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Secular not Secularist America

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Other contributors to this symposium see "liberalism"[3] as the problem and "God" as the solution.[4] To a large extent, Ithink they have it backwards. "God" is the problem to which "liberalism" provides a particularly creative solution. Power hates a rival,[5] and God – or allegiance to an all-embracing monotheistic God – poses a significant threat to power because the wild faith of the martyr cannot be tamed by civil authority. Shadrach, Meshach, and Abednego represent archetypal figures in the history of Israel's Babylonian captivity.[6] Christianity's first three centuries witnessed the martyrdom of many at the hands of Roman authorities.[7] With Constantine's conversion in 312, Christianity began its life as a legally recognized public institution, creating new tensions in society that persist to this day caused by split allegiances between the City of God and the City of Man and the sometimes rival institutions of

1. This is a version of the concluding chapter to my forthcoming book, "To Bind of the Nation's Wounds: Rekindling the Spirit of Our Living Constitution."

2. Gene and Elaine Edwards Family Chair in Law, Professor of Law, and Special Assistant to the President, the University of Oklahoma College of Law. Many thanks to the editors of the Campbell Law Review for being such gracious hosts. This Author also is indebted to Professor Kevin Lee and the other participants of the symposium for providing such a rich intellectual banquet to feast on in the middle of Lent.

3. Jürgen Habermas understands political liberalism "as a nonreligious and postmetaphysical justification of the normative bases of the democratic constitutional state." Jürgen Habermas, *in* JÜRGEN HABERMAS & JOSEPH RATZINGER, THE DIALECTICS OF SECULARIZATION: ON REASON AND RELIGION 24 (2006) (dialogue). In attempting to legitimate state authority "with a neutral world view," political liberalism "renounces the 'strong' cosmological or salvation-historical assumptions of the classical and religious theories of natural law." *Id.*

4. In my opinion, symposium contributors Bruce Frohnen, Donald McConnell, Scott Pryor, and Barry Shain hold this view. *See* Symposium, *Liberalism, Constitutionalism, and Christianity: Perspectives on the Influence of Christianity on Classical Liberal Legal Thought*, 33 CAMPBELL L. REV. 501 (2011).

5. *See generally* BERTRAND DE JOUVENEL, ON POWER (Liberty Fund 2010) (1948).

6. *See Daniel* 3:12 (New American Bible) ("Shadrach, Meshach, Abednego; these men, O king, have paid no attention to you; they will not serve your god or worship the golden statue which you set up.").

7. *See generally* EUSEBIUS, THE HISTORY OF THE CHURCH: FROM CHRIST TO CONSTANTINE (Penguin Classics 1990) (1965) (detailing the early history of the Christian church).

church and state.[8] In the 11th and 12th centuries, for example, the pope and European monarchs clashed over who controlled the appointment of church officials.[9] In the 12th Century, King Henry II of England tangled with his old friend and new rival, Thomas à Becket, Archbishop of Canterbury, ending with the latter's assassination in the cathedral in 1170.[10] These tensions heated up with the Reformation and the rise of the nation-state. King Henry VIII temporarily resolved the tension in England by making himself the head of the Church in England.[11] A few generations later, Thomas Hobbes, agreeing with Henry VIII, argued that the church ought to be subordinated to the state and its ends.[12] John Locke offered a different way of resolving the tension. In his view, the church could and should be separated from the state, but the church's sphere of influence would be limited, extending only to the salvation of its members souls. In *A Letter Concerning Toleration*, Locke writes:

> I esteem it above all things necessary to distinguish exactly the business of civil government from that of religion, and to settle the just bounds that lie between the one and the other. If this be not done, there can be no end put to the controversies that will be always arising between those that have, or at least pretend to have, on the one side, a concernment for the interest of men's souls, and, on the other side, a care of the commonwealth.[13]

For Locke, the commonwealth consists of "a society of men constituted only for the procuring, preserving, and advancing [of] their

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8. *See* HAROLD BERMAN, LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION 92 (1983) ("There had always been a certain tension associated with the subordination of the clergy, and especially the papacy, to persons who . . . were not themselves ordained priests.").

9. *Id.* at 85–99.

10. *See generally* FRANK BARLOW, THOMAS BECKET (1990).

11. *See* Act of Supremacy 1534, 26 Henry VIII c. 1, *in* 1 ENGLISH HISTORY IN THE MAKING 187–88 (William L. Sachse ed. 1967).

12. *See* THOMAS HOBBES, LEVIATHAN 399 (1935) ("Christian Kings are still the Supreme Pastors of their people, and have power to ordain what Pastors they please, to teach the Church, that is, to teach the People committed to their charge."). For Hobbes, "the Civill Soveraign . . . hath the Supreme Power in all causes, as well Ecclesiasticall , as Civill ." *Id.* at 405.

13. JOHN LOCKE, A LETTER CONCERNING TOLERATION (1689), *in* TWO TREATISES OF GOVERNMENT AND A LETTER CONCERNING TOLERATION 211, 218 (Ian Shapiro ed., Yale Univ. Press 2003). "[T]he church itself is a thing absolutely separate and distinct from the commonwealth. The boundaries on both sides are fixed and immovable. He jumbles heaven and earth together, the things most remote and opposite, who mixes these societies, which are, in their original, end, business, and in every thing, perfectly distinct, and infinitely different from each other." *Id.* at 226.

own civil interests," which he defines as "life, liberty, health, and indolency of body; and the possession of outward things, such as money, lands, houses, furniture, and the like."[14] In contrast, "[t]he end of a religious society . . . is the public worship of God, and by means thereof the acquisition of eternal life. . . . Nothing ought, nor can be transacted in this society, relating to the possession of civil and worldly goods. . . . [T]he possession of all outward goods is subject" to the civil magistrate's jurisdiction.[15] With respect to temporal concerns, Locke renders the church impotent. Religious life will be tolerated so long as it doesn't interfere with civil life.

Like Hobbes and Henry VIII, Locke desired an end to the tension between church and state with total victory for the state in matters of civil life; Hobbes and Henry by subordinating the church to the state and Locke by making the church irrelevant in matters of public life. We are told today that our nation is too diverse to be influenced by religious moral principles. But, history reveals a deeper and darker reason for marginalizing religion. Simply put, the state is jealous of this rival source of authority. Judeo-Christian history is replete with instances of and arguments in favor of bringing religion to heel.

