Is Social Justice a Form of Statecraft?

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Abstract
This article considers the ethics of H. Tristram Engelhardt in order to scrutinize one example of what otherwise seems to be a robust refusal of statecraft. Engelhardt’s attempt to unite familiar critiques of the modern disdain for tradition with an extended account of a secular ethic based on non-coercion has struck some as curious if not contradictory and impossible. By looking in particular at Engelhardt’s objections to the concept of social justice, I identify some flaws that remain in his account by looking at issues related to the ethics of infanticide. I conclude that Engelhardt underestimates the plastic nature of political discourse in morally diverse societies and gesture toward a more imaginative political existence for Christians in such societies that arises from their refusal of statecraft.

Key words: democracy, social justice, liberalism, diversity, abortion, infanticide

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The question this article asks is also its title: Is social justice a form of statecraft? This is a question that is especially acute in a time when American society appears increasingly divided between those who advocate substantive goods for society and those whose vision of the good society involves their rejection. A principled Christian repudiation of statecraft refrains both from simply adopting as normative the ends of the state and from converting state ends to the goods of the church.
Is the advocacy of social justice truly the latter (converting state ends to the goods of the church)? To put a fine point on it, must Christians who refuse the normativity of an ethic suited to statecraft also oppose the calls for social justice, particularly social welfare projects like healthcare reform? The central concerns of this essay, then, turn on some of the most crucial questions that occupy theological ethicists and political theologians: What is the status of Christian morality in a morally diverse society? How ought those who embrace a set of distinctive moral beliefs and practices position themselves with respect to the concerns of the wider society, to those who do not embrace them? In what follows, I attempt to answer these questions by considering the projects of H. Tristram Engelhardt since one discovers in his work a perspective that is both difficult to categorize (such as along the well-used communitarian and liberal axis) and, as I hope to show, unusually rewarding in the questions it yields, particularly when it is nevertheless ill-suited to answer them to satisfaction.

I

Engelhardt helpfully distinguishes between two different kinds of community: those of “moral friends” and those of “moral strangers.” A community of moral friends shares common moral points of reference and moral language for describing the world in morally significant ways. They will not always agree, of course, but their disagreements will prompt further debate rather than close it down since their disagreements will ratify the preponderance of things on which they do agree, not least of which are the terms according to which they express their differences. Real moral debate will occur here, among moral friends, not only because they share the visions, frameworks, and language necessary for having debate but also because moral friends share a life within which the stakes of their deliberation are most apparent. They must live with the outcome of how they reason and must be able to include their processes of engagement within the history of the life that they claim as their identity.

Moral strangers share none of this. When they speak to each other of moral things, they reach for aspects of their respective moral traditions that not only may be at odds with each other, but may also often be incommensurable: they may in principle not allow for any resolution according to the terms employed. Nevertheless, moral strangers will often find ways of living together; in many cases they must do so. They may even be friends in every other sense of the word. But the real absence of shared moral discourse compels moral strangers who want to collaborate on social and political questions to seek as minimalist a morality as possible. This will be thin and hollowed out in comparison to the actual moralities that people live by, the moralities held among moral friends. But they may be proud of rather than ashamed of this thin morality since it has arisen from their determination to live together in some fashion.

To Engelhardt, the only just way for a society of moral strangers to conduct itself on social questions is to pursue a manifestly secular morality. Their disclaiming of particular moral (often religious) traditions is, however, not the absolute abandonment of the ideas of tradition-as-such so
prized by the liberal Kantian subject. It is instead an action motivated by a prudential assessment of ways of achieving social concord and justice. In some ways it resembles the inverse social impulse that Plato extolled for the Republic. Plato’s ideal citizen derives his individual good from the social good and understands what is right within a social context that associates the community’s ends with the actions of people necessary to achieve it (Vlastos 1978). The platonic vision of such a society does not begin by prioritizing liberal values of individuality, autonomy, and equality but instead subordinates the function of individual citizens to the good of the polis. Engelhardt accepts this communitarian account of social goods but disputes the suggestion that modern, pluralistic societies can identify goods that are unitary and content-full in the classical sense. Moral diversity has rendered impossible understandings of our societies on the model of the Greek polis, although not in ways that have prompted the kinds of solutions proposed by philosophers like John Rawls. For Rawls, liberalism requires that safeguarding individual goods becomes the good of the whole but that it take the form of fairness understood as the absence of comprehensive social goods of the sort that Plato or any other classical thinker would have recognized. Engelhardt strongly rejects the liberalism of Rawls and others, particularly in principle, while ending up with an ethical system that bears curious resemblance to it (Engelhardt 2000, 369-379).

