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Faith and Politics in the Post-Secular Age: The Promise of President Obama

Francis J. Mootz III*

The citizens of the United States are much more demonstrably religious than the citizens of the countries of Western Europe.¹ In my experience, Europeans are surprised by the high percentage of Americans who report that they believe in God, and more than a bit bemused by the fundamentalist tendencies of many American believers. On the other hand, the average American appears to hold a dim view of the Godless and socialist-leaning European societies.² If the modern era is properly characterized as the “age of secularism”

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¹ The Pew Forum on Religion and Public Life has gathered invaluable information on religious attitudes in America through a series of polls over the years. The most recent Report on surveys of 35,556 adults between May 8 and August 13, 2007 reveals that Americans report strong religious faith: 92% believe in God, 60% believe in a personal God, and only 7% are unsure (The U.S. Religious Landscape Survey 2008: 5). As the Report (19) summarizes, the religious faith of Americans may be waning, but at this point remains quite strong:

The U.S. has largely avoided the secularizing trends that have reshaped the religious scene in recent decades in European and other economically developed nations – but not entirely. The Landscape Survey documents, for example, that the number of Americans who are not affiliated with a religion has grown significantly in recent decades, with the number of people who today say they are unaffiliated with a religious tradition (16% of U.S. adults) more than double the number who say they were not affiliated with a religion as children (7%). It remains to be seen how this trend toward secularization will ultimately impact religion in the U.S. But what is clear is that religion remains a powerful force in the private and public lives of most Americans, a fact amply illustrated by the findings of the *U.S. Religious Landscape Survey* discussed in this report.

² In the words of leading researchers in the area: “Europeans think that there is altogether too much religion in the United States, which has a dangerous effect on policy; Americans in turn are taken aback by Europe’s secularity” (Berger 2008:3). Although this description is “something of a cliché . . . [and] the reality to which it refers is seen to be more complicated . . . the cliché does indeed mirror reality (Ibid:4; see also 124).

– a time when constitutional democracies finally have shed the last vestiges of church authority from the political realm and embrace a rationalist and humanist perspective – then the United States appears to be outside the Western mainstream. In this paper I explore how the relationship between politics and religious faith in the United States might be seen as part of the narrative of secularism that defines most other Western countries, even as the differences in the American experience might suggest an evolution of this narrative.

Religion has always played an important role in American politics. There has been a consistent and not-so-subtle message that the United States is a Protestant Christian nation in its ethics and outlook.³ John F. Kennedy famously spoke before a convention of southern Protestant ministers to defend his Catholic faith and to reassure them that he would separate his religious obligations from his obligations as President. Mitt Romney's bid for the Republican nomination for President during 2008 was significant because he is a Mormon, a faith viewed skeptically by many fellow Christians just as Kennedy's Catholicism was viewed with alarm in the 1960s. The frequent mention during the 2000 presidential race that Democratic vice-presidential nominee, Joe Lieberman, was an orthodox and observant Jew appeared to be a strategy to counter any negative perceptions based on his non-Christian faith by portraying him as a devout believer who fit within the country's broader Judeo-Christian heritage.

³ Perhaps the most dramatic evidence is the relatively recent claim by Justice Douglas that we "are a religious people whose institutions presuppose a Supreme Being" (*Zorach* 1952: 313). This view was recently echoed in Justice Scalia's more generic monotheistic claim that the state may disregard nonbelievers and those who do not embrace the God of Abraham by invoking or endorsing monotheism since that is the virtual unanimous religious view in the country (*McCreary* 2005: 893).

Public invocations of religion and God by American politicians are common, and they undoubtedly grate against European sensibilities. It is rare for a national politician to end an important speech about some challenge facing the country without calling for God to bless the United States. This has been true of recent Presidents on the political spectrum ranging from Ronald Reagan to Bill Clinton. When confronting his impeachment and sexual scandal, Clinton famously turned to preachers to help him restore his sense of propriety. There can be no doubt: open professions of faith are a very real part of the national political landscape in the United States. I can emphasize this point best by stating that it is inconceivable to me that an avowed and unapologetic atheist could win the nomination of a major political party, not to mention win the Presidency. Simply put, faith is too important to politics on the national stage.⁴

Nevertheless, the United States takes great pride in the interpretations of the First Amendment religion clauses to protect worship of all kind, and to erect (in Jefferson's famous, and contested, phrase) a wall of separation between government and organized

⁴ However, this dynamic may be more unstable than is commonly understood. One of the surprising results of the Pew research is that Americans claim not to draw their politics directly from their religious beliefs. "Relatively few adults (14%) cite their religious beliefs as the main influence on their political thinking – about the same number as cite their education as being most important (13%). Far more cite their personal experience (34%) as shaping their political views" (The U.S. Religious Landscape Survey 2008: 17). This might be explained by the increasingly pluralistic approach taken to religion by many Americans, see *infra* note 17, resulting in a less explicit link between the tenets of their particular faith as a source of concrete political commitments but not necessarily undermining the importance of religion generally to politics.

Faith probably plays a much more important role in many small political units in the United States where there is greater religious homogeneity. Stories about the evangelization of the small town of Wasilla, Alaska during and after Sarah Palin's stint as Mayor suggest that the intermingling of faith and politics at this level can be more overt, exclusionary and unrepentant (Goldberg 2008).

religion, even if that wall is sometimes a bit porous.⁵ In my examples above, after all, I noted that a Jew, Mormon and Catholic have all been prominent national politicians. American religiosity is real and important, but at the national level it is manifested not as a crude tribalism centered on a particular confession but rather as an ethos of faith. In some respects there is a civil religion of sorts, denominated as the “Judeo-Christian tradition,” that seeks to be broad enough to encompass most of the community while remaining specific and substantive enough to provide a secure mortar for civic cohesiveness. There certainly will be some voters who will reject candidates solely on the basis of his or her religious creed (and also solely on the basis of race, gender, or any of a number of non-political criteria), but I suspect that a great majority of voters would be satisfied with some manner of devotion to the Judeo-Christian tradition and generally would reject only an unrepentant atheist.

In light of these preliminary observations, it might appear that the United States is not a secular nation. Many might conclude that the United States cannot claim to be secular even if it is religiously diverse and tolerant because faith plays too significant of a role in politics. This conclusion, however, makes a critical, and misleading, assumption about what the term “secular” means. In this paper I untangle the complicated relationship between faith and politics in the United States by exploring the case of President Barack Obama. Obama is a pathbreaking politician in many respects, but one of his most interesting features is the

⁵ Calvin Massey correctly notes that there was a de facto establishment of generic Protestantism as the national religion until the post-World War II development of modern establishment clause doctrine (Massey 2005: 11). It is important to note that recent achievements in Constitutional doctrine were not inevitable nor are they guaranteed to survive.

manner and degree to which his religious faith plays a role in his politics. Although a form of “Obamamania” swept over Europe during his campaign and continues today, I want to suggest that Obama may embody the new face of religious faith in American politics that Europeans find so difficult to understand. My thesis is that Obama might embody a means for faith and politics to co-exist in the post-secular age.

I explore this paradoxical thesis in three parts. First, I analyze the concept of “secularism” and recover an understanding of our “secular” age that does not entail rejecting religious belief as a source of public values. Second, I discuss how Barack Obama is a secular politician in this sense, and argue that he may help to define a break from the traditional religious approach to politics exhibited by fundamentalist movements such as the Moral Majority. Finally, I discuss the central question for a post-secular constitutional democracy: the role of religion in the public sphere. I conclude that the United States has the potential to be a secular state grounded in both religious belief and toleration, but this presents a continuing challenge for our polity rather than an accomplishment to be celebrated.