Unlike Locke, Hobbes, Henry, and some contemporary secularists, our founding generation seemed much more comfortable living with tension in public life. The framers, for instance, built into our constitutional structure a separation of powers and checks and balances to provide for creative responses to the tensions inherent in governing human beings.[16] And, they understood the benefits to be gained from holding the church and state - two rival centers of power and sources of allegiance - in a sort of free form tension with one another. Although they wisely provided for the separation of church and state, they did not follow Locke's advice in two significant ways.

First, they specifically rejected Locke's intolerance of Catholics, Muslims, and atheists. Locke had urged intolerance of Catholics together with Muslims and atheists for opposite reasons: Catholics and Muslims because of their loyalties to "another prince,"[17] and atheists because of their perceived lack of loyalty to "the bonds of human

14. *Id.* at 218.

15. *Id.* at 222–23.

16. *See, e.g.*, THE FEDERALIST No. 10 (James Madison), No. 51 (Alexander Hamilton), *available at* http://www.law.ou.edu/ushistory/federalist/.

17. *See* LOCKE, *supra* note 13, at 244–46 (noting Catholic allegiance to the papacy and Muslim allegiance to the Ottoman emperor).

society."[18] The United States Constitution specifically rejects this Lockean intolerance by stating that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."[19] Some have argued that the "no religious test" clause demonstrates that the United States was to be set up as a secularist state in which religion ought not influence secular life.[20] But, clearly that is not what the "no religious test" clause accomplishes. Instead, it provides for a much richer and deeper pluralism, welcoming into the cacophony of political and civil life the religious voices of Catholics and Muslims along with the various non-religious voices to be heard alongside their Protestant brothers and sisters, heightening not diminishing the potential for conflict and disagreement. In other words, the founding generation was not afraid of the tension residing within a more robust pluralism, which today extends also to Jews, Hindus, Buddhists, and others.

Second, our Constitution's framers never intended to implement Locke's absolute separation of church and state. If they had intended to follow Locke's lead to remove this tension of dual allegiances to God and country from civil society, they could have taken two measures to ensure a secularist or *Godless Constitution*.[21] First, they could have abolished then existing state churches. Article I, Section 10 of the Constitution prohibits states from taking certain specific actions: "[n]o State shall enter into any Treaty . . . coin Money . . . ."[22] If the framers had meant to cabin religion within a private spiritual sphere, they could have included the phrase, "no State shall establish a Church." Instead, they prohibited the federal government from interfering with established state churches.[23]

Second, the framers could have clarified the establishment and free exercise components of the First Amendment. In relevant part, the First Amendment reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."[24] If

18. *Id.* at 246.

19. U.S. CONST. art. VI, cl. 3.

20. *See, e.g.*, ISAAC KRAMNICK & R. LAURENCE MOORE, THE GODLESS CONSTITUTION: THE CASE AGAINST RELIGIOUS CORRECTNESS 83 (1996) ("The 'no religious test' clause in the Constitution spoke with the authority of very painful recent history. America thus represented the first realization of the liberal secular vision of the separation of church and state and the first formal repudiation of the Christian commonwealth.").

21. *Id.*

22. U.S. CONST. art. I, § 10.

23. U.S. CONST. amend. I.

24. *Id.*

the Constitution's drafters had meant to prohibit religion from influencing debates over the nature and proper distribution of civil and worldly goods, they could have adopted a modified First Amendment: "Congress shall not establish a religion, prohibit the free exercise of religion, or let religion be a guide or influence in lawmaking." The fact that they did not specifically constitutionalize Locke's impenetrable wall of separation suggests that they were willing to live with the tension of rival authorities and rival institutions.

Not only was the founding generation willing to live with the tension, there is much evidence that they welcomed it as necessary to the preservation of the nascent republic. Washington,[25] Madison,[26] and Jefferson[27] all stated that our liberty was more secure when placed upon a religious foundation. John Adams was of like mind. He said: "[W]e have no government armed with power capable of contending with human passions unbridled by morality and religion. Avarice, ambition, revenge, or gallantry, would break the strongest cords of our Constitution as a whale goes through a net. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other."[28] Rejecting Locke's dualistic separation of body and spirit, many influential members of the founding generation understood that religious and moral belief, formed in church communities, not only would, but should influence the temporal world of civil life, including the nation's politics and governance. Robust faith

25. 35 GEORGE WASHINGTON, *Farewell Address*, *in* THE WRITINGS OF GEORGE WASHINGTON FROM THE ORIGINAL MANUSCRIPT SOURCES 214, 229 (John C. Fitzpatrick ed., 1940) (Sept. 19, 1796) ("Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensible supports.").

26. JAMES MADISON, MEMORIAL AND REMONSTRANCE (June 20, 1785), *available at* http://www.law.ou.edu/ushistory/remon.shtml (last visited Apr. 3, 2011) ("Before any man can be considered as a member of civil society, he must be considered as a subject of the Governor of the Universe.").

27. THOMAS JEFFERSON, *Notes on the State of Virginia*, *in* THE COMPLETE JEFFERSON 677–78 (Saul Padover ed. 1943) ("Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God?").

28. JOHN ADAMS, *To the Officers of the First Brigade of the Third Division of the Militia of Massachusetts*, *in* 9 LIFE AND WORKS OF JOHN ADAMS 228, 229 (Boston, Little, Brown & Co. 1854) (1798); *see also* John Adams, *A Proclamation*, *in* 1 A COMPILATION OF THE MESSAGES AND PAPERS OF THE PRESIDENTS 1789–1908, at 268, 268–69 (James D. Richardson ed. 1899) (1798) ("[T]he safety and prosperity of nations ultimately and essentially depend on the protection and the blessing of Almighty God, and the national acknowledgment of this truth is . . . a duty whose natural influence is favorable to the promotion of that morality and piety without which social happiness can not exist, nor the blessings of a free government be enjoyed.").

and religious sensibilities would provide the moral fabric for the new nation's foundation.