Engelhardt’s justly acclaimed The Foundations of Bioethics therefore presents a fully secular bioethics that has struck many readers as quite odd. It commends for the sake of the social good of moral strangers an ethic that Engelhardt must work hard to make clear that he nevertheless does not advocate as moral. It is “not a book about the concrete moral views of the author” but is instead “an account of the common morality that can bind moral strangers” (Engelhardt 1996, x). For his project, Christians ought to embrace the secular ethic for society at the level of public policy while enriching and preserving an entirely other ethic for Christian living. He goes on to explain that there really are two moralities that anyone (not just Christians) ought to advocate in a society of moral strangers even while there is always going to be a great deal of tension between them:

[T]he reader deserves to know that I indeed experience and acknowledge the immense cleft between what secular philosophical reasoning can provide and what I know in the fullness of my own narrative to be true. I indeed affirm the canonical, concrete moral narrative, but realize it cannot be given by reason, only by grace. I am, after all, a born-again Texan Orthodox Catholic, a convert by choice and conviction . . . My moral perspective does not lack content. I am of the firm conviction that, save for God’s mercy, those who willfully engage in much that a peaceable, fully secular state will permit (e.g. euthanasia and direct abortion on demand) stand in danger of hell’s eternal fires . . . Though I acknowledge that there is no secular moral authority that can be justified in general secular terms to forbid the sale of heroin, the availability of direct abortion, the marketing of for-profit euthanatization services, or the provision of commercial surrogacy, I firmly hold none of these endeavors to be good. These are great moral evils. But their evil cannot be grasped in purely secular terms. . . . To be free is to be free to choose very wrongly [Engelhardt 1996, xi].

Engelhardt makes plain his indebtedness to Alasdair MacIntyre, drawing attention in one section, for example, to “bioethics in the ruins,” a reference to MacIntyre’s well-known “disquieting suggestion”
that indicts modern moral philosophy for being in the ruins of shattered fragments from a prior age in which content-full moral traditions flourished (MacIntyre 1981, ch. 1). Engelhardt therefore accepts MacIntyre’s communitarian critiques of modern pluralistic societies. But he goes far beyond MacIntyre by departing from a critique of modernity generated from within a particular moral tradition (which for MacIntyre is Aristotelian-Thomist). In taking moral diversity as a starting point, Engelhardt asks something that MacIntyre does not: how then ought a post-traditional society conduct its public life? A worthy set of questions for another time will ask what it is that keeps MacIntyre from pursuing this kind of project, whether it risks evacuating yet again the very substantive moral traditions that it prima facie seeks to permit against the modern pressures, and whether the traditions to which MacIntyre is devoted allow for the brokering language required to articulate an ethic that is not itself derived from it and indeed is often quite seriously at odds with it. I admit to having my own suspicions about how such questions would be answered, as will be apparent below, although I will postpone answering them with the rigor they deserve until another occasion.

Agreeing with MacIntyre, Engelhardt adduces that outside of particular moral communities it is not possible to receive guidance on bioethics or any other ethics, nor to know the content of the virtues, nor to have the resources required to engage in practices that are themselves morally substantive and formative. Modernity not only specializes in producing, but crucially developed precisely in order to ensure the existence of, moral strangers. Engelhardt bemoans the modern predicament as much as MacIntyre does. But he goes further by then asking how to carry on at high levels of public policy. Whereas MacIntyre sees the inherent interimability of modern debates regarding, for example, the meaning and application of the right to life, separated as they are from particular traditions, Engelhardt commends another debate altogether: a public project devoted to discovering a minimum, secular ethic that does not pretend to do the moral work that distinct, particular communities will need to conduct on their own. For example, moral strangers are, according to Engelhardt, not only by definition going to disagree about the value of fetal life, something MacIntyre’s genealogy of the modern moral project also makes plain (MacIntyre 1981, esp. ch. 2). But they are then obligated to endorse a public position that makes abortion legal despite their possible (even likely) moral objection to it. Engelhardt himself does not condone abortion, but as he sees that there are no purely secular appeals to reason that will be widely (much less universally) achieved or accepted, moral strangers ought to settle for the peaceable social vision entailed in allowing it.