1. Secularism with Faith?

Secularism is not a simple concept, and so I begin by adopting Charles Taylor’s tripartite taxonomy (although I employ my own labels). In *political* terms, secularism represents a separation of church institutions from the organs of the state, consigning religious institutions to the private realm. In *social* terms, secularism represents a decline of collective religious belief and practices within the private realm. In *phenomenological*

terms, secularism refers to a world “in which faith, even for the staunchest believer, is one human possibility among others,” “in which moreover, unbelief has become for many the major default option,” and in which “a purely self-sufficient humanism [has come] to be a widely available option” (Taylor 2007: 3, 14, 18). Taylor provides a detailed analysis that distinguishes political secularism from the manifestation of secularism in social practices and the modern phenomenology of human flourishing. The purpose of this careful exposition is to emphasize that the adoption of political secularism does not require or necessarily result in secularism in these other two senses. He specifically rejects “subtraction stories,”⁶ according to which modern secular humanism simply remained after we excised the overlay of religion from political life: “Against this kind of story, I will steadily be arguing that Western modernity, including its secularity, is the fruit of new inventions, newly constructed self-understandings and related practices, and can’t be explained in terms of perennial features of human life” (Ibid: 22). In other words, social secularism and phenomenological secularism are socially-constructed realities rather than pre-existing dimensions of existence that simply remained in place once political secularism chased religion from the public sphere.

Taylor argues that secularism is a multifaceted development in these political, social and phenomenological senses, and not just an inevitable byproduct of the growth of reason

⁶ Taylor explains that a “common ‘subtraction’ story attributes everything to disenchantment. First, science gave us ‘naturalistic’ explanation of the world. And then people began to look for alternatives to God. . . . A fuller subtraction story holds that not just disenchantment, but the fading of God’s presence in all three domains made us look afresh at the alternative possible reference-points for fullness. As though these were already there, just waiting to be invited in.” (Taylor 2007: 26-27).

and technology following the Enlightenment. A long and complex history has resulted in the inhabitants of an enchanted and mysterious pre-scientific cosmos being replaced by “buffered” individuals who exist in a physical universe upon which they gaze and over which they lord. This transition began within the religious tradition of the Church, culminating in the Reformation; it has now reached the point of being an “exclusive humanism” that finds the guiding principles of order solely in the flourishing of human nature through the exercise of human capacities. Nevertheless, exclusive humanism is not a uniform law of social development, even within the narrow confines of the industrialized West. Although “educated, cultivated Europeans are extremely uncomfortable with any overt manifestations of either strong nationalism or religious sentiment,” Taylor acknowledges that this is not the case in America and that the difference must be explained (Taylor 2007: 522). He cites as factors the “long and positive experience of integration through religious identities, whereas in Europe these have been factors of division;” the lack of a hierarchical society deferential to the lifestyles of the elites who tend to be no less secular in America; and the fact that much of formative American history occurred during the era surrounding the Victorian period, which was a time of religious freedom and intense religiosity (Taylor 2007: 524-29).⁷

The existence of the American exception to the European experience suggests that

⁷ These reasons are expanded and discussed in detail by Berger, Davie and Focas (2008). They provide an overview at (Ibid: 16-21). George Dent also suggests that the “American exception” is explained by historical circumstances that undermine the narrative of historical inevitability. No colony had a church that exercised the power of the Catholic Church in England, there was no established church hierarchy that coordinated with political hierarchies but instead grass roots congregations that hired their ministers, there were relatively few abusive events such as the Salem witch trials or criminal convictions for blasphemy, and finally an overriding Enlightenment ethos defined the political theory of the burgeoning country (Dent 1999: 19-21).

secularism might be construed more accurately as a European exception to the global experience (Berger 2008: 9-10).⁸ The majority of the world has not experienced the European development of secularism and, even within the industrialized West, the American experience confirms that it is not a uniform and inevitable social development. Taylor opines that the absence of a need to cast off the *ancien regime* permitted America to follow a different path.⁹ He notes that the EU has magnified the secularization effects in Europe, and that the unsuccessful drive for a constitution may be explained partly by running up on the shoals of a residual sense of religiosity in several countries and a reaction against the transnational elites of the EU (Taylor 2007: 831n46).

I pause here to note that the puzzling¹⁰ existence of the American exception must be discussed in terms of all three senses of secularism. Taylor's principal concern is with phenomenological secularism, the modern constitution of selves who no longer look to religion as a definitive source of human flourishing. We certainly can distinguish the

⁸ Jürgen Habermas notes that the Weberian thesis that western rationalism would necessarily emerge as part of modernity and displace religious faith has proven to be misguided, as exemplified in the American context. "Seen in terms of world history, Max Weber's 'Occidental Rationalism' now appears to be the actual deviation," and what was taken to be "the normal model for all other cultures suddenly becomes a special-case scenario" (Habermas 2006a: 2).

⁹ Whereas this new value [of authenticity, freed from state power] could easily be associated with religious modes of expression in America, in Europe it was easier to link religion with authority, with conformity to society-wide standards, not to speak of hostile divisions between people, and even violence. Churches and religion still carried this baggage of submission and conformity for many people, including the young, that it had long lost for many Americans. In this situation, the invitation to find one's own way was bound to lead a larger number of people to seek extra-religious forms of meaning in Europe than in the U.S.A. (Taylor 2007: 529).

¹⁰ Despite Taylor's succinct and persuasive account of the reasons for American exceptionalism in the story of secularization, he ends by saying that a satisfactory explanation "escapes" him (Ibid: 530).

American experience in this respect. Even if faith has become a matter of choice for all modern people, it is a choice that is made by many more Americans with a feeling that there is no real choice. So too, Americans are far less secular than Europeans in the social sense. Americans are far more likely than Europeans to worship and practice the rites of their faith publically and collectively. This social dimension runs very deep in many communities, such that the life of the church is in a real sense one of the primary sources of social life. But the story is more complex with respect to the third dimension of secularism – the political dimension. The First Amendment of the United States Constitution protects the exercise of religion by citizens free from government control and also prohibits the establishment of a religion by the government. The First Amendment is the quintessential statement of political secularism; in this sense, then, the American experience is secular, although the vibrant belief of citizens regularly results in tensions between the two clauses of the Amendment.¹¹ We might conclude that Americans are politically secular, more or less, but that they are not nearly as socially or phenomenologically secular as Europeans.

Having demonstrated that secularism is not just a story of “subtraction” – a peeling away of ideology and false beliefs – but rather is the result of a multifaceted and ongoing historical development of contemporary conceptions of self, others and universe, Taylor predicts that there may be an incipient emergence of “spirituality without religion.” Taylor explains that “spirituality without religion” occurs as a local experience of the search for

¹¹ The most obvious examples are when communities attempt to display Christian symbols in public places during the holiday season, leading to a confused tangle of cases that escapes summarization and rational elaboration.

meaning set against the broader backdrop of European secularism.¹² This development is not the return of a religious worldview from the past – an “addition back” story, one might say – but rather is a manifestation of the fact that we are in “a time in which the hegemony of the mainstream master narrative of secularization will be more and more challenged” as people seek more than what is offered by immediate, profane existence. (Taylor 2007: 534).

A recent book by Graeme Smith helps to sharpen this characterization of our current situation. Smith argues that the “secularization thesis” mistakes the backing away from the intense religiosity of the nineteenth century as a rejection of religion rather than as a return to more typical patterns of belief and religious practice. “What the figures show is not the decline of Christianity but its reversion to a normal status, something akin to what was happening during the Middle Ages, after the astonishingly high levels of Christianity displayed by the Victorians” (Smith 2008: 8). The dramatic replacement of an enchanted world with the Enlightenment world of technological science displaced the Church from a significant portion of modern life, but Smith contends that the ethical life of the community continues to be religious in nature even if this provenance is largely forgotten and now hidden from view. He contends that we “need to think of liberalism as a contemporary Christian expression of ethical life,” and that the Christian legacy provides the means by which contemporary society struggles with the ethical dilemmas that not only have persisted

¹² Taylor (2007: 533) explains: “The fading contact of many with the traditional languages of faith seems to presage a declining future. But the very intensity of the search for adequate forms of spiritual life that this loss occasions may be full of promise.”

in the age of science but have multiplied (Ibid: 183-285).¹³

Smith's description accurately captures the situation in the United States. Religion has adapted in a manner that preserves its function in the social and phenomenological dimensions of existence without necessarily intruding into the political realm. One might characterize this as a fragile detente between religion and politics.