Since America's founding, we have travelled more than 200 years further along this pilgrim journey that is the unfolding drama of human history. Along the way, other important figures in American history have made statements agreeing with the founders' intuition that religion and religious morality were essential to our ongoing experiment in self-governance. In his Second Inaugural Address, Lincoln said it most eloquently: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle and for his widow, and his orphan – to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."[29]

Ninety years after Lincoln's second inaugural, Congress added the phrase "under God" to the Pledge of Allegiance in direct response to and to differentiate us from the atheistic foundations of the Soviet Union. The House of Representatives Report accompanying this change explained:

> At this moment of our history the principles underlying our American Government and the American way of life are under attack by a system whose philosophy is at direct odds with our own. Our American Government is founded on the concept of the individuality and the dignity of the human being. Underlying this concept is the belief that the human person is important because he was created by God and endowed by Him with certain inalienable rights which no civil authority may usurp. The inclusion of God in our pledge therefore would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator. At the same time it would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual."[30]

When Martin Luther King, Jr. penned his justly famous Letter from Birmingham Jail, he did not do so as a liberal, unencumbered self. Rather, he wrote the letter as an African-American, Christian pastor seeking the recognition of God-given rights that had eluded his people for over 340 years. He asked:

> How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An

29. 7 ABRAHAM LINCOLN, *Second Inaugural Address*, *in* THE COLLECTED WORKS OF ABRAHAM LINCOLN 332, 333 (Roy P. Basler ed., 1953).

30. H.R. REP. NO. 83-1693, at 1 (1954), *reprinted in* 1954 U.S.C.C.A.N. 2339, 2340.

> unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority.[31]

In the years since the great civil rights struggles of the 1960s, our nation's political and moral leaders continue to situate themselves and their rhetoric within America's history and values, including its appeals to God. In their first inaugural addresses, President Clinton quoted scripture,[32] concluding that each of us, "in our own way and with God's help," must answer the call to service;[33] President George W. Bush reminded us that we are not the ultimate authors of our history because God and his providence guide us;[34] and President Obama hoped that our children's children would note that we recognized "God's grace upon us."[35]

We simply do not live and speak like ideal "liberal citizens" who are supposed to enter the public-square "as a stripped-down entit[ies],"[36] – "abstract-not-full personage[s]" – people unencumbered by place, gender, religion, or history. Rejecting this form of dualism, we live an earthy existence with both glamorous and grotesque flesh on our bones shaped by the glorious, inglorious, and quotidian histories of our families, neighborhoods, cultures, and religions. Each and every day we bring our thick, embodied selves into public spaces - town halls, the voting booth, parent teacher conferences, the corner café, and even on to the highway, where small kindnesses and road rage can materially affect our daily commutes.

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31. MARTIN LUTHER KING, JR., LETTER FROM THE BIRMINGHAM JAIL 4 (1963), *available at* http://www.stanford.edu/group/King/frequentdocs/birmingham.pdf.

32. WILLIAM J. CLINTON, FIRST INAUGURAL ADDRESS (Jan. 20, 1993), *available at* http://www.law.ou.edu/ushistory/clinton.shtml ("The Scripture says 'And let us not be weary in well doing: for in due season we shall reap, if we faint not.'").

33. *Id.*

34. GEORGE W. BUSH, FIRST INAUGURAL ADDRESS (Jan. 20, 2001), *available at* http://www.law.ou.edu/hist/gwbush-inaugural-2001.shtml ("[W]e are guided by a power larger than ourselves who creates us equal in His image.").

35. BARACK H. OBAMA, FIRST INAUGURAL ADDRESS (Jan. 20, 2009), *available at* http://www.law.ou.edu/hist/bhobama-inaugural-2009.shtml.

36. Stanley Fish, *Religion and the Liberal State Once Again*, N.Y. TIMES, Nov. 1, 2010, *available at* http://opinionator.blogs.nytimes.com/2010/11/01/religion-and-the-liberal-state-once-again/.

Still, we should ask: Do the secularists have the better argument? In our increasingly pluralistic and globalized society, should we attempt a disembodied – or should I say dis-spirited - civic existence? Can we? Will a thinner, more abstract, public self lead to greater civil accord, tolerance, inclusiveness, equality, and freedom? The secularist state supposedly promotes six closely connected goods: neutrality, tolerance, inclusiveness, pluralism, diversity, and access to participation in civic life. That the secularist state can produce these goods is a myth. A secularist state will not and indeed cannot be "neutral between competing visions of the good and the good life."[37]

It is simply impossible for a state – any state - to wash its hands of competing conceptions of the good and the good life. The choice of whether to welcome or even allow Wal-Mart into a community is laced with competing conceptions of the good as is a farm policy that favors big industrial farms over small family farms. To use a colloquialism from my part of the country, the idea of government neutrality is simply a dog that won't hunt.

Undermining the self-proclaimed values of pluralism and diversity, a secularist's non-neutral conception of the good will inevitably lead to some degree of intolerance and exclusivity as those who bend to the will of the ruling secularist ideology receive an unequal share of the goods of both public and private life.[38] I suspect that this intolerance arises out of a genuine desire for good. But fear and even disdain will creep in as the

37. *Contra id.* For an excellent overview and critical examination of liberalism's claim to neutrality, see John Breen, *Neutrality in Liberal Legal Theory and Catholic Social Thought*, 32 HARV. J.L. & PUB. POL'Y, 513 (2009). *See also* Carl F. Stychin, *Faith in the Future: Sexuality, Religion and the Public Sphere*, 29 OXFORD J. LEGAL STUD. 729, 748 (2009) ("[C]ritical scholars of law have long understood that liberal neutrality can never be truly liberal, nor genuinely neutral."); Joseph Weiler, *Crucifix in the Classroom Redux*, EJIL EDITORIAL, June 1, 2010, *available at* http://www.ejiltalk.org/lautsi-crucifix-in-the-classroom-redux/ (last visited Apr. 3, 2011) ("In a society where one of the principal cleavages is not among the religious but between the religious and the secular, absence of religion is not a neutral option. . . . [I]n the conditions of our societies, the naked public square, the naked wall in the school, is decidedly not a neutral position. . . . It is no more neutral than having a crucifix on the wall. It is a disingenuous secular canard, the opposite of pluralism, which has to be dispelled once and for all if we are serious about teaching our children, religious and secular, Christian, Muslim and Jew, to live as a harmonious society in mutual respect."). *But see* ANDREW ALTMAN, CRITICAL LEGAL STUDIES: A LIBERAL CRITIQUE 72–77 (1990) (identifying four types of liberal neutrality).