The principle underlying Engelhardt’s advocacy of two different moralities—one governing the social and political life of moral strangers and one that governs the faithful living of Christians—is non-compulsion of one content-full morality over another. This is a form of justice that arises, in a sense, among people who cannot agree about what is just. In which case, the only justice according to which they must be required to submit will be one no one is actually likely to hold if they were to be
living only among moral friends. Communities of moral friends rather than individuals are the smallest moral units and so if autonomy is extended to anyone, it is extended to such groups (awareness of which is what places Engelhardt closer to classical thinkers like Plato and Aristotle rather than contemporary ones like Rawls). Such communities ought to be free from being compelled to adopt the moral strictures of other communities of moral friends.

Even so, it is possible in at least one sense, to think about this part of Engelhardt’s project as characteristically liberal. In the tradition of John Locke, for example, the commonwealth concerns itself with civil interests that are clearly distinguished from the interests, domain, and business of religion. In A Letter Concerning Toleration, Locke discusses such civil interests as “life, liberty, health, and indolency of the body; and the possession of outward things, such as money, lands, houses, furniture, and the like” (Locke 1955, 17). For Locke, such civil interests not only occupy a sphere of concern from which religion ought prudentially to remove itself for the sake of concord. But they also crucially constitute a set of things about which religion has nothing substantive to say. Religion concerns souls rather than bodies, for example, which is one reason that only on behalf of the magistrate can violence be used; not for defense of religion.¹ In proffering a secular morality, Engelhardt only partly follows the tradition of Locke. Where he differs from that tradition is by making plain that Christianity (at least) does not distinguish between civil and spiritual or religious interests even while this may not only be prudent but in some sense morally required by the secular demands (however thin and insufficient they are as their own) of a morally diverse society.

The secular morality will, of course, never be able to accommodate the required liberties of every content-full morality represented within the society. Engelhardt acknowledges that force will be necessary to bring moral outliers into conformity with the otherwise purposefully modest secular ethic, meaning that its modesty at some point runs out (Engelhardt 1996, 11).²

II

What are the implications for those whose Christian vision involves resisting the temptation to equate Christian morality with statecraft? Is Engelhardt a friend or foe? It seems to me that Engelhardt’s dual morality project only seems opposed to statecraft (or, only if it clarifies things, which it very often does not: Constantinianism). In reality—or so I intend to argue in the remainder of this essay—his opposition to the state’s adoption of a content-full morality is itself an expression of a content-full morality.

Engelhardt wants Christian moral beliefs and practices to be free from coercion. Christian medical professionals, for example, ought to be prepared to adhere to convictions that are ultimately

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¹ This is one of the most significant aspects of the genealogy of religion told in Cavanaugh 2009.
² Engelhardt is clear, however, that moral authority must not derive from force (1996, 67–74).
out of step with a post-Christian (even anti-Christian) culture. And as a negotiation aimed at mitigating the degree to which such dilemmas arise, content-full morality at the level of the state ought to be kept as much as possible at bay. In this, Engelhardt reflects a longstanding American separation of church from state which only in recent times has come to be understood as a way of protecting the state from religion; originally it was understood as protecting religion from state compulsion. When the separation is threatened, Engelhardt adduces, the transcendent and eschatological goals of Christianity—such as holiness and salvation—are likewise imperiled. In this, he approvingly cites Friedrich Hayek’s critique of social justice:

[Social justice] seems in particular to have been embraced by a large section of the clergy of all Christian denominations, who, while increasingly losing their faith in a supernatural revelation, appear to have sought a refuge and consolation in a new “social” religion which substitutes a temporal for a celestial promise of justice, and who hope that they can thus continue their striving to do good. The Roman Catholic church especially has made the aim of “social justice” part of its official doctrine; but the ministers of most Christian denominations appear to vie with each other with such offers of more mundane aims—which also seem to provide the chief foundation for renewed ecumenical efforts [Hayek 1976a, 66 quoted in Engelhardt 2000, 383].

Engelhardt agrees with Hayek that social justice is therefore a temptation for Christians to forego the weightier aims of the kingdom of God that call terrestrial creatures beyond purely terrestrial concerns in response to the call to holiness. What is required as an alternative, Engelhardt believes, is a social order that takes seriously the moral diversity of its citizens by embracing a modest, even otherwise morally objectionable, public ethic, not as one by which it would be hoped that anyone would actually live, but within which a diversity of livable moralities may flourish without undue tension or coercion. Therefore, social justice represents a church which has struck a deal with the world, in a sense, too soon. It is a symptom, according to Engelhardt and Hayek, of a church that tries to buy the social goods of the gospel, as it were, “on the cheap” by policing its speech on social matters in order to gain a wider hearing. In doing so, not only do Christians lose sight of the substantive reasons for social good that lie behind their advocacy of them, but—as a consequence if not as the tactic itself—they deprive the wider society of moral strangers of any indication that the Christian way of life makes demands of an altogether different sort than the demands of reason.