The disdain for religion that long dominated Western thought is receding, due in part to changes in Western religions (Dent 1999: 53).

* * *

Even secularists admits that religion has not faded away as forecasted; indeed, except among intellectuals, it always retained a wide following. Religion is now enjoying a renaissance in many places, particularly America. Secularism survives, but debate has shifted in favor of religion for two primary reasons. First, religion has changed; many secularist criticisms of religion are no longer valid in liberal democracies. Second, many of the promises of secularism were not fulfilled. As a result, regard for secularism has diminished, while regard for religion has advanced in both public affairs and private morality (Ibid: 19).

¹³ Smith's conclusion to the book provides an excellent summary of the points that he develops:

We are now in a position to summarize the religious and cultural identity of Western secular society. The people who live in contemporary Western secular society have a dual mentality. They are convinced of the functional superiority of the scientific method for resolving technological problems. This forms their commitment to science. But people realize that the scientific methodology cannot address ethical issues. What science allows for is unlimited technological advance. But it has no inbuilt means of deciding that some advances are good and some are wrong. So they fall back on their traditional means of making ethical decisions, namely Christianity.

One of the odd features of secular society is that a majority within it believe in God. What we have been arguing is that this expression of belief is a serious proposition. Christian culture has changed since the Victorian era. It is less dominant and fewer people now attend church in almost all parts of the West. But the Victorian period was exceptional for its high levels of Church allegiance. What has happened is that this fall-off has been described as a decline in Christianity. Against this, I have argued that it is more properly seen as a reversion to more normal levels of religious belief and practice. What is more likely is that Christianity is adapting and changing to the new conditions of post-Victorian Christianity (Smith 2008: 204-05).

As religion adapts to the modern scientific era of political secularism, it gains strength within the social lives of persons who regard bare politics as insufficient to ground their lives. The question is whether the fellowship of religious societies might buttress, without undermining, the political fellowship of citizenship.

A signpost on the path to this new understanding can be found in the utterly remarkable exchange between (then) Cardinal Joseph Ratzinger and Jürgen Habermas. A stalwart defender of modernity from the perspective of sociology and philosophy, Habermas argues that secular society is grounded in democratic legitimation but nevertheless political philosophy should not ignore faith traditions. As he states, “more is involved here than respect: philosophy has good reasons to be willing to learn from religious traditions” (Habermas 2006b: 42). To the surprise of some commentators, Habermas insists that “when secularized citizens act in their role as citizens of the state, they must not deny in principle that religious images of the world have the potential to express truth. Nor must they refuse their believing fellow citizens the right to make contributions in a religious language to public debates” (Ibid: 51). Habermas acknowledges that the Western philosophical tradition is fundamentally shaped by the inter-penetration of Greek metaphysics and Christian faith, and so the religious development of ethical knowledge over the centuries continues to hold great significance in secular society (Ibid: 43-44). He calls for a secularized political community in which various faith communities sustain vibrant fellowships that cannot be engendered by secular politics alone, with a constant exchange between these spheres.

Cardinal Ratzinger agreed that there must be mutual recognition between the rationalistic worldview of modern secularism and religious traditions. With a bit of historical license, he states that religion “must continually allow itself to be purified and structured by reason; and this was the view of the Church Fathers, too” (Ratzinger 2006: 77). Even more remarkable, he insists that even a broad dialogue between secular politics and religion in the Western tradition cannot claim universal (catholic?) status:

If we are to discuss the basic questions of human existence today, the intercultural dimension seems to me absolutely essential – for such a discussion cannot be carried on exclusively either within the Christian realm or within the Western rational tradition (Ibid: 73).

[A]lthough the two great cultures of the West, that is, the culture of the Christian faith and that of secular rationality, are an important contributory factor (each in its own way) throughout the world and in all cultures, nevertheless they are de facto not universal. . . . In other words, the rational or ethical or religious formula that would embrace the whole world and unite all persons does not exist; or, at least, it is unattainable at the present moment. This is why the so-called “world ethos” remains an abstraction (Ibid: 75-76).

That these two thinkers can find some manner of common ground points toward the possibility of a post-secular “spirituality without religion” that recognizes the powerful force of faith without rejecting the political secularism in which modern faith flourishes.

The question – Is the United States a secular society? – can now be approached with more sophistication and precision. I believe that there would be wide agreement that the United States is secular in the political sense, in some meaning of that term, and so I will not

elaborate that claim further.¹⁴ In the social and phenomenological senses of secularism, though, it seems evident that the United States “lags behind” Europe in its development of a modern secular society. Because many American engage in religious activity as part of their social practices and live within a religious worldview, it would appear that secularism has penetrated the elites but not the great majority of citizens. However, one must be careful and precise on this point. For all but a few religious believers, science is accepted as the appropriate technology for dealing with health care matters, even if they might also pray for the blessings of their God when suffering an illness. Fundamentalists sometimes claim that the world is only 4,000 years old, or that evolution is a pernicious myth, but the great majority of believers appear to have no difficulty reconciling the findings of natural science with the existence of their God. The most fundamentalist of believers are not secular in the social and phenomenological senses, but my guess is that, with respect to most believers, it is a more complicated story.

One possibility is that the American experience in fact does lag behind the more robust European secularism but also that it moves beyond European secularism. Without

¹⁴ This is just to say that political secularism is not given as a strict program, but rather can occur in many forms. I think many Americans regard the “veil” controversy in France as a backward assertion of government authority into the private sphere of belief that is neither neutral nor secular. At the same time, the presence of crucifixes in the public schools of Italy would strike Americans as improperly ensconcing the country’s Catholic legacy. The balance between “free exercise” and “nonestablishment” that forms the core of the First Amendment in the United States may be different from European models, but I don’t think that one can seriously dispute that it qualifies as a model of modern political secularism. This is not to claim that the legal resolution of these issues is clear and without controversy. As Calvin Massey states, “the vast panoply of legal writing dissecting the doctrinal nuances of the Religion Clauses—a corpus that combines an enormous range of perspectives with a depth approaching that of the Marianas Trench—suggests that doctrinal analysis is slippery, treacherous, and ultimately unlikely to produce a satisfactory answer” (Massey 2005: 1).

centuries of religious turmoil set within a hierarchical social structure that shaped its development, Americans did not have to reconstitute their social and phenomenological worlds nearly to the same extent as Europeans in order to embrace modernity. Moreover, the United States embraced political secularism from the beginning of its existence as a state, undoubtedly shaping the social and phenomenological experiences of faith in America. In the absence of a deep-seated political theology that had to be overcome in order to achieve political secularism, the founding did not require the disruption of religious practices and beliefs. Finally, the anti-elitism (and, too often, anti-intellectualism) of America has preserved religious belief in the populace as a viable cultural option. The question is whether the unique American experience of political secularism, combined with the strong trace of the modern ethos of individualism, might offer the opportunity in America for a realization of a post-secular society of believers in which members pursue religious spirituality without asserting the role of formal religion in public life. The American exception, in other words, might represent a situation that leapfrogs over contemporary European secularism. The idea of spirituality without religion renounces any attempt to reverse political secularism while at the same time making room for social and phenomenological developments that are not cabined within the narrow ambit of an exclusive humanism that purports to be a neutral and natural worldview.

Perhaps optimistically, I want to suggest that America's exceptionalism with regard to contemporary secular culture might develop in a manner that embraces "spirituality

without religion” and continues the religious traditions as ethical guideposts without surrendering the scientific worldview or backing away from political secularism. I am not just engaging in armchair musings, inasmuch as I believe that Barack Obama’s historic ascension to the Presidency of the United States will provide a test case for exploring how a post-secular Christian leader can take his faith seriously in his capacity as a political leader without undermining political secularism. In short, Obama may embody how Americans can best reconcile faith and politics in the post-secular era.