38. *See* Breen, *supra* note 37, at 550 ("Some liberal theorists have acknowledged that neutrality in law does not mean neutrality with respect to outcome. Charles Larmore notes that the actions of the state 'will generally benefit some people more than others, and so some conceptions of the good life will fare better than others.'"(quoting CHARLES E. LARMORE, PATTERNS OF MORAL COMPLEXITY 43 (1987))).

secularist state denies ideological dissenters' access to certain occupations,[39] charitable work,[40] and other basic public goods,[41] relegating diverse ways of life to an ever shrinking private realm. Even the seemingly private realm of parenting and educating one's children comes under the microscope of the supposedly tolerant secularists with some arguing that the state has the duty to protect children from their illiberal parents.[42] In short, the secularist state with its naked public

39. *See, e.g.*, Elane Photography v. Willock, No. D-202-CV-200806632 (N.M. 2d Jud. Dist. Ct. Dec. 16, 2009) (entering summary judgment against a photographer who refused for religious reasons to photograph a same-sex commitment ceremony, affirming the opinion of the New Mexico Human Rights Commission, and ordering photographer to pay attorney fees), *available at* http://www.telladf.org/userdocs/ElanePhotoOrder.pdf.

40. *See, e.g.*, Thomas Berg, *What Same-Sex Marriage and Religious Liberty Claims Have in Common*, 5 NW. J.L. & SOC. POL'Y 206, 206 (2010) ("Catholic Charities of Boston, a large provider of social services in Massachusetts, was told it would be barred from performing adoptions in the state unless it agreed to place children in same-sex households."); *see also* John Garvey, Op-ed., *State Putting Church Out of Adoption Business*, BOSTON GLOBE, Mar. 14, 2006, *available at* http://www.boston.com/news/globe/editorial_opinion/oped/articles/2006/03/14/state_putting_church_out_of_adoption_business/ ("The issue is not whether the Church or the state has the better of the debate over gay families. When freedom is at stake, the issue is never whether the claimant is right. Freedom of the press protects publication of pornography, blasphemy, and personal attacks. Freedom of religion is above all else a protection for ways of life that society views with skepticism or distaste.").

41. *See* Catholic Charities of Sacramento v. California, 85 P.3d 67 (Cal. 2004), *cert. denied*, 543 U.S. 816 (2004); *see also* Berg, *supra* note 40, at 206 (explaining that a religious college that provides married-student housing might violate state law if it refused to house same-sex married couples).

42. *See, e.g.*, JAMES DWYER, VOUCHERS WITHIN REASON: A CHILD-CENTERED APPROACH TO EDUCATION REFORM 60 (2002) (" Speaking of family rights and family decisions allows theorists to ignore the fact that child-rearing is a matter of the state's supervising what some private individuals (parents) do to other private individuals (children)."); JAMES DWYER, RELIGIOUS SCHOOLS V. CHILDREN'S RIGHTS 171 (1998) ("Considerations of justice for children, based on judgments about their temporal interests, therefore support state control over the content even of religious instruction in religious schools."); MEIRA LEVINSON, THE DEMANDS OF LIBERAL EDUCATION 51 (1999) ("[T]here seems to be no reason *in principle* that a committee consisting of the state and other self-appointed interested adults might not demand to make collective judgments in tandem with the parents about the child's best interests. . . . If others can govern better, why should they not be granted partial control? Parents would still be allowed to keep their children and act as primary caretakers, but decisions about child-rearing would be subject to collective deliberations."). For a critique of Dwyer, see Michael Scaperlanda, *Producing Trousered Apes In Dwyer's Totalitarian State*, 7 TEX. REV. L. & POL. 175 (2002); *see also* Michael Scaperlanda, *Realism, Freedom, and the Integral Development of the Human Person: A Catholic View of Education*, 44 J. CATH. LEGAL STUD. 65 (2005).

square will not serve as a panacea relieving us of the social ills of inequality, injustice, and lack of liberty.

Three serious problems also arise within the secularist state: minority rule, disintegration of the personality, and absence of vital criteria for judgment. First, in a country where an overwhelming majority professes some degree of religious commitment,[43] religiosity ought to manifest itself in the culture, including politics and law. Secularism's attempts to marginalize the religious voice through the assumptions prevalent in the education system,[44] through intimidation,[45] and through court action[46] are anti-democratic. Our society readily celebrates the outward manifestations of diverse cultures – dress, art, and especially food. Ethnic festivals enrich our cities and diversity days enliven the school curriculum. But we tend to ignore the inner life of a culture, rarely asking what brought it into being, what motivated it, what are its primary attachments, and what does it ultimately value. We tend to get squeamish in the face of these religious questions. A robust democratic pluralism would mine the riches of this diversity without fear of the tensions that may arise because of the inevitable diverse conceptions of the communal good.

Second, a true secular politics requires an unnatural separation of the self-identified religious person's core from their public persona, causing a disintegration of the person. Persons who place God at the center of their lives simply cannot think and act in a manner consistent

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43. U.S. RELIGIOUS LANDSCAPE SURVEY, THE PEW FORUM ON RELIGION IN PUBLIC LIFE 2007, available at http://religions.pewforum.org/reports (finding that 78.4% of Americans surveyed identified themselves as Christian, 4.7% as other religions, and 16.1% as unaffiliated, including atheists (1.6%) and agnostics (2.4%)).

44. *See, e.g.*, C.S. LEWIS, THE ABOLITION OF MAN (1962) (providing a critical study of the secularist assumptions in education).

45. *University of Illinois Instructor Fired Over Catholic Beliefs*, FOXNEWS, July 9, 2010, http://www.foxnews.com/us/2010/07/09/university-illinois-instructor-fired-catholic-beliefs/ (noting that the university fired Kenneth Howell after a student accused him of engaging in hate speech for teaching the Catholic position on homosexual acts in a course on Catholicism).

