in fact each of them may be attacked by reasoned arguments against subjugating women and discriminating against gay couples who wish to marry.

The point is more general: *any* impairment or injury that is inflicted on individuals or groups for no good reason is affirmatively unjust (and not merely morally neutral). Only the revelation that God has commanded the impairment can possibly justify it.

Let me be clear about what I am *not* arguing. I am not arguing that all religiously based moral precepts that cannot be grounded in reasoned argument are immoral or unjust. For many of these precepts impose no injuries on other people. The Jewish and Islamic proscription on the eating of pork, the Christian injunction to love your neighbor as yourself, and the requirements of ritual observance and prayer in all religions fall into this category. From the standpoint of publicly accessible reason such precepts are at worst morally neutral, and at best praiseworthy (when they hold their adherents to a higher standard of charity and generosity than justice alone requires). But precepts of justice typically concern matters of distribution and interpersonal relationship as well as individual behavior: justice sometimes requires us to impose limits on rights, or take from Peter to give to Paul. If those precepts have no reasoned basis, they impose their injuries and impairments gratuitously, and that is why from the standpoint of publicly accessible reason they are not merely morally neutral or praiseworthy, but affirmatively unjust.

Taking the Prophet's Word

This brings me to a second point about grounding justice in revelation. I have pointed out that revelation is esoteric, and that to rely on it is to have faith in the prophets who communicate the revelation. To the prophets, the revelation no doubt seems self-authenticating and self-evident. But — as the Christian theologian Søren Kierkegaard argues tellingly in his *Philosophical Fragments* — no one who is not the direct recipient of divine revelation has the slightest reason to accept the prophet's assurance that it is divine. The magnitude of the prophet's claim to have received direct communication from God transcends any possible evidence he has to offer, even evidence available to the first generation of followers who actually know the prophet. Kierkegaard dramatizes the point by insisting metaphorically that the prophet's claim is infinite — it is a claim about the Godhead — while all possible evidence is finite. This echoes David Hume's famous argument against miracles. According to Hume, "no testimony is sufficient to establish a miracle, unless the testimony be of such a kind, that its falsehood would

Public Education in a Multicultural Society: Policy, Theory, Critique

Robert K. Fullinwider, editor

This important collection of essays offers a sustained philosophical examination of fundamental questions raised by multicultural education in primary and secondary schools. The essays focus on both theory and policy. They discuss the relation between culture and identity, the role of reason in bridging cultural divisions, and the civic implications of multiculturalism in the teaching of history and literature.

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289 pages
\$54.95 (cloth)
\$18.95 (paper)

Cambridge University Press
110 Midland Avenue
Port Chester, N.Y. 10573-4930
Tel: (800) 872-7423
FAX: (914) 937-4712
Credit cards accepted

be more miraculous, than the fact, which it endeavors to establish." Which is more miraculous: that the man before me is a genuine prophet, or that he is mistaken? For that matter, which is more miraculous: that the voice he hears is really God's voice, or that it is a hallucination? History, after all, is replete with false prophets, including both charlatans and lunatics.

*Which is more miraculous:
that the man before me is a genuine prophet,
or that he is mistaken?*

Pascal once argued that believing in God is a good bet, because if God exists the rewards of belief are incalculably great, while if God does not exist we sacrifice little by believing falsely that He does. If it weren't for the facial injustice of some of the revealed precepts, we might not fault the faithful for making Pascal's wager, that is, for casting their lot with the prophet on the slender probability that he is right. But when the prophet insists that the faithful must engage in practices that would otherwise be unjust, then Pascal's wager is no longer an innocent calculation of personal benefits and risks.

This point, too, was explored by Kierkegaard, in his famous discussion in *Fear and Trembling* of Abraham's sacrifice of Isaac. Kierkegaard stresses the absolute injustice and immorality of a father cold-bloodedly killing his own son, and insists that no ethical standpoint could possibly justify Abraham. Rather, Abraham's faith leads him to what Kierkegaard calls the "teleological suspension of the ethical" — suspending ethical judgment to fulfill a higher goal, namely following God's command.

By this Kierkegaard does not mean that "the ethical" is outweighed by revelation — heathen ethics beaten by true ethics, as it were — but, quite literally, that from the religious point of view ethics as such is simply suspended, the way that a government in a grave emergency suspends its constitution. When a government suspends its constitution, that fact does not make its subsequent actions any more constitutional. Likewise, within the sphere of the ethical (to use Kierkegaard's phrase), the divine command changes nothing whatever; it merely leads us to judge that God has commanded us to do something unjust. To the unbeliever, no teleological suspension of the ethical is possible, and thus the divine command offers Abraham not the slightest hope of mitigation.

Here, as in the *Philosophical Fragments* and in his masterpiece, the *Concluding Unscientific Postscript*, Kierkegaard works energetically to make the adoption of Christian revelation harder rather than easier. As a

devout Christian, he aimed to counteract the cultural pressure toward tame and conventional piety — Christianity on the cheap — by stressing revelation's absolute lack of intellectual and moral respectability. Reason and evidence can never demonstrate the truth of revelation, and taking any prophet's word for it is credulous and perhaps downright sinful. Rather, religious commitment demands a "leap of faith" — one of Kierkegaard's concepts that has entered into our ordinary language.

The Paradoxes of Theopolitics

This brings me to my third point, which combines the first two. An honest advocate of esoteric, revelation-based principles of justice will concede (1) that those who are not party to the revelation have no reason to embrace the prophet's creed, and (2) that anyone who does not embrace it will *rightly* condemn, on moral grounds, those of its precepts that are irrationally oppressive. This places theopoliticians in a curious dialectical position — provided, of course, that they are intellectually honest. They must agree that some of their precepts deserve moral condemnation, and thus they should criticize and scorn any unbeliever who is unwilling to condemn them. But that is not the only paradox in the theopoliticians' stance.

Let us suppose, as many religions do, that embracing a revealed religious creed requires an affirmative commitment on the part of the believer. In that case, unbelief forms the baseline position that a disinterested party ought to embrace, absent evidence to the contrary. If advocates of esoteric justice acknowledge this point, then they must also agree that nothing they have to say in criticism of the publicity of justice ought to persuade a disinterested person, even to the slightest degree. The most that believers can do is implore the disinterested person to join them in the Kierkegaardian leap of faith, acknowledging all the while that doing so is absurd.

I do not expect that these Kierkegaardian reflections will sway the true believer, who with open eyes has made the leap of faith. For against the justifiable doubts of the disinterested person or the unbeliever stands the sheer, inescapable truth of the revelation. But my arguments are not intended to shake anyone's faith. They are intended only to show that revelation doesn't belong in the political arena. Let me recapitulate the reasoning.

First, I have aimed in a Kierkegaardian vein to exhibit plainly the epistemological and moral price tag attached to backing sectarian revelation against public justice. It means believing the incredible and backing the unjust and unethical. Kierkegaard suspected that few of his contemporaries who thought of themselves as Christians were actually willing to pay this price.