2. Obama and the Post-Secular Role of Faith in Politics.

Barack Obama entered the national political stage with his famous address at the 2004 Democratic Convention in which he claimed that there was a single America rather than a split between the “blue” states (urban, liberal and secular) and the “red” states (predominantly rural, conservative and religious). In the midst of that powerful speech he noted that citizens of the blue states “worship an awesome God,” and celebrated hope as “God’s greatest gift to us, the bedrock of this nation, a belief in things not seen, a belief that there are better days ahead,” before concluding by saying, “Thank you and God bless you” (Obama 2004). It may have appeared to be a typical invocation of religious themes by a politician, but it soon became clear that Obama’s faith had a very real influence on his liberal politics. As Stephen Mansfield describes,

It was a conscious attempt to reclaim the religious voice of the American political left. Those nine words [regarding belief in an awesome God] were meant to echo the footsteps of nuns and clergymen who marched with Martin Luther King Jr., of the religiously faithful who protested the Vietnam War or

helped build the labor movement or prayed with Cesar Chavez. Barack Obama was raising the banner of what he hopes will be the faith-based politics of the new generation, and he will carry that banner to whatever heights of power his God and the American people allow (Mansfield 2008: xv).

Obama's theme of hope, of the "audacity of hope," was rooted in his faith. This phrase was the title of a sermon that had begun Obama's conversion to active Christian belief as he worked to organize disenfranchised people in Chicago (Ibid: 26). As one scholar recently asserted, "Obama is arguably the most theologically serious politician in modern American political history," and therefore his election "represents the possibility of a new relationship between religion and politics" (Copeland 2009: 664, 691). Obama confirmed the strength of this relationship when he enthusiastically participated in the National Prayer Breakfast shortly after his inauguration.¹⁵

It seems appropriate to refer to Obama's Christian faith as a form of "spirituality without religion" in the sense described by Taylor, and to do so without denigrating or minimizing his faith. Obama embraces his faith without surrendering critique or rationalism, and without purporting to have found a universal truth that might be imposed on others. "Thus, for Obama, Christianity is but one religious tree rooted in the common ethical soil of all human experience" (Mansfield 2008: 55). His Christian faith is an ethical guide that does not purport to answer all questions, and therefore differs markedly from conservative fundamentalist expressions of faith.

¹⁵ In his remarks, Obama noted that "Michelle and I are honored to join you in prayer this morning. I know this breakfast has a long history in Washington, and faith has always been a guiding force in our family's life, so we feel very much at home [at the event] and look forward to keeping this tradition alive during our time here (Obama 2009).

He does not use the language of the traditional convert to Christianity. He is the product of a new, postmodern generation that picks and chooses its own truth from traditional faith, much as a man customizes his meal at a buffet. Obama does not recount that he felt an emptiness in his soul, was burdened by the weight of his sins, and so responded to the love of Jesus, who promised to save him and remake him in the image of God. This is the language of evangelicalism. He says, instead, that he was seeking a “vessel” for his values, a “community or shared traditions in which to ground my most deeply held beliefs.” Rather than yield his mind without reserve to Scripture and its revelation of God, Obama was relieved that a “religious commitment did not require me to suspend critical thinking.” Rather than “renounce the world and its ways” – standard Christian language for breaking with the sinful ways of society – he was pleased that his faith would not require “retreat from the world that I knew and loved.” Rather than commit to Jesus Christ because of truth he had already found sure, Obama instead admitted, “[T]he questions I had didn’t magically disappear,” and so in conversation he “dedicated [himself] to discovering [God’s] truth (Ibid: 52-53).

Obama’s faith is one of questioning rather than certainty, but this does not mean that his faith is weak or tangential. “For Obama, faith is not simply political garb, something a focus group told him he ought to try. Instead, religion to him is transforming, lifelong, and real. It is who he is at the core, what he has raised his daughters to live by, and the well he will draw from as he leads” (Ibid: 143).

Obama’s approach to religion might be considered “post-modern,” reflecting the fact that pre-modern religious commitments can be refashioned and experienced in the post-secular age. His faith is open and dialogic rather than circumscribed and univocal. He views his Christian faith commitment as one of many faiths that can be a productive and motivating source for personal values that have social dimension. In his remarks at the National Prayer Breakfast he recognized the necessity of bringing people of different faiths together to work

for social justice by engaging in a “productive and peaceful dialogue” that “can begin to crowd out the destructive forces of zealotry and make room for the healing power of understanding” (Obama 2009).

Mark Modak-Truran has argued that a new postmodern understanding of faith may permit us to abandon the failed project of a wholly secularized basis for law and politics and to return to a religious legitimation of law (Modak-Truran 2007). He argues that we must embrace a “constructive postmodern paradigm” to legitimate law.

A unitary religious (pre-modern) or secular (modern) legitimation of law appears to be an outdated or erroneous assumption of pre-modern and modern paradigms. It fails to take religious pluralism seriously. Rather than proposing a fixed, unitary foundation for the law, I will argue that the legitimation of law depends on the plurality of religious and comprehensive convictions in the culture. Under the constructive postmodern paradigm, the text of the law must be explicitly secularized (i.e., no explicit recognition of religion), but at the same time, the law is implicitly legitimated by a plurality of religious foundations. The constructive postmodern paradigm of law and religion thus leads to the *deseccularization of the law* (Ibid: 231).

Referencing the cases involving the public display of the Ten Commandments, Fred Gedicks and Roger Hendrix suggest that the often-invoked “Judeo-Christian” ethos is now too thin to encompass the diversity of faiths and non-believers in society, and that an emerging postmodern approach to faith as spirituality may be necessary (Gedicks 2007). This post-creedal spirituality “incorporates the consumer mentality of a marketplace in which believers shop for beliefs and practices, picking and choosing from among diverse and even incompatible denominations and traditions” (Ibid: 286). Calvin Massey has explained that the emergence of post-modern religious faith may lend some justification for the Supreme

Court to acknowledge and then defer to greater legislative authority in articulating what governmental neutrality means with respect to religious belief because the threat of sectarian strife will have been greatly reduced.¹⁶ According to the most recent Pew survey, American

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Lest the reader think that legislative primacy supplies a recipe for endless sectarian strife, with little intervention from the courts, consider some final possibilities of the post-modern sensibility as manifested in religious belief and conduct. The basic religious divide in a post-modern world separates pre-modern fundamentalist religion and post-modern spirituality. Fundamentalism, of whatever brand, asserts a universal and exclusive truth. . . .

A question that hovers over the metaphysical cusp in which we live is whether the post-modern understanding will displace pre-modern fundamentalism, or whether fundamentalism will triumph and displace post-modernism. I do not pretend to know the answer, but I do offer some preliminary thoughts, coupled with some observations about the probable related effects on the law of the Religion Clauses. Fundamentalism requires a sublimation of individual will to the demands of an eternal God. . . .

By contrast, post-modern spirituality is inherently flexible and malleable. All avenues to self-discovery are equally valid (Massey 2005: 50-51).

Massey concludes that the resolution at this point is uncertain.

While it is too soon to know whether legislative primacy will ameliorate or exacerbate religious conflict, it is not too soon to declare our entrance into a new era of the law of the Religion Clauses. Perhaps the metaphysics of post-modernism will produce sufficient religious toleration that the political dynamic of religious rent-seeking will moderate, and will result in an increase in aggregate preference satisfaction without destabilizing side effects. But it is also possible that the mixture of extreme religious pluralism, post-modern uncertainty, and religious rent-seeking will prove to be volatile. Let us hope the Court will be attentive to the effects of legislative primacy and modify it as necessary to account for conditions as they develop (Ibid: 54).

This willingness to entertain more governmental interaction with religion under the potentially changed conditions of post-modernity should be contrasted with Steve Smith's somewhat naive position that Establishment Clause jurisprudence ought to accommodate government endorsement of the Judeo-Christian heritage of our country as long as such religious expression is nonsectarian in nature (Smith 2005). Smith argues that while our Constitution is most assuredly agnostic on religious matters, this "does not entail that *governments operating under the Constitution* must be secular or must refrain from religious expressions," since any such localized expression would not be fundamentally constitutive of the community (Smith 2008: 123-24, 158). However, this approach tilts against the reality that the supposed Judeo-Christian values expressed by government might be no more than an aggregation of several sects seeking to define the community at the expense of a great many fellow citizens. In reply to the argument that only postmodern religious beliefs can avoid the sectarianism that is the target of the Establishment Clause (Gedicks 2007), Smith asserts that there is no reason to believe that invocations of generic religious language is intended to be divisive or exclusionary (Smith 2007a: 310). Suffice it to say that the concrete lived experiences of many people in this country, including my own in South-central Pennsylvania for nine years, leads them to be skeptical about Smith's faith in the genuine character of such expressions.