46. Justices Stevens and Blackman viewed the Establishment Clause as prohibiting laws motivated by religious sentiment. *See* Webster v. Reproductive Services, 492 U.S. 490, 566–67 (1989) (Stevens, J., concurring in part & dissenting in part) ("I am persuaded that the absence of any secular purpose for the legislative declarations that life begins at conception and that conception occurs at fertilization makes the relevant portion of the preamble invalid under the Establishment Clause . . . ."); *see also* Planned Parenthood v. Casey, 505 U.S. 833, 932 (Blackmun, J., concurring in part, concurring in judgment in part, & dissenting in part) (stating that law violates the Establishment Clause if based on "theological or sectarian" interests)

with secularism's demand that they act as if God did not exist. If for example, the monotheistic God of Christianity, Judaism, and Islam exists, He is the maker and sustainer of all things and cannot be confined to Sabbath worship or private morality.[47] This monotheistic God is God of both the religious and the secular realms.[48] Therefore, the believing Christian, Jew, and Muslim, cannot segregate God-time from other-time without denying God – without becoming functional atheists – because God is all-in-all. Receipt of full "equality" in the supposedly pluralistic secularist state, however, requires citizens to sacrifice all that makes them unique at their core, leaving behind their most important commitments to family, culture, history, and God as they understand God.

This Orwellian world inverts Madison's remonstrance for religious freedom. Madison believed that "[b]efore any man can be considered as a member of Civil Society, he must be considered a subject of the Governour of the Universe."[49] In the name of that same freedom of (or is it "from") religion, the secularist argues that "before any person can be considered a member of civil society, she must agree to set aside and

47. "[S]imple neutrality toward God, in any moment of the creature's being, action, or thought, implies just so far a finite God: and a finite God is not really a God at all. Any such moment of simple neutrality, in other words, already and in principle implies the absence of God--implies, at least in that (logical- 'onto-logical') moment, the death of God." David L. Schindler, *Modernity, Postmodernity, and the Problem of Atheism*, 24 COMMUNIO 563, 567 (1997).

48. "In the Middle Ages, 'secularity,' a term coined to describe the condition of the ordinary lay Christian who belonged neither to the clerical nor to the religious state, inferred opposition between the civil powers and the ecclesiastical hierarchies; in modern times, it has come to mean the exclusion of religion and its symbols from public life by confining them to the private sphere and to the individual conscience." Pope Benedict XVI, Promoting "Healthy Secularity," Not Secularism, Address to Catholic Lay Jurists (Dec. 9, 2006), *available at* http://www.vatican.va/holy_father/benedict_xvi/speeches/2006/december/documents/hf_ben_xvi_spe_20061209_giuristi-cattolici_en.html.

49. James Madison, *supra* note 26. Madison ends the Memorial and Remonstrance with a prayer:

> [E]arnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may on the one hand, turn their Councils from every act which would affront his holy prerogative, or violate the trust committed to them: and on the other, guide them into every measure which may be worthy of his [blessing, may re]dound to their own praise, and may establish more firmly the liberties, the prosperity and the happiness of the Commonweath."

Id.

keep private all religious commitments." The secularist state's shallow and faux pluralism flattens and thins out its denizens, like butter spread over too much bread as Bilbo Baggins might have said, leaving them empty and hollow.[50]

Third, the secularist state's thin conception of the person means it lacks the resources – the foundational criteria – for judging what ought to be tolerated and what ought not to be tolerated in pursuing equality, liberty, and our common life together. In other words, as the liberal secularist state, in the name of neutrality, imposes a certain non-neutral way of life on the governed, it cannot give adequate reasons for its choices. Tolerance, diversity, and non-discrimination rank among the most important values in contemporary culture. Despite appearances, they cannot serve as primary values because each requires a deeper value to guide it and give it meaning. As a society, we will and should refuse to tolerate some choices and some diverse ways of life. At times, we will employ the law to discriminate against some (mis)conceptions of the good. For example, as a society, we condemn ownership of one person over another and would prohibit even voluntary enslavement. We also condemn the selling of body parts, babies, and, for the most part, sex. We continue to outlaw various sexual practices: bestiality, forced sex, consensual incest, and sex between adults and minors whether consensual or not. Despite the fact that animals are not rights-bearing beings, we refuse to tolerate many forms of animal cruelty. Should we allow abortion? Fund abortion? Should we tolerate homosexual behavior? Promote homosexual relationships? Should photographers, medical professionals, lawyers, charitable organizations and others be forced to provide services against conscience as the price for participating in the profession?[51] What should the schools teach about sex and its appropriate place in our lives? How should we as a society treat immigrants? The environment? The bankrupt? The terminally ill? The alcoholic? Some non-neutral conception of the good of the individual and society will guide the proposed solutions to these pressing issues. The decision-making process, if it is to be guided by something other than power, whether exercised by a majority or a minority, requires criteria of judgment for discriminating between that

50. J.R.R. TOLKIEN, THE LORD OF THE RINGS: THE FELLOWSHIP OF THE RING 34 (Ballantine Books 1994) (1954) (Bilbo Baggins on his 111th birthday).

51. For an excellent treatment of conscience, see ROBERT K. VISCHER, CONSCIENCE AND THE COMMON GOOD: RECLAIMING THE SPACE BETWEEN THE PERSON AND STATE (2009).

which ought to be encouraged, tolerated, and met with intolerance.[52] This in turn requires a thick conception of the human person or, in other words, a robust hypothesis about the nature of the human person and his or her place in the community. By its own terms, liberal secularism cannot provide such an adequate anthropology since it avowedly refuses to judge between competing conceptions of the good. Therefore, the secularist state is left with power, not reason, in judging what conceptions of the good will and will not be tolerated within the community.[53]

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52. Human rights are "incomprehensible without the presupposition that man *qua* man, thanks simply to his membership in the species 'man', is the subject of rights that his being bears within itself values and norms that must be discovered – but not invented." Joseph Ratzinger, *in* JÜRGEN HABERMAS & JOSEPH RATZINGER, THE DIALECTICS OF SECULARIZATION: ON REASON AND RELIGION 71 (2006) (a dialogue). Secularists, with their explicit denial of any specific anthropology, lack this presupposition. For a comprehensible grounding of human rights and duties in a pluralistic world,

> [p]olitics and diplomacy should look to the moral and spiritual patrimony offered by the great religions of the world in order to acknowledge and affirm universal truths, principles and values which cannot be denied without denying the dignity of the human person. But what does it mean, in practical terms, to promote moral truth in the world of politics and diplomacy? It means acting in a responsible way on the basis of an objective and integral knowledge of the facts; it means deconstructing political ideologies which end up supplanting truth and human dignity in order to promote pseudo-values under the pretext of peace, development and human rights; it means fostering an unswerving commitment to base positive law on the principles of the natural law.