There is also a further critique of social justice that Engelhardt makes. Not only, as above, does it risk evacuating the Christian message of its most important content, but a cognate of this is also true: an evacuated Christian message cannot help but depend on the force of non-reason-giving coercion. He appeals to another work of Heyek to express this:

“Social justice” is not, as most people probably feel, an innocent expression of good will towards the less fortunate, but . . . it has become a dishonest insinuation that one ought to agree to a demand of some special interest which can give no real reason for it. If political discussion is to become honest it is necessary that people should

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3 See, for example, Gene Outka’s attempt to argue a “plausible case in defense of the goal [of comprehensive health care] on reasonable grounds” (Outka 1974, 11).
recognize that the term is intellectually disreputable, the mark of demagogy or cheap journalism which responsible thinkers ought to be ashamed to use because, once its vacuity is recognized, its use is dishonest [Hayek 1976b, 97 quoted in Engelhardt 1996, 376].

In agreeing with Hayek in this, Engelhardt expresses a concern beyond immediately Christian ones. Here the worry is that terms like social justice suggest that there is wider substantive agreement across a spectrum of moral strangers than actually exists and are therefore dishonest. The pressure to deny moral diversity is real in morally diverse societies. Denying that it exists often means silencing social minorities, something that an above-board secular morality expressly seeks to avoid. Not everyone who uses the language of justice means the same thing by it (the pope and Osama bin Laden both want it) and sometimes even when people think they do, they actually do not. The remnant of Christian morality that stays around once a people abandon God (a situation Nietzsche famously warned against, saying that it will degenerate into nihilism) thereby threatens to exert violence owing to its partial and incomplete nature. Intellectual honesty, Engelhardt argues, requires that people come clean about their real, parochial, content-full commitments and traditions when they seem unproblematically to appeal to social justice as though it comprises and includes a widely shared set of beliefs about, say, the value of human life, beneficence, the distribution of scarce resources, equality, or the special status of those who are most vulnerable. In no society are arguments in favor of social justice self-authenticating and any refusals to make further arguments for it are therefore subject to being exposed for relying on false universality. In this respect, Engelhardt is right to suggest that such appeals lack the courage to let the Enlightenment project die a proper death.

Nevertheless, need those who advocate social justice make these kinds of assumptions regarding their appeals? Certainly if social justice is framed as making demands against a secular morality of the sort that Engelhardt champions, it violates both the tradition (or traditions) out of which it has grown and the secular ethos shared by moral strangers. But since, as Engelhardt says, no one actually lives according to the secular morality including those who claim to do so, appeals to social justice may connect with a variety of content-full moralities depending on who hears the appeals, whether their canonical commitments retain traces of traditions that have valued such things, promoted living according to practices that have been described in such terms, and so on. What is coercive is therefore any manner of making such appeals that attempts to disguise the ways that the goods of social justice make sense within a deeper tradition of living.

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4 Of course, one way to counter this kind of critique of social justice is to display a variety of definitions of it, which Outka does (1974). Outka identifies five strands of social justice, the most obvious difference among them being between those based on desert and those based on need.

5 Engelhardt adopts a MacIntyrian account of this project. “The term Enlightenment project (and related terms) is used to identify the endeavor to establish a canonical, content-full morality in secular terms justifiable to persons generally. Postmodernity is the recognition that this project is vain” (Engelhardt 1996, 23 n. 7).
Hebrew prophets, of course, did not face this problem as they called Israel to be true to God’s covenant. Martin Luther King Jr. resembled these prophets when he leveraged the American story in calling America to be true to the language of its founding documents. Few will imagine that America’s founding texts furnished King with a sufficient ethic; he instead made ad hoc and even playful though strategic use of a society’s stated commitments in order to catch it red handed. If those founding texts had been different, he would have used something else. Sometimes, it is true, there will be nothing to use, although this surely will be the case much less frequently than is often supposed. Part of the Christian conviction about the inherent communicability of the gospel in any culture of hostility is its trust that there will become available a means of declaring and sharing what those who endeavor to live it are doing. When the analogies and what Karl Barth called secular parables of the kingdom run out, however, its witness has not (Barth 1961, 117). Its witness will then take the form of martyrdom, the ultimate evacuation of words as points of contact, replaced only by a silent witness that continues to live through a promise that those whose deaths are their only witness have not merely said nothing.