Smith is certainly correct to note the disingenuousness of the official party line that the "Constitution mandates that the government remain secular . . ." (County of Allegheny 1989: 610). William Marshall noted that there were widespread violations of the Establishment Clause in the days following the 9/11 terrorist attacks in America because there was an outpouring of official religious expression (Marshall 2002). Because religion in America "is not merely

believers increasingly are non-dogmatic in their approach to religious belief, suggesting that the postmodern approach to faith may increasingly be a lived reality and not just an academic account.¹⁷

When viewed against the backdrop of a postmodern approach to religion, Obama's efforts to connect faith and politics appear more plausible. Shortly before announcing his Presidential candidacy, Obama delivered the Keynote Address at a Call to Renewal conference in 2006 entitled, "From Poverty to Opportunity: A Covenant for a New America" (Obama 2006b). He could have focused on the public policy prescriptions advocated by the group, but instead he discussed how to "reconcile faith with our modern, pluralistic democracy" because he believes it is a "mistake . . . to fail to acknowledge the power of faith in people's lives" (Ibid). Many social problems are beyond the capacity for government to address, and so there is a need for an ethical commitment to social reform beyond political prescriptions. "After all, the problems of poverty and racism, the uninsured and the

a private phenomenon" but instead is "deeply embedded in our public culture" (Ibid: 15-16), such a reaction was understandable – and perhaps unavoidable. But tolerating these kinds of spontaneous outbursts in extreme situations as a pragmatic matter is far different from endorsing ongoing generic religious expression by the government. As Marshall notes, there "is a difference between a city sponsoring a one-time prayer service for the victims of the World Trade Center bombing and its implementing a daily school prayer as an ongoing September 11 memorial" (Ibid: 32). Surprisingly, Marshall does not discuss the backlash against Muslims in the United States and the often overtly Judeo-Christian expressions of faith by governments after the attacks.

¹⁷ As the Report states in the Summary of Key Findings:

A major survey by the Pew Forum on Religion & Public Life finds that most Americans have a non-dogmatic approach to faith. A strong majority of those who are affiliated with a religion, including majorities of nearly every religious tradition, do not believe their religion is a way to salvation. And almost the same number believes that there is more than one true way to interpret the teachings of their religion. This openness to a range of religious viewpoints is in line with the great diversity of religious affiliation, belief and practice that exists in the United States (The U.S. Religious Landscape Survey 2008: 3)

unemployed, are not simply technical problems in search of the perfect ten point plan. They are rooted in both societal indifference and individual callousness – in the imperfections of man” (Ibid). He stresses that liberal Christians should not be hesitant to let their faith guide them in addressing these deeper problems.¹⁸

Obama does not call on his fellow Democrats to adopt a veneer of religiosity as a political tool, but rather invites them to accept the possibility of a genuine engagement between faith and politics:

I am not suggesting that every progressive suddenly latch on to religious terminology – that can be dangerous. Nothing is more transparent than inauthentic expressions of faith. As Jim has mentioned, some politicians come and clap – off rhythm – to the choir. We don’t need that.

. . .

But what I am suggesting is this – secularists are wrong when they ask believers to leave their religion at the door before entering into the public square. Frederick Douglas, Abraham Lincoln, Williams Jennings Bryant, Dorothy Day, Martin Luther King – indeed, the majority of great reformers in American history – were not only motivated by faith, but repeatedly used religious language to argue for their cause. So to say that men and women should not inject their “personal morality” into public policy debates is a practical absurdity. Our law is by definition a codification of morality, much of it grounded in the Judeo-Christian tradition (Ibid).

This engagement requires some ground rules, Obama stresses, including a strict political secularism that recognizes the diversity of faiths and the existence of nonbelievers, the

¹⁸ It is important to remember that Obama became an active Christian while he was a community organizer working with churches in Chicago and while he was a member of the Trinity United Church of Christ, a predominantly black church whose (now infamous) Pastor, Jeremiah Wright, espoused a form of racial liberation theology. It should come as no surprise that Obama relates his religious faith to politics so strongly, particularly with respect to issues of social justice. In his famous speech on race after the controversy surrounding some of Jeremiah Wright’s statements from the pulpit, Obama expressly linked the quest for racial justice to his faith, stating dramatically that he could “no more disown him than I can disown the black community” (Obama 2008).

obligation to ground public policy arguments in concepts and principles that are not just part of the creed of a specific religion, and using fair-minded words that do not disparage anyone's political position solely on account of his or her religious beliefs.

In a chapter in *The Audacity of Hope* that expands his speech, Obama renders his thinking concrete by making it personal. In response to a lesbian friend upset that he had used his religious beliefs to help explain why he supports civil equality for gays and lesbians but opposes same-sex marriage, and to a Christian doctor offended by the manner in which his website characterized opponents to abortion, he called himself to task.

And I was reminded that it is my obligation, not only as an elected official in a pluralistic society but also as a Christian, to remain open to the possibility that my unwillingness to support gay marriage is misguided, just as I cannot claim infallibility in my support of abortion rights. I must admit that I may have been infected with society's prejudices and predilections and attributed them to God; that Jesus' call to love one another might demand a different conclusion; and that in years hence I may be seen as someone who was on the wrong side of history. I don't believe such doubts make me a bad Christian. I believe they make me human, limited in my understandings of God's purpose and therefore prone to sin. When I read the Bible, I do so with the belief that it is not a static text but the Living Word and that I must be continually open to new revelations – whether they come from a lesbian friend or a doctor opposed to abortion.

This is not to say that I'm unanchored in my faith. There are some things that I'm absolutely sure about – the Golden Rule, the need to battle cruelty in all its forms, the value of love and charity, humility and grace (Obama 2006c: 223-24).

If there can be a post-secular relationship between faith and politics, Obama appears to be striving to define it and embrace it in his political and personal life.

One example of Obama's faith and politics in action is found in his votes as a Senator

against the confirmation of Judge John Roberts and Judge Samuel Alito to serve as Justices on the United States Supreme Court. In both cases Obama released a short statement that praised the men for their knowledge, temperament and legal skills; nevertheless, he found them to be unacceptable for a position on the high court. With respect to Judge Roberts, Obama indicated that his concern was for the cases in which lawyerly skills were not enough to resolve the issue, given his record of using “his formidable skills on behalf of the strong in opposition to the weak” (Obama 2005). With respect to Judge Alito, he argued that “he consistently sides on behalf of the powerful against the powerless; on behalf of a strong government or corporation against upholding Americans’ individual rights” (Obama 2006a). These judgments are founded in the Judeo-Christian tradition that persists despite political secularization, and Obama would likely acknowledge as much. Although not framed in a creedal manner, his arguments are the arguments of a believer in the public square, participating in what Graeme argues has occurred from the beginning: the continual transformation and re-invention of Christianity by ordinary people (Smith 2008: 88).

The United States is not a secular nation in the way that European countries are secular. But the American exception might point forward rather than backward. In a world that is filled with oppressive regimes and theocracies, a post-secular detente between liberalism and faith that can produce a respectful and reciprocal relationship should not be dismissed out of hand. Whether Obama will advance this project as President remains to be seen, but his desire to do so is clear from his public statements. As one commentator

summarized, after Obama's speech on faith his "worldview was integrated and firm. He was a liberal Christian, embracing a faith-based liberal political vision, and he planned to take both into his nation's corridors of power" (Mansfield 2008: 99).