Pope Benedict XVI, Message for the Celebration of the World Day of Peace: Religious Freedom, the Path to Peace ¶ 12 (Jan. 1, 2011), *available at* http://www.vatican.va/holy_father/benedict_xvi/messages/peace/documents/hf_ben-xvi_mes_20101208_xliv-world-day-peace_en.html.

53. The late John Paul the Great, having lived much of his life under Nazi and Soviet rule, understood clearly the problem of power exercised without adequate reason. He also understood the liberalism was not exempt from the totalitarian impulse animating Nazi and Socialist exercise of power. He said:

> The Supreme Good and the moral good meet in *truth*: the truth of God, the Creator and Redeemer, and the truth of man, created and redeemed by him. Only upon this truth is it possible to construct a renewed society and to solve the complex and weighty problems affecting it, above all the problem of overcoming the various forms of totalitarianism, so as to make way for the authentic *freedom* of the person. "Totalitarianism arises out of a denial of truth in the objective sense. If there is no transcendent truth, in obedience to which man achieves his full identity, then there is no sure principle for guaranteeing just relations between people. Their self-interest as a class, group or nation would inevitably set them in opposition to one another. If one does not acknowledge transcendent truth, then the force of power takes over, and each

But, what is the alternative to the secularist state? Will a thicker, religiously grounded public-self lead to theocracy and, with it, more civil discord, intolerance, inequality, and less freedom? Are the only alternatives theocracy or a secularist state?[54]

In truth, we have never had a hint of real theocracy in America. Following a line that started long before the founding of the United States, the trend is in the other direction, toward what might be called a secularocracy. Those who claim that America is in danger of theocracy misperceive the nature of theocracy, disagree with the policy preferences of a certain set of Christians, or, more likely, both.[55] Alan Dershowitz boldly opens his book, *Blasphemy: How the Religious Right Is Hijacking Our Declaration of Independence,* with this: "The Religious Right is engaged in a crusade to convert the United States into a Christian theocracy based on the Bible and, more specifically, on the divine authority of Jesus Christ."[56] In their book, *The Godless Constitution*, Kramnick and Moore distinguish Martin Luther King's "voice of a religious prophet" from the Christian pro-family movement's "voice of ecclesiastical judges who have a particular set of sins with which to

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> person tends to make full use of the means at his disposal in order to impose his own interests or his own opinion, with no regard for the rights of others. . . . Thus, the root of modern totalitarianism is to be found in the denial of the transcendent dignity of the human person who, as the visible image of the invisible God, is therefore by his very nature the subject of rights which no one may violate — no individual, group, class, nation or State. Not even the majority of a social body may violate these rights, by going against the minority, by isolating, oppressing, or exploiting it, or by attempting to annihilate it".

Encyclical Letter from Pope John Paul II, on Veritatis Splendor ¶ 99 (June 8, 1993), *available at* http://www.vatican.va/edocs/ENG0222/__P9.HTM.

54. Pope Benedict XVI argues that that theocracy and the secularist state both undermine legitimate pluralism:

> It should be clear that religious fundamentalism and secularism are alike in that both represent extreme forms of a rejection of legitimate pluralism and the principle of secularity. Both absolutize a reductive and partial vision of the human person, favouring in the one case forms of religious integralism and, in the other, of rationalism. A society that would violently impose or, on the contrary, reject religion is not only unjust to individuals and to God, but also to itself.

Pope Benedict XVI, *supra* note 52, at ¶ 8.

55. *See, e.g.*, THEOCRACY WATCH, The Rise of the Religious Right in the Republican Party, http://theocracywatch.org/ (last visited Apr. 3, 2011).

56. ALAN DERSHOWITZ, BLASPHEMY: HOW THE RELIGIOUS RIGHT IS HIJACKING OUR DECLARATION OF INDEPENDENCE 1 (2007).

charge heretics."[57] I suspect that Bull Conner, George Wallace, and many white southerners in the 1950s and 1960s failed to see the distinction drawn by Kramnick and Moore. Chris Hedges has a similar take. In *American Fascists: The Christian Right and the War on America*, he praises his father's biblically based support for the civil rights movement, his protests against the Vietnam War, and his advocacy on behalf of gays while simultaneously arguing that "[f]aith presupposes that we cannot know. We can never know. Those who claim to know what life means play God. These false prophets—the Pat Robertsons, the Jerry Fallwells and the James Dobsons . . . lead us back to a mythical paradise and an impossible, unachievable happiness and security, at once seductive and empowering."[58] In *American Theocracy*, Kevin Phillips argues "[t]he excesses of fundamentalism, in turn, are American and Israeli, as well as the all-too-obvious depredations of radical Islam. The . . . last two presidential elections mark the transformation of the GOP into the first religious party in U.S. history."[59] Instead beating the religious right with sound substantive arguments, a rhetorical attempt is being made to delegitimize the religious right's political voice altogether by mischaracterizing them as radical theocrats.

There is very little danger of theocracy in the United States. For many reasons – pluralism and the prohibition of religious establishments being two – our government is unlikely to come under the rule of a religious authority. Can you see the merging of the Southern Baptist Convention, the Presidency, Congress, and the courts into a new administrative structure? Can you see the federal government retaining its present administrative structure but being subordinated to the United States Conference of Catholic Bishops or the Roman Curia?

Of the two alternatives, theocracy and secularocracy, the much greater possibility is secularocracy: a secularist culture and state completing Locke's project of reducing religion to a form of Gnosticism with its sole concern being the other worldly salvation of souls, leaving all temporal and worldly matters in the hands of the state, administered exclusively through secular reasoning. Can you imagine the public

57. KRAMNICK & MOORE, *supra* note 20, at 162.

58. CHRIS HEDGES, AMERICAN FASCISTS: THE CHRISTIAN RIGHT AND THE WAR ON AMERICA 7 (2006). The Religious Right "seeks to redefine traditional democratic and Christian terms and concepts to fit an ideology that calls on the radical church to take political power." *Id.* at 10.