This means that the Christian challenge to rulers and other moral strangers to embrace social justice may be rejected. And Christians may never assume that when it is, that its rejection signals the irrationality of those who reject it. It must be clear where the demands are coming from. If secular reason makes no such demands, Christians will find themselves, like King, reaching for something else if it exists. In some cases it will not. And sometimes the disconnect cuts in the other direction. According to Engelhardt, Christian doctors who refuse to perform abortions will likely suffer accusations of violating the rights of women who are desperate for abortions. When Christian doctors in small communities refuse in this way (or to give referrals) and those desiring abortions need to travel to a different place where abortions are performed, this will be perceived by many to be an injustice.

Will such judgments employ notions of justice that are themselves content-full? They certainly will be objections according to the reigning secular morality that Engelhardt otherwise advocates. After all, the civil disobedience of Christians will be located precisely at the pivot point between the social expectations to uphold the purportedly content-less secular morality and the clearly content-full Christian one. How ought we to make sense of this apparent contradiction? Is it merely apparent or is it real? Have we caught Engelhardt at his own act? In relying on the primacy of a secular morality as itself an overriding social good, has he in fact engaged in the same dishonesty he pins on advocates of social justice? On the one hand, the Christian moral good requires, for Engelhardt, that

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6 On the idea of operating in an ad hoc manner, I am indebted to Werpehowski 1986. One probably cannot speak this way without relying on an account of the virtues.

7 I do not mean to rule out direct political action along the lines that Dietrich Bonhoeffer suggested when he famously commented that the task of Christians is “not just to bandage the victims under the wheel, but to put a spoke in the wheel itself” (Bonhoeffer 1965, 225). Putting a spoke in the wheel is the kind of danger that makes martyrdom much more likely and just as surely represents the failure of words as the church’s mode of witness.
Christians advocate a government and public morality of restraint within which Christian convictions may express themselves most fully. On the other hand, those very same goods will have another source altogether (the gospel) and must therefore resist being formed according to the public morality Christians are nevertheless advocating.

Some objections come to mind. To begin with, Engelhardt falls into a paradox by simultaneously accepting a modern critique of moral unity based on the fragmentation of tradition-constituted rationality and appealing to secular reason in order to develop a secular morality. If there is no reason-as-such, which is to say, as MacIntyre does, that there is no tradition-independent rationality, what is Engelhardt appealing to when he bases a content-free (or “content-lite”?) secular morality on reason? Where does this reason come from? Is Engelhardt entitled to make constructive use of the very thing he strenuously denies? It is surely an advance to insist that the modern moral project that depended on the evacuation of all substantive traditions is a failure. But just as surely will the attempt to propose a minimalist ethic based on secular reason eventually run aground on its own stated goal to be universal.

For example, it is not clearly evident, as Engelhardt’s project assumes, that peace and non-coercion are goods according to secular rationality. It may, of course, be the case that a particular configuration of moral strangers agree on these goods, but why should an observer conclude that they have reached agreement on the basis of a universal, secular mode of reasoning? Is it not just as likely that these particular moral strangers in fact share a substantive account of some goods? They will surely have agreed with each other to subordinate some goods to others. They will, for instance, have agreed that a society in which people may make free choices about whether or not to have an abortion is preferable to a society in which abortions do not occur. That one such society is more desirable than the other is, in fact, Engelhardt’s very point. But this is his premise rather than his conclusion. My point is that the premise already presupposes a great deal of moral work, of ranking goods, and it is disingenuous to present this work as the outcome of secular—and therefore universal—reason. Moral strangers, as Engelhardt says, “must resolve moral agreements by common agreement” (Engelhardt 1996, 7). They will talk to each other and seek such agreement, not as complete strangers, but as members of the same society. Whatever agreements they reach will therefore be relative, temporary, and subject to renegotiation as that society considers how to live together. They may well decide that a kind of secular minimalism is preferable to the alternatives, but they will always—so long as they truly agree—refer that preference to a ranking of goods that they have genuinely adopted on other grounds. This is what Engelhardt seems incapable of acknowledging. I do not merely mean by this objection that Engelhardt simply does not acknowledge it. I mean that if he were to do so, he would not have been able to write The Foundations of Bioethics. Allow me to illustrate this using his discussion of infanticide.