3. Having Faith in a Secularism that can Embrace Faith.

The foregoing description of President Obama's position fails to resolve the most pressing question in contemporary thinking about the relationships between law, politics and religion. Liberal theorists have assumed that political secularism inevitably will be weakened if the polity embraces the social and phenomenological religiosity of believers in the public square. They argue that any manner of religious argumentation in political contexts will be divisive and infect democratic politics with sectarian power plays. There is much in European history to warrant this fear, but even in recent American history the influence of the (misnamed) Moral Majority has fueled these concerns. The seeming ability of conservative Protestant ministers such as Jerry Falwell and Pat Robertson to motivate believers to shape political action for religious ends has led some to regard America as teetering toward an evangelical theocracy.¹⁹ The question posed by Obama's election is whether the government might embrace social and phenomenological "spirituality without religion" without necessarily undermining political secularism in the manner threatened by

¹⁹ After the terrorist attacks on September 11, 2001, both Falwell and Robertson famously stated that America's secularism had led to God's disapproval and opened the way for the attacks, leading European commentators to declare that America had become a theocracy (See, e.g., Kurtz 2001). For a description of the increasing influence on politics by conservative evangelical believers during the 1970s and 1980s, see (Lindsay 2007).

conservative, evangelical movements in recent American history.²⁰

The traditional liberal response to this threat has been to separate starkly the private realm of religious belief and the public realm of politics. Modern constitutional democracies purport to embody the separation thesis, and post-War Establishment Clause jurisprudence in the United States is a halting effort to implement this reality. But the halting quality of the effort arises because religious belief remains important to many Americans, and democracy would appear to make it inevitable that religious motivations will be brought to bear on public policies. John Rawls famously sought to negotiate this impasse by preserving the private realm of competing comprehensive belief systems but requiring that citizens offer only “public reasons” when they speak on matters of democratic governance (Rawls 1993: 212-54). Near the end of his career, Rawls recognized that requiring religious believers to offer only “public reasons” was unworkable, leading him to offer a proviso that would maintain the benefits of secularism without unfairly burdening believers. Under his proviso, citizens are permitted “to introduce into political discussion at any time [their] comprehensive doctrine, religious or non-religious, provided that, in due course, [they] give properly public reasons to support the policies and principles [their] comprehensive doctrine

²⁰ In this short paper I do not claim to analyze any problems raised by the political activities of groups such as the Moral Majority. I accept the claim that such movements may threaten democratic values and political secularism for the sake of argument, because I will contend that Obama’s model of the interaction of religious faith and political engagement does not raise the same concerns; instead, this model demonstrates the way in which those with conservative, evangelical beliefs may be welcomed in the public square.

is said to support” (Rawls 1999: 144).²¹ Of course, this adjustment merely framed the question rather than answering it.

It is obvious that Obama’s speeches and books adopt generally the Rawlsian resolution of the dilemma of religion in the public square. It should come as no surprise that a highly educated believer such as Obama would know the Rawlsian position and would draw from it, but his general invocation of the “public reasons” approach is not nearly specific enough to address contemporary issues and problems. Paul Horwitz applauds Obama’s support of an engagement of religion by politicians, but he rejects Obama’s seeming refusal to permit the inclusion of religious discourse in the public sphere. Referencing Obama’s assertion that “our deliberative, pluralistic democracy” requires “the religiously motivated [to] translate their concerns into universal, rather than religion-specific, values” (Obama 2006c: 219), Horwitz correctly notes that this position is even stricter than Rawls’s proviso on public reason. “It demands absolute translation of religious arguments into publicly accessible language rather than simply requiring religious reasons to be joined with publicly accessible ones” (Horwitz 2008: 60).²² However, it is important to remember

²¹ The proviso has been summarized and explained succinctly by Paul Weithman:

The proviso raises a number of questions. The basic idea, however, is clear enough. Citizens may offer religious arguments in public for their political positions. But in a pluralistic society, they should also be aware that not everyone will share their religious premises or regard their arguments as providing good reasons for the policies and principles they favor. They must therefore be ready to make good their religious arguments by supplementing them with what Rawls calls “properly public reasons” (Weithman 2007: 48).

²² Horwitz concludes that Obama “offers a rich and meaningful engagement with religion and its role in public life, one that is certainly leagues away from the strategy of avoidance practiced by Kennedy. At the same time, Obama too exacts a price for religion’s place in public life, demanding that religion express itself only in terms that may not

that Obama has not written a treatise on moral and political philosophy, and so his speeches should not be held to that standard. Rather, the question is whether Obama's outlook and actions might be construed in a manner that meets the pressing questions of post-Rawlsian moral and political philosophy even if Obama has not articulated these more subtle and nuanced positions that lie behind his generic invocation of Rawls.

In recent years, a number of scholars of law and religion have argued that strict separation is impossible if religious belief flourishes as phenomenological and social realities and if we take democracy seriously. For example, Richard Ekins (2005:81) rejects the secular fundamentalism that has predominated in Europe and instead urges a policy of "twin toleration," concluding that "regimes that entrench secularism and exclude religious groups from participation in politics are not truly democratic." If democracy is the guiding light of constitutional regimes, Ekins argues that there can be no fundamentalism – whether religious or secular in nature; rather, there must be interaction between these realms of social organization without permitting either to dominate the other. Politics must tolerate free worship and assembly of believers, while religion must acknowledge the priority of democratic political rule (Ibid: 89).

Truly democratic regimes are characterized in their church-state relations by the twin tolerations and priority for democracy. Thus, in a democracy, believers are free to worship as they see fit, as well as to participate in public life. The state has autonomy to reach its own policy decisions and authority to implement those decisions without being constrained by religious veto. In this way, while there is no strict wall of separation, political actors observe a

come naturally to it" (Horwitz 2008: 50).

distinction between civil and religious authority and give priority to the outcomes of democratic procedures, irrespective of their inconsistency with individual or group preferences. To be sustainable, religious groups' support for democracy must be justified from within their traditions. It follows, then, that contra secular fundamentalism democratization may well require explicitly religious arguments for democracy (Ibid: 92).

The separation thesis appears hopelessly at odds with democratic governance in societies in which large segments of the populace are motivated by a variety of religious cosmologies.

Rejecting the strict separation of politics and religion only begins the analysis. Jürgen Habermas recently has challenged the dogma of Rawlsian “public reasons” for being insufficiently attentive to the democratic character of the modern state, providing what might have been an unexpected detailed defense of religious expression in democratic politics. Citizens may not fully participate in democratic politics, Habermas insists, if the polity merely tolerates religious expression as an unfortunate anachronism and enforces a strictly secular ideology that places intolerable motivational and psychological limitations on a large segment of the population (Habermas 2006a: 4-9). To return to the tripartite understanding of secularism, Habermas lauds the emergence of political secularism but finds that it has inappropriately been employed in an effort to marginalize social and phenomenological religious expression. This leads him to conclude that Rawlsian “public reasons” are legitimately required of government officials acting in their official capacity, but cannot be strictly applied to the democratic activity of citizens (Ibid: 8-9).²³ “The liberal state must not

²³ Kent Greenawalt suggests that law provides a good model of these differing obligations with respect to utilizing religious argumentation (Greenawalt 2007). The obligation of a judge to decide cases according to law might generally be viewed as forbidding any reliance on religious belief in justifying a result, whereas a politician casting a vote

transform the requisite *institutional* separation of religion and politics into an undue *mental* and *psychological* burden for those of its citizens who follow a faith” (Ibid: 9). Even more, Habermas contends that “the liberal state has an interest in unleashing religious voices in the political public sphere” and “must not discourage religious persons and communities from also expressing themselves politically *as such*, for it cannot know whether secular society would not otherwise cut itself off from key resources for the creation of meaning and identity. . . . Religious traditions have a special power to articulate moral intuitions, especially with regard to vulnerable forms of communal life” (Ibid: 10).

Habermas articulates the political counterpart to his philosophical exchange with Cardinal Ratzinger on the need to respect plural ways of knowing and meaning-formation. He frames the political implication of his approach as the need to recognize a “reciprocal cognitive burden” to translate one’s worldview, whether religious or secular, into a language that can sustain political dialogue (Habermas 2007: 15). He expressly disavows the condescending “toleration” of religion by liberal political theorists.²⁴ “In short, post-

in favor of legislation might properly reference religious motivations for the vote. Even more starkly, a citizen who votes in a referendum might properly refer to her religious beliefs as the sole criterion for this exercise of lawmaking power.