59. KEVIN PHILLIPS, AMERICAN THEOCRACY: THE PERIL AND POLITICS OF RADICAL RELIGION, OIL, AND BORROWED MONEY IN THE 21ST CENTURY (2007).

spaces in the United States being stripped of all religious symbolism?[60] Can you see a day when employees of private enterprise are no longer allowed to wish someone a Merry Christmas?[61] Can you see a day when individuals with consciences formed by religious traditions are forced to choose between following their consciences and giving up their jobs as photographers, pharmacists, and attorneys, or sacrificing their consciences at the altar of the secularist state's concept of the good?[62]

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60. This has been a major source of litigation and academic discourse during the last few decades. *See generally* Symposium, *Signs of the Times: The First Amendment and Religious Symbolism*, 63 OKLA. L. REV. 1 (2010) (arguing that "any permanent display of the Ten Commandments on public property is presumptively unconstitutional"); Symposium, *From Cartoons to Crucifixes: Current Controversies Concerning the Freedom of Religion and the Freedom of Expression Before the European Court of Human Rights*, 26 J. L. & RELIGION 345 (2010–2011) ("reflect[ing] on the approach taken by the European Court of Human Rights to . . . issues concerning the freedom of religion, and its relationship with the freedom of expression"); Symposium, *Constitutionalism and Secularism in an Age of Religious Revival: The Challenge of Global and Local Fundamentalisms Religious Symbols in the Public Space*, 30 CARDOZO L. REV. 2333 (2009) (analyzing modern constitutionalism and its relation to religion under the secularist values of the Enlightenment); Erwin Chemerinsky, *Why Church and State Should Separate*, 49 WM. & MARY L. REV. 2193 (2008) (discussing the role of religion in both the government and public universities).

61. This has already happened in Oklahoma:

> Federal Reserve examiners come every four years to make sure banks are complying with a long list of regulations. The examiners came to Perkins last week. And the team from Kansas City deemed a Bible verse of the day, crosses on the teller's counter and buttons that say "Merry Christmas, God With Us" were inappropriate. The Bible verse of the day on the bank's Internet site also had to be taken down.

Feds Force Okla. Bank To Remove Crosses, Bible Verse, KOCO, Dec. 16, 2010, http://www.koco.com/r/26162860/detail.html; *see also After Outcry, Feds Back Down; Banks Can Display Crosses*, KOCO, Dec. 17, 2010, http://www.koco.com/news/26174152/detail.html (allowing the bank to display Christian signs and symbols after public outcry against the Federal Reserve).

62. *See generally* Vischer, *supra* note 51; Maya Noronha, *Removing Conscience from Medicine: Turning the Hippocratic Oath Into a Hypocrite's Pledge*, 23 GEO. J. LEGAL ETHICS 733 (2010) (analyzing the pros and cons of provider conscience clauses and concluding that such regulations are necessary); Rachel White-Domain, *Making Rules and Unmaking Choice: Federal Conscience Clauses, the Provider Conscience Regulation, and the War on Reproductive Freedom*, 59 DEPAUL L. REV. 1249 (2010) (analyzing the Provider Conscience Regulation and the "extent to which it conflicts with existing federal laws and regulations"); Richard Garnett, *Standing, Spending, and Separation: How the No-Establishment Rule Does (and Does Not) Protect Conscience*, 54 VILL. L. REV. 655 (2009) (explaining how the Establishment Clause protects and promotes religious conscience); Christopher Tollefson, *Conscience, Religion and the State*, 54 AM. J. JURIS. 93 (2009) (discussing the relationship between freedom of conscious and religious liberty).

Can you see a day when religious non-profits close their doors rather than succumb to the secularist state's non-neutral conception of the good?[63] Could our children and grandchildren possibly inherit a United States where religion and religiously grounded arguments over the great issues of the day are banished from the public and civic life?

Is there a middle way – a third path – between theocracy and the secularist state? Despite his opening rhetoric, Dershowitz takes a nuanced position, realizing, *contra* Locke, that religion can be a force for good in the nation's public and even political life. He says "[r]eligion, if it remains independent of the state, can serve as a useful check and balance on excesses of government."[64] He provides an example:

> [D]uring the 1920s, eugenics became the rage among scientists, academics, and intellectuals. Thirty states enacted forcible sterilization laws, which resulted in fifty thousand people being surgically sterilized. In 1927 the United States Supreme Court upheld these laws in a decision by Justice Oliver Wendell Holmes, an atheist, who wrote: "It is better for all the world, if instead of waiting to execute offspring for crime or let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind." The only dissenting opinion came from a religious Catholic. Churches fought hard against sterilization laws. In this instance, religion was right; government and science were wrong.[65]

With this example, Dershowitz offers a middle way between the religious state and the secularist state, theocracy and secularocracy, demonstrating that it is possible to have a pluralistic society with a secular state rooted in and influenced by religion?

This middle way resembles the actual experience of American history much more closely than the secularist theorizing of wishful academics. From the time of Washington and the founding, through Lincoln and the Civil War, to our Cold War with the Soviets and the struggle over civil rights, to our national vigil over the victims of 9/11, our religious sensibilities have influenced public policy, sometimes for the better and sometimes for the worse. At times our public religious fervor has been tinged with triumphalism and at other times with profound humility. Despite noises from the Ivory Tower and occasionally from the courts, we have never been and will likely never willingly be a society with a secularist state uninfluenced by religious conviction and belief.

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63. *See* Garvey, *supra* note 40.

64. DERSHOWITZ, *supra* note 56, at 158.

65. *Id.* at 158–59.

In a free and pluralistic society there is something profoundly disturbing in the argument that religiously grounded beliefs are unwelcome in the public debate over the issues – great and small – of the day. Only a very thin pluralism would require the religious person to leave her deepest self and most profound commitments at home as a price for admission to the public square. True, thick, robust, and unafraid pluralism welcomes the whole of every person into the public debate. A secularist flavor will dominate a hypothetical democratic republic in which a majority of people consider themselves secular – agnostics or atheists – with no ties to the transcendent, as the symbols and substance of the secularist world view make up the main ingredients of the society's culture, including its legal and political culture. If it is tolerant, this society will make room for and welcome its religious denizens, who although endowed with full citizenship, remain, to some extent outsiders, cultural aliens in possession of formal citizenship. In a free society, it cannot be any other way. The only way for a religious flavor to dominant this culture would be for a religious group to impose its will and its culture on the more populous agnostics and atheists. Likewise, in a truly free society, where Muslims or Jews make up a majority of the populace, the worldview of Islam or Judaism will permeate the society, informing the laws of the secular state and laying the foundation for the culture, helping to resolve the hotly disputed issues of the day. If that society is tolerant, it will make room for and welcome others who do not share the faith. These others, although endowed with full citizenship, remain to some extent cultural outsiders. It simply cannot be any other way unless we stretch ourselves so thin that we squeeze out all that makes us unique.