Engelhardt acknowledges that modern, Western societies differ from those of pagan antiquity in their general disquiet regarding infanticide. This disquiet, he argues, is a remnant of a particular
Judeo-Christian ethic “still shaping many particular secular moral understandings” (Engelhardt 1996, 270). He cites in particular the Didache and the Epistle to Diognetus to show how the early Christians lived differently from their pagan neighbors in their treatment of infants. He assumes that Christians and Jews (and perhaps others) will be obligated in modernity to continue living according to their own traditions’ strict prohibition of infanticide. However, he argues that because secular morality is unable to justify a “canonical content-full account of the moral status of either fetuses or young children, . . . [t]his limits the secular moral authority of the state to intervene” (Engelhardt 1996, 271). If a prohibition against infanticide is not available to secular reason, then the secular state transgresses in legally prohibiting it. Any prohibition, Engelhardt argues, can only come by drawing on particular moral traditions, something the secular state as such is forbidden to do. He admits that this conclusion is “very unpleasant” but that it is nevertheless “unavoidable, given the limited secular moral authority of the state” (Engelhardt 1996, 271). All that secular reason dictates is that decisions about the life or death of young children reside with the parents since “until children become persons strictly, they are persons in virtue of their social roles” (Engelhardt 1975, 184). The difference between the moral status of adults and children, according to Engelhardt, has to do with their rationality and freedom. “While adults exist in and for themselves, as self-directive and self-conscious beings, young children, especially newborn infants, exist for their families and those who love them. . . . If being a person is to be a responsible agent, a bearer of rights and duties, children are not persons in a strict sense” (Engelhardt 1975, 183).

Two comments are necessary. First, Engelhardt mistakenly removes his conclusions regarding infanticide (as with all of the other bioethical topics he treats) from all actual social give-and-take and agreement-seeking among real moral strangers. He does not wait to see how this particular collection of moral strangers go about their deliberation, whether they in fact, for all of their diversity, actually agree with each other to prohibit infanticide despite their possible unwitting reliance on a Judeo-Christian ethic many would otherwise claim to have left behind. Instead, in the name of the “principle of permission,” freedom, and non-coercion, the academic ethicist, in exceeding irony, heavy-handedly makes a pronouncement about the content of a purportedly content-free secular morality. If the democratic talk of agreement were to have any value, the ethicist would be compelled to help actual moral communities (moral friends) articulate with clarity their own traditions and commitments while withholding prior judgments about how the deliberations with moral strangers will go. He will refuse to forego the actual process of attempting to reach agreement and will refrain from shortcutting the business of reason-giving, appeal-making, and persuasion. Why conclude ahead of time that a group cannot reach agreement? Perhaps they can. The only way to claim that agreement is impossible is to wait and see whether or not it happens.8

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8 Engelhardt points to a significant number of neonatal cases in which parents withhold further treatment, accounting for as high as fourteen percent of such deaths in one hospital, a phenomenon he calls “an embarrassment of riches” since the technology being withheld is what ultimately gives rise to the ethical questions. (Engelhardt 1975, 181).
Furthermore, by appealing to freedom of choice and rationality for defining personhood, Engelhardt has clearly accepted the terms of the contemporary debates on abortion, euthanasia, and related matters. Are these the only or merely the best available terms for these debates? Without getting involved in these debates themselves, we may nevertheless allow ourselves to wonder why these are the preferred ways of attempting to secure wide agreement among moral strangers. After all, those who think in terms of rights and duties, not to mention rationality and rational freedom as definitional for the human person, are often the same people who accept and deploy the language of care of the vulnerable. What are the reasons for making use of one set of language and not the other? What MacIntyre famously points out as the incommensurability of these moral traditions only applies to despair over finding rational agreement across them (rights and duties will always ultimately be at odds with caring for the vulnerable at the level of theory). But this kind of incommensurability does not commit one to operating within one set of moral arguments and not the other if it is the case that one is speaking to or within a tradition that has both sets. So what appears to be neutrality and a modest secularity is, for Engelhardt, a declaration of the triumph of one moral tradition over another; and in this case, it is the specific moral tradition that itself gave rise to our contemporary concept of the secular in the first place.⁹

III

Allow me to illustrate this further. Engelhardt seems to concede (but not necessarily approve of the conclusions of) arguments by Peter Singer and others—that widespread reluctance to discuss infanticide is inconsistent with widespread willingness to discuss abortion, that there is an inconsistency between claims about the moral status of fetuses and the moral status of infants (particularly when premature), and the practices of “selective non-treatments” of defective infants.¹⁰ A version of my earlier point is simply to ask why it is more important to correct these kinds of moral inconsistencies than to inquire into why many people appear content to live with them. Why suppose that more is gained than is lost by foregoing moral consensus-making among moral strangers who seem to share a certain amount of revulsion to infanticide in favor of demanding that they accept the outcome of the ethicist’s scrutiny? Such scrutiny, after all, is merely one of the roles an ethicist plays for the people who hold that ethic. Another role is to help the people discern what is right and noble about the things that repulse and horrify them. Jeff McMahan frames his recent defense of infanticide as a response to Elizabeth Anscombe’s claim that “if someone really thinks, in advance, that it is open