²⁴ Habermas writes:

This cognitive act of adaptation needs to be distinguished from the political virtue of mere tolerance. What is at stake is not some respectful feel for the possible existential significance of religion for some other person. What we must also expect of the secular citizens is moreover a self-reflective transcending of a secularist self-understanding of Modernity.

As long as secular citizens are convinced that religious traditions and religious communities are to a certain extent archaic relics of pre-modern societies that continue to exist in the present, they will understand freedom of religion as the cultural version of the conservation of a species in danger of becoming extinct. From their viewpoint, religion no longer has nay intrinsic justification to exist. . .

metaphysical thought is prepared to learn from religion, but remains agnostic in the process. It insists on the difference between the certainties of faith, on the one hand, and validity claims that can be publically criticized, on the other; but it refrains from the rationalist presumption that it can itself decide what part of the religious doctrines is rational and what part is irrational” (Habermas 2006: 17)

Habermas may not have definitively resolved these questions, but his important essay has been at the forefront of a number of efforts at sustained and careful reconsideration of the Rawlsian position. It is not so much the case that Rawls was mistaken, as that he wrote in a period in which there was no comprehensive worldview that was rigorously secular (Boettcher 2009: 222-24). The ascent of philosophical naturalism in recent years means that it is no longer plausible to gesture toward secularism as a tolerant perspective that permits those with different worldviews to join together in political friendship. Cristina Lafont has challenged Habermas for not going far enough in his revision of the Rawlsian doctrine of public reasons (Lafont 2007). Lafont contends that Habermas imposes artificial restraints on religious dialogue in the public sphere at the level of formal governance that are not similarly imposed on other comprehensive doctrines (Lafont 2009: 131). Her alternative charts a path between imposing severe restraints on religious dialogue or eliminating all restraint.

According to this policy, citizens who participate in political advocacy in the

. Citizens who adopt such an epistemic stance toward religion can obviously no longer be expected to take religious contributions to contentious political issues seriously and even to help to assess them for a substance that can possibly be expressed in a secular language and justified by secular arguments (Habermas 2007: 15).

informal public sphere can appeal to any reasons they sincerely believe in, which support the coercive policies they favor, provided that they are prepared to address any objections based on reasons generally acceptable to democratic citizens that other participants may advance against such policies. . . . According to this proposal, the only element of *restraint* involved in meeting the liberal criterion of democratic legitimacy is that citizens must refrain from imposing a coercive policy until objections based on generally acceptable reasons have been successfully defeated (Lafont 2009: 132).

This corrective seeks to preserve public reasons as a tempering force rather than a univocal and exclusive language. Lafont explains this difference:

The dilemma that Habermas' proposal seems to face brings the central question into focus: is it possible to recognize what is right about the cognitive objection to the Rawlsian proposal without having to give up on the liberal criterion of democratic legitimacy. In my view, the answer is yes. As I will try to show in what follows, a proper account of the ethics of citizenship must recognize *the right of all democratic citizens to take their own cognitive stance in public deliberation*. This is the most compelling element of the cognitive objection, since leaving any politically active citizens no other option but to be disingenuous is certainly an undue cognitive burden. However, this right by no means includes an additional right to the *protection of the integrity* of such cognitive stances, as the objection also suggests. It seems obvious that public deliberation, as a collective enterprise, would be pointless if citizens had a right to include their own views and reasons in public deliberation, but no subsequent obligation to check whether they can be made good in view of other available arguments. Consequently, a successful policy of *mutual accountability* requires combining the right to include the cognitive stances of all democratic citizens with the need to secure reasons acceptable to everyone for the coercive political decisions with which all citizens must comply (Lafont 2009: 141).

Public reasons are given priority not because they are the only legitimate reasons, but because they are “the only ones towards which no one can remain indifferent in their political advocacy. Whereas public reasons need not be the only source from which a rationale in support of each proposed coercive policy must be crafted, they are the kind of reasons that

cannot be ignored, disregarded, or overridden once they are brought to public deliberation by any citizen. They are the reasons that all politically active citizens must engage *in their own terms* if they are offered as objections to the coercive policies under discussion. . . . Citizens have no obligation to provide either public reasons or translations in terms of public reasons for each policy proposal they support or criticize, but they do have the obligation to address any such reason that is introduced by others against their proposals.” (Lafont 2009: 141-42). And, rephrased more specifically to address the question of argumentation rooted in religious beliefs, she summarizes: “Whereas it seems at best unfeasible and at worst disingenuous to ask religious citizens who participate in political advocacy to come up with non-religious reasons in support of the policies they favor, regardless of what their sincere beliefs happen to be in each specific case, it does seem both feasible and legitimate to ask them to address any objections offered by other citizens against these policies which are based on reasons generally acceptable to democratic citizens” (Lafont 2009: 143-44).

One of the animating themes in the contemporary literature is the conviction that comprehensive doctrines may be advanced in the public square in a manner that does not threaten oppression or domination of fellow citizens. John Haldane captures this spirit:

Let the comprehensive doctrines come to the table, the forum, or the assembly. Let them present themselves, in their own terms, but also in a manner whose animating principles include toleration. Rawls insists that it is not part of his position that the burdens of judgment under which political deliberation operates constitute skepticism. But if we are not to be skeptical about practical rationality (concerning ends as well as means), then there is no reason to fear the advancement of comprehensive doctrines in a context in which we settle for a *modus vivendi* sustained by a shared humane liberality. Indeed, there is reason to regard this as a desirable goal, and one more ennobling in its account of humankind than is the

conception of political society as sustained by the systematic curtailment of substantive philosophies of human nature and conduct (Haldane 2007: 190).

The idea of a “shared humane liberality” is at once a rejection of ultimate truths and also a rejection of radical skepticism. In the post-Enlightenment age, we have come to re-discover the realm of rhetoric, in which arguments may be reasonable without being compelling under the strict dictates of logic and rationality (Mootz 2006). From a rhetorical point of view, there is no difficulty permitting those engaged in debate to refer to comprehensive doctrines, so long as the rhetorical ethos of argumentation is maintained (Sammons 2009). Returning to Lafont’s notion of “mutual accountability,” we might add detail to her program by noting that a political community can exist only on the basis of shared *topoi* and a *sensus communis*, but that these bases for “public reasons” do not exhaust the rhetorical sources of argumentation which should not be barred from the public square. The effort by Rawls to avoid public strife is not realized by restricting the scope of rhetoric in the public square; rather, public cohesion can be fostered by embracing the full range of rhetoric and insisting only on maintaining the rhetorical space in which this public dialogue may take place.

These recent efforts to expand the scope of Rawls’s proviso without surrendering the important gains of political secularism provide important theoretical support for Obama’s effort to define a post-secular politics. However, it is appropriate to temper my argument that Obama represents an important development in the relationship between faith and politics in the post-secular age. In a careful recounting of the fragile achievement of political secularism against the backdrop of centuries of religious bloodshed and tyranny, Mark Lilla

(2007) cautions us against intellectual complacency that permits the erosion of political secularism by seeking to accommodate the persistence of social and phenomenological religious belief and practices. He posits a binary choice: embrace the political theology that continues to grip much of the world or persevere in the development of secular politics. Lilla's provocative thesis is that secularism has been undermined by political theorists who sought a liberal theology that could ground moral sentiments and political legitimacy without devolving into sectarian political tyranny. These thinkers seek to permit religion back into the public sphere on liberal political terms, but the result is a "stillborn God, unable to inspire genuine conviction among those seeking ultimate truth," thereby unwittingly creating an environment in which political theology can again take hold to satisfy the metaphysical hopes of citizens (Lilla 2007: 301). Lilla argues that contemporary thinkers are unmindful of this dangerous dynamic because they are too prone to believe that political secularism is an inevitable and irreversible result of Western modernity (Lilla 2007: 305), and that the "it is only thanks to a strong constitutional structure and various lucky breaks that political theology has never managed to dominate the American political mind" in light of the greater resonance of religion in the United States (Lilla 2007: 307).