And, so it is in the United State where the vast majority of the people continue to have some attachment to the pilgrim walk of the Christian faith.[66] We are either a free society where the Christian worldview permeates all aspects of our public life and culture, including the symbols and substance of the secular state or we are held in bondage by those representing only a tiny minority of the nation's citizens. It is in this sense that we are a Christian nation and can be nothing else, at least at this point in our history. To some extent, the Jew, Muslim, Hindu, Buddhist, and secularist may feel like an outsider in their own country, just like the Protestant may feel like an outsider in a Catholic part of the country, a Catholic may feel like an outsider in a Protestant area, a conservative evangelical may feel like an outsider in San

66. *See generally* MARÍA RUIZ SCAPERLANDA AND MICHAEL SCAPERLANDA, THE JOURNEY: A GUIDE FOR THE MODERN PILGRIM (2004).

Francisco, and a gay person may feel like an outsider in the heart of the Bible belt. This is an inevitable result of living in a truly pluralistic society. Having a real identity, not the thinned out and abstracted identity of the idealized liberal citizen, means that each of us will feel more at home in certain cultures than others.

Christianity has the resources, modeled in Christ's ministry and embedded deeply in Christianity's Jewish roots, to make welcome the stranger, treating those who are different with dignity and respect.[67] Will a Christian culture always live up to Christ's example? No, but, a secularist state in a secularist culture won't always live up to this ideal either. And, Christian philosophy and theology built upon Christ's living example provides criteria by which to judge a Christian culture's openness to those who find themselves on the margins of our culture, whether materially or spiritually as the lives and work of Abraham Lincoln and Martin Luther King, Jr. testify. The secularist alternative has no counterpoint philosophy, and cannot develop such a philosophy without contradicting its own first principle of neutrality toward competing conceptions of the good. Without opening itself up to the transcendent nature of the human person, the secularist society is hard pressed to definitively conclude that Abraham Lincoln and Martin Luther King, Jr. were right and the advocates of slavery and segregation were wrong in their conceptions of the good.[68]

The middle way between theocracy and secularocracy consists of a secular state influenced profoundly and organically by the deeply pluralistic culture that surrounds it and supports it. With a vast majority of Americans claiming some relation to Christ, this culture, including its politics, will have a Christian flavor. Former British Prime

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67. *See generally* PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH, *available at* http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

68. "Divorced from truth, freedom and liberty are rootless and precarious concepts. As [Richard] Rorty admits, the 'insistence on contingency, and our consequent opposition to ideas like essence, nature, and foundation, makes it impossible for us to retain the notion that some actions and attitudes are naturally inhuman.' In this world, where objective truth is denied or ignored, we 'cannot give a criterion for wrongness.' In other words, we give 'up the idea that liberalism could be justified, and Nazi or Marxist enemies refuted, by . . . argument.'" MICHAEL SCAPERLANDA, A CATHOLIC PERSPECTIVE ON IMMIGRATION JUSTICE, IN RECOVERING SELF-EVIDENT TRUTHS: CATHOLIC PERSPECTIVES ON AMERICAN LAW 292, 297–98 (Scaperlanda & Collett, eds., 2007) (quoting RICHARD RORTY, CONTINGENCY, IRONY, AND SOLIDARITY (1989)). To recognize a criterion for judgment, "[s]ociety . . . must live and organize itself in a way that favours openness to transcendence." Pope Benedict XVI, *supra* note 52, at ¶ 8.

Minister Tony Blair spoke explicitly of the need for us to create just such a political culture with a third way between secularocracy and theocracy. "I learnt over time that person and state, even bolstered by community is insufficient. That a society to be truly harmonious, to be complete, also requires a place for Faith."[69] Contemplating the recent financial crisis, he sees clearly the limits of individualism with its "pursuit of maximum short-term profit, without regard to the communal good," but more broadly he sees a danger in "a purely individualistic or materialistic philosophy" where the "pursuit of pleasure becomes an end in itself."[70] Turning toward community – civic society and public opinion – is insufficient in Blair's view. "It is here that Faith can step in, can show us a proper sense of duty to others, responsibility for the world around us, can lead us to, as the Holy Father calls it 'Caritas in Veritate'" because "Faith enlarges and enriches the idea of community . . . widen[ing] and deepen[ing] the relationship between individuals and the community."[71] The Church's Faith can "represent God's Truth, not limited by human frailty, or by the intersests of the state or by the transient mores of the community, however well intentioned," it can "let the Truth bestow on us humility, love of neighbor, and the true knowledge that indeed passes all understanding."[72]

But, what of the fact that many in our nation and world are not Christian? Blair advocates thick pluralism over the mushy pluralism of the liberal secularist: "I always say clearly: I am and remain a Christian, seeking salvation thru our Lord, Jesus Christ. Globalisation may push people of different Faiths together. But it does not mean we all become of one, lowest common denominator, belief. We are together but retain our distinctive Faith. We respect each other. We are not the same as each other. However, we work together."[73] Working together is possible

69. TONY BLAIR, SPEECH AT RIMINI, (Aug. 27, 2009), *available at* http://www.laicidade.org/wp-content/uploads/2009/10/tony-blair-rimini.pdf.

70. *Id.*

71. *Id.* (referring to Pope Benedict XVI, Encyclical Letter, Caritas in Veritate 2009, *available at* http://www.vatican.va/holy_father/benedict_xvi/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate_en.html). "How will we deal with the world's scarce resources? Who will speak up for the poor, the dispossessed, the refugee, the migrant? How will we bring understanding in place of ignorance and tolerance in place of fear? It is into this space that the world of Faith . . . must step. Political leaders on their own – I tell you frankly – cannot do this." *Id.*

72. *Id.*

73. *Id.*

because "Faith and Reason are in alliance, not opposition."[74] Faith and reason working together in a truly pluralistic society fraught with the inevitable tensions of living in community provide the best hope for continuing this project of self-government in a tolerant and humane way.

74. *Id.* The Prime Minister observes that Faith and reason "support each other; embrace each other; strengthen each other. They are not in a struggle for supremacy. Together they are supreme. That is why the voice of the Church should be heard. That is why it should speak confidently, clearly and openly. Because within any nation and beyond it, in the community of nations, the voice of Faith needs to be and must be heard." *Id.*