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⁹ There is much to say on this point except to be reminded that the question of the meaning of the secular is ongoing and very much contested by scholars like John Milbank, David Martin, Charles Taylor, and William Cavanaugh. It goes without saying that the secular is a creation of the West and itself has a history that is manifestly not neutral with respect to the other viewpoints it would in time edge out. It is therefore fraught with paradoxes of the sort that I am accusing Engelhardt of defending but not acknowledging.

¹⁰ On these topics, see in particular the overview and argument of McMahan 2007. Also, see Singer 1995; Kuhse and Singer 1985.
to question whether such an action as procuring the judicial execution of the innocent should quite be excluded from consideration—I do not want to argue with him; he shows a corrupt mind” (Anscombe 1958, 40 quoted in McMahan 2007, 131). Anscombe takes the decency revealed by the pre-reflective impulse of one who is horrified by even the question of whether it is wrong to kill the innocent to be itself more morally significant than any arguments. And while McMahan acknowledges that some moral questions are beyond question in this way, he disputes that infanticide is one of them (McMahan 2007, 132). McMahan argues that there are no good reasons to have intuitions of horror at killing an infant but not a viable fetus, nor at allowing an older child to die by refusing treatment but not an infant. Even so, McMahan allows a principle of consistency to trump these intuitions altogether. My point is not to enter into this debate but only to ask why the argument could not simply be reversed such that the ethicist acquaints a people subject to feeling horror at some things with what is commendable about their intuitions and guides them through a process of its more consistent application. I will not pretend that in merely asking these questions I am doing anything other than simply showing that the actual process of helping even moral strangers deliberate together ought not to be made simpler than it actually is. Seeing how it will actually go will mean attending to, rather than ruling out, aspects of people’s moral commitments such as affective ones.

I also do not want to imply that Engelhardt shares McMahan’s conclusions, which he surely does not. But he does share McMahan’s methods for discerning which form the secular ethic ought to take and conducts it prior to an actual political and social engagement among real-life moral strangers. What Engelhardt seems to envision is a pure social and political situation with an uncomplicated history. Consider the following claim: “The difficulty is in showing secular moral authority to impose a particular view of how to protect the morality of either individuals or communities” (Engelhardt 1996, 271). But why is this the difficulty? Why shouldn’t we wait and see whether in one social circumstance a society of moral strangers may in fact have little difficulty coming to agreement on some things and not others? It is not unrealistic to imagine that, in some societies, a Judeo-Christian objection to infanticide would still be widespread enough among strangers that they may share enough common language to be able to act according to it, even at high levels of governance. When parents cease treatment of deformed infants, are they reflecting an unchristian tradition that they have adopted or are they merely insufficiently formed by Christianity? There is, of course, never a guarantee that the public conversation will go one way rather than another. The Christian communities of the Didache, for example, certainly had no illusions that agreement-seeking with their pagan neighbors would get them very far. But the histories of the kind of post-traditional societies that Engelhardt is addressing are such that Christians may or may not find themselves in conversation with moral strangers who share enough in common to secure fragile, temporary, ad hoc but nevertheless real agreement. When this happens, the goods certainly for the babies born into that society at that time, will outweigh the goods of ordering a society around an
abstract principle like Engelhardt’s principle of permission. There can be no good reasons, short of purely academic ones, to prefer the latter goods over the former.

Consider also this claim: “Because of the centrality of the principle of permission, the burden of proof lies on the shoulders of the intereners to demonstrate that parental actions [of infanticide] may be forbidden, rather than on the parents to show that they have liberty to act.” (Engelhardt 1996, 271). As I pointed out above, this only works if one agrees with Engelhardt that that kind of liberty ranks higher on a scale of relative goods than does one’s convictions about human life. I see no good reasons to rank them this way. But more to the point, in order for anyone to accept this ordering, they will have to be persuaded to do so, willingly subordinating one set of goods to another. Such persuasion and agreement-seeking, however, would be no different from that which a society would engage in if the topic were infanticide rather than liberty. It has long been noted that one of the characteristics of modern, secular societies is a de facto prioritization of abstract and content-less concepts like liberty over substantive moral commitments. And while Engelhardt’s entire project is premised on this state of affairs—a state of affairs he otherwise laments—he unwittingly finds himself advocating it among anyone who does not already accept it.