Lilla urges a reaffirmation of the fundamental choice that defines Western secularism, arguing that we "have wagered that it is wiser to beware the forces unleashed by the Bible's messianic promise than to try exploiting them for the public good. We have chosen to keep our politics unilluminated by the light of revelation. If our experiment is to work, we must

rely on our own lucidity” (309). Lilla delivers a direct rebuke to the notion of a postmodern religious sensibility, in which the social and phenomenological spirituality of citizens can support political activity without undermining political secularism. His assessment and warning are sobering and persuasive. It makes sense to place the burden of proof on Obama and those who would seek a reconciliation of religious belief and political secularism, exercising caution and seeking to ensure that the benefits of political secularism are strengthened as we define politics in the post-secular age.

Conclusion.

In a recent essay about the status of the United States as a “righteous empire,” Peter Fitzpatrick emphasizes the destabilizing reality resulting when an Empire operates with religious fervor rather than simply as a matter of conquest, asking “how can the United States hold itself out righteously and assertively as exemplifying human rights whilst acting in ways that do not observe human rights?” (Fitzpatrick 2008). America’s non-secularism poses dangers, but may also deliver the most potent critique of some of its more odious policies. Although the United States does not follow the path of secularization in the same manner as Europe, the embrace of a post-secular relationship between faith and politics may provide a basis for America to become truly righteous – morally justified, correct and upstanding – and thereby to assume its role as a shining city on the hill. This is Obama’s political goal: to restore righteousness in the place of the dogmatism, insularity and hubris that have grown out of pre-secular religious impulses. Although the perils Obama faces in this quest are

many and obvious, the potential for a righteous politics appears very real indeed.

Works Cited

- Berger, Peter, Grace Davie and Effie Focas. *Religious America, Secular Europe?* (Burlington, VT: Ashgate Pub. Ltd., 2008).
- Copeland, Charlton C. "God-Talk in the Age of Obama: Theology and Religious Political Engagement." 86(special issue) *Den. U. L. Rev.* (2009): 663-91.
- County of Allegheny v. ACLU*, 492 U.S. 573 (1989).
- Dent, George W. "Secularism and the Supreme Court." *B.Y.U. L. Rev.* (1999): 1-73.
- Ekins, Richard. "Secular Fundamentalism and Democracy." 8.1 *J. of Markets & Morality* (2005): 81-93.
- Fitzpatrick, Peter. "Righteous Empire." (unpublished manuscript on file with author, 2008).
- Gedicks, Frederick Mark and Roger Hendrix. "Uncivil Religion: Judeo-Christianity and the Ten Commandments." 110.1 *W. Va. L. Rev.* (2007): 275-314.
- Goldberg, Michelle. "Palin's Party: The GOP's Veep Nominee has become the Ultimate Christian-Right Success Story." *The Nation* 287.11 (October 13, 2008): 11-14.
- Greenawalt, Kent. "What Are Public Reasons?" 1.2 *J. of Law, Phil. & Culture* (2007): 79-105.
- Habermas, Jürgen. "Religion in the Public Sphere." 14.1 *European J. of Phil.* (2006): 1-25. [2006a].
- _____. "Pre-political Foundations of the Democratic Constitutional State." In *The Dialectics of Secularization: On Reason and Religion* 19-52 (Brian McNeil trans., Florian Schuller ed.) (San Francisco, CA: Ignatius Press, 2006). [2006b]
- Haldane, John. "Public Reason, Truth, and Human Fellowship: Going Beyond Rawls." *J. of Law, Phil. & Culture* 1.1 (2007): 175-90.
- Horwitz, Paul. "Religion and American Politics: Three Views of the Cathedral." (2008) (available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1267445).
- Kurtz, Paul. "The New American Theocracy." *New Humanist* 116.4 (Winter 2001) (available at <http://newhumanist.org.uk/471>).
- Lindsay, D. Michael. *Faith in the Halls of Power*. (Oxford: Oxford University Press, 2007).
- Mansfield, Stephen. *The Faith of Barack Obama*. (Nashville, TN: Thomas Nelson, 2008).
- Marshall, William P. "The Limits of Secularism: Public Religious Expression in Moments of National Crisis and Tragedy." 78.1 *Notre Dame L. Rev.* (2002): 11-33.
- Massey, Calvin. "The Political Marketplace of Religion." 57.1 *Hastings L.J.* (2005): 1-54.
- McCreary County v. ACLU of Kentucky*, 545 U.S. 844, 885-912 (2005) (Scalia, J., dissenting).
- Modak-Truran, Mark C. "Beyond Theocracy and Secularism (Part I): Toward a New

- Paradigm for Law and Religion.” 27.2 *Miss. Coll. L. Rev.* (2007): 159-233.
- Obama, Barack. “Keynote Address at the 2004 Democratic National Convention.” (delivered on July 27, 2004) (available at http://www.barackobama.com/2004/07/27/keynote_address_at_the_2004_de_1.php).
- _____. “Remarks of Senator Barack Obama on the Confirmation of Judge John Roberts.” (delivered on September 22, 2005) (available at http://www.barackobama.com/2005/09/22/remarks_of_senator_barack_obama_10.php).
- _____. “Floor Statement of Senator Barack Obama on the Confirmation of Judge Samuel Alito, Jr.” (delivered on January 26, 2006) (available at http://obama.senate.gov/speech/060126-floor_statement_1/). [2006a]
- _____. “Call to Renewal Keynote Address.” (Delivered on June 28, 2006) (available at http://www.barackobama.com/2006/06/28/call_to_renewal_keynote_address.php). [2006b]
- _____. *The Audacity of Hope: Thoughts on Reclaiming the American Dream* (New York, NY: Three Rivers Press, 2006). [2006c]
- _____. “A More Perfect Union.” (Delivered on March 18, 2008) (available at http://www.barackobama.com/2008/03/18/remarks_of_senator_barack_obam_53.php).
- _____. “President Obama’s Remarks at National Prayer Breakfast.” (Delivered on February 5, 2009) (available at <http://www.nytimes.com/2009/02/05/us/politics/05text-prayer.html>).
- Ratzinger, Joseph. “That Which Holds the World Together: The Pre-political Moral Foundations of a Free State.” In *The Dialectics of Secularization: On Reason and Religion* 53-80 (Brian McNeil trans., Florian Schuller ed.) (San Francisco, CA: Ignatius Press, 2006).
- Rawls, John. *Political Liberalism*. (New York, NY: Columbia U. Press, 1993).
- _____. “Idea of Public Reason Revisited.” In *The Law of Peoples* (Cambridge, MA: Harvard U. Press, 1999), 129-180.
- Sammons, Jack L. “A Rhetorician’s View of Religious Speech in Civic Argument.” 32.x *Seattle Univ. L. Rev.* (2009): 367-87.
- Smith, Graeme. *A Short History of Secularism*. (London: I.B. Taurus, 2008).
- Smith, Steven D. “Nonestablishment ‘Under God’? The Nonsectarian Principle.” 50.1 *Vill. L. Rev.* (2005): 1-23.
- _____. “‘Sectarianizing’ Civil Religion? A Comment on Gedicks and Hendrix.” 110.1 *W. Va. L. Rev.* (2007): 307-14.
- _____. “Our Agnostic Constitution.” 83.1 *N.Y.U. L. Rev.* (2008): 120-66.
- Taylor, Charles. *A Secular Age*. (Cambridge, MA: Belknap Press, 2007).
- “The U.S. Religious Landscape Survey: Summary of Key Findings.” *The Pew Forum on Religion & Public Life*. (2008) (available at <http://religions.pewforum.org/reports/summaryofkeyfindings>).
- Weithman, Paul J. “John Rawls’s Idea of Public Reason: Two Questions.” 1.1 *J. of Law,*

Phil. & Culture (2007): 47-67.
Zorach v. Clauson, 343 U.S. 306 (1952).