Furthermore, why ought we to imagine that a secular state so scrupulously devoted to the pursuit of only those commitments available to a purported secular reason is preferable to one that is capable of violating those commitments for the protection of newborns? Clearly a society of moral strangers, many of whom will recoil from the practice of infanticide but who nevertheless privilege the good of non-coercion at the level of the secular state, rank their moral commitments differently from those who would be willing to suspend the good of a secular society in favor of the good of vulnerable life. It is hard to imagine any content-full objection to infanticide that, in the name of a working social order, is able to make peace with moral strangers who practice it.

IV

It is this last response to Engelhardt that most exposes his penchant for statecraft and therefore shows that his is not a non-statist moral program. A non-statist ethic, particularly one that adopts such a set of commitments out of its regard for the gospel of Christ, will much more quickly reach a principled apathy regarding the long-term health or even existence of the state. Seeking the peace of the city may just as well be done by positively seeking to overcome the city’s evils as by brokering non-interference with the moral lives of the pagans who also reside there.\footnote{Here I am deliberately borrowing John Howard Yoder’s preferred language for the Christian social witness. In addition to Yoder’s many works, see the recent association of Yoder’s account to a host of contemporary thinkers in Bourne 2009.} The mere fact that Christians flourished—not only in the first several centuries, but in many places today and throughout history—within pagan cultures that were sustained by vastly divergent moral
commitments tells us something significant about those Christians, the gospel, and God. It tells us nothing about how to order a society. Nowhere can the “peace of the city” be reduced to a peace minimally characterized by non-intervention, non-coercion, and the freedom to do whatever you want so long as you do not intervene or coerce others. In drawing attention away from questions about the right ordering of society (which John Howard Yoder pointed out are always Constantinian questions [Yoder 1984, 154]), a greater horizon of social goods emerges than those solely achievable through statist means. It may be that under many (or even most) circumstances, the church can make peace with a social order that opposes its mission, seeks to enfeeble its witness, and even positively destroys its members. But surely doing so by asking whether this ordering of the state best limits coercion exerted on disparate moral groups is one of the least imaginative. In contrast, a Christian imagination that is free even from questions about how to maximize social and political freedom will be able to make peace with social instability as much as it will with the social stability for which it might otherwise assume it is responsible.

Returning, then, to the question of whether social justice is a form of statecraft, it is necessary to make some further discriminations. Engelhardt’s worry that transcendent ends may be sacrificed in favor of social and terrestrial ones has some merit. Authentic Christian goods will often become skewed as the transposition of aims of Christian living onto the wider society is sought. Things like the Christian conviction that dying in sin is worse than dying and that a short life lived in faith and hope is more desirable than a long life that forsakes salvation will surely get lost in the translation. But Christian goods are always complex. The inability to articulate the final good of one’s life as beatitude and friendship with God while seeking one’s health or protecting newborn life does not mean that no goods are being sought. There may well be other ways of narrating those remaining goods that do not also evacuate them of all moral significance. They may even be goods that others will find themselves persuaded by—perhaps unwittingly and in ways that are not easy to accommodate alongside a host of other commitments, some manifestly pagan and degenerate. Few people are morally coherent anyway. And where the Christian narration of Christian goods, even partial goods, makes contact with those who are not Christian, there is no reason to suppose that the gospel has been cheated, that the Christian message has been evacuated and hollowed out, or that the integrity of the church and Christian living has been compromised. All of these may happen and, in reality, often do. But there is no reason to resign ahead of time to the idea that this will always be the case.

It is worth pointing out that Christians making common cause with other proponents of social justice may be a real danger and threat to the church. It represents the kind of temptation to strike a deal with the wider society that has enervated the church in various places and times. Perhaps it often can disguise a lack of faith in God’s commitment to Christians to make something out of very little, to bring something good out of a powerless witness. But in none of its facets is the church equipped only with a message about social justice. Even in the most benign of social arrangements, its way of living
is always vulnerable to being ignored and to being positively silenced. This is no reason to accept being ignored and being silenced when it is not actually happening, of course. There is no good reason for the church to police its own witness in advance of others doing so. But no specific social or political situation is necessary in order for the gospel to flourish, something that can be shown sociologically and historically as much as it can be understood theologically.

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