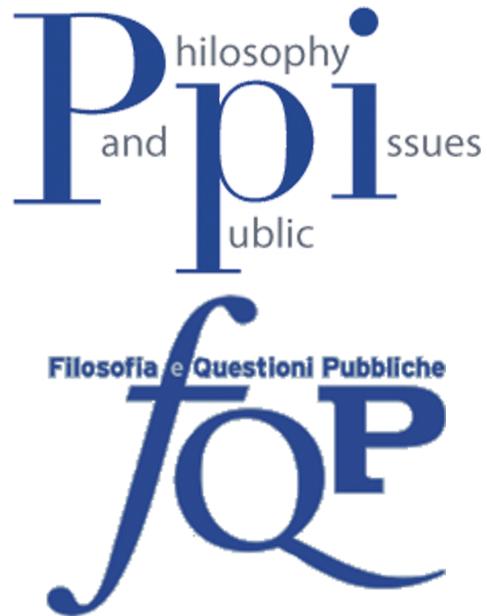


SYMPOSIUM
THE CHURCH AND THE STATE



A PRÉCIS TO
DEMOCRATIC AUTHORITY AND THE
SEPARATION OF CHURCH AND STATE

BY ROBERT AUDI

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A Précis to Democratic Authority and the Separation of Church and State

Robert Audi

The contemporary world is beset by tensions between a secular outlook on life among many people and religious fundamentalism on the part of many others. There are numerous intermediate positions, but even between these, and among educated people who occupy them, there are similar tensions. This book is aimed at developing an important part of a political philosophy that can sustain a democratic tolerance on the part of both religious citizens and secular citizens. A guiding conviction is that a democratic state should protect the liberty of its citizens and, accordingly, should accommodate both religious liberty and cultural diversity in religion and in other realms of life. Religious citizens, however, commonly see a secular state as unfriendly toward religion. A major aim of this book is to articulate a framework of principles that enables secular governments to provide for the liberty of all citizens in a way that observes a reasonable separation of church—meaning religious institutions—and state and also minimizes alienation of religious citizens.

As compared with other treatments of this problem, my method is distinctive in beginning with the relation between religion and ethics. This relation is crucial for any comprehensive political philosophy but (in my view) is insufficiently accounted for by philosophers, theologians, and political theorists. If the ethical standards that should govern human life depend on religion, it is easy to see why religious citizens might think that the morality sanctioned by their faith should structure their government. If, by contrast, religion has no moral authority, it is easy to see why secular citizens should think that the state, guided by universal moral rights, may limit religious practices.

Chapter 1, “The Autonomy of Ethics and the Moral Authority of Religion,” shows how, on the one hand, ethics is epistemically independent of religion—evidentially autonomous in a way that makes moral knowledge possible for secular citizens—but, on the other hand, how religion and theology have a measure of moral authority. That ethics does not depend on religion is often denied by religious people (though the kind of dependence is question is often left unclear); that religion and theology have moral authority is often denied by secular thinkers. The chapter argues against both of these negative views and outlines a positive position that should enhance mutual understanding among their proponents.

Drawing on previous work,¹ this chapter also briefly introduces a new version of divine command theory in ethics, a version that I consider both plausible in itself and consonant with piety (though I do not myself hold it). On this theory, moral obligation is theologically

¹ Notably, my *Rationality and Religious Commitment* (Oxford and New York: Oxford University Press, 2011, paperback 2013).

comprehensible as, by its very nature, *meriting divine command*, even though it is not, ontically or epistemically, *grounded on divine command*. This view leaves room for moral knowledge that is epistemically independent of religion and hence accessible to non-theists; but the view also provides a conception of moral obligation on which our obligations are consonant with many kinds of theistic commitments. Chapter 1 is not, however, centered entirely on divine command ethics; its main purpose is to set out a position in ethics that supports the kind of separation of church and state, and the associated ethics of citizenship, defended in the book as a whole. The divine command theory is set forth mainly to show how, within a traditional theistic framework, religious people can accept ethical principles of the kind essential for guiding both democratic governments and political conduct by individuals.

Given what is established in Chapter 1, it is clear why a democratic society that protects religious liberty should want to maintain a separation of church and state. A major support for this separation is the idea that citizens should not be subject to coercion, whether through laws or through public policies, unless it is justified by reasons that can be understood and appreciated by rational, adequately informed adults independently of their religious position. Chapter 2, “The Liberties of Citizens and the Responsibilities of Governments,” portrays a kind of church-state separation that accommodates both religious and secular citizens. Here I clarify and support three principles regarding government in relation to religion: a liberty principle calling for protection of religious freedom, an equality principle calling for equal treatment of different religions by government, and a neutrality principle calling for governmental neutrality toward religion. A well-

designed separation of church and state—which I take to be supported by all three principles—enables government to deal with important issues in contemporary life without either ignoring religion or according it undue privilege. There are several issues here, some more prominent in the United States than elsewhere, but each calling for resolutions that have implications for any democracy.

One such church-state issue is the treatment of evolutionary biology in the science curriculum of public schools. May teaching it be required material for students whose parents oppose the theory on religious grounds? If so, how should it be taught? A related problem is the legitimacy, given separation of church and state, of vouchers (governmentally supplied monetary allowances) to pay for private school education. Still another issue concerning such separation is governmental support of “faith-based initiatives,” such as church-affiliated, governmentally supported shelters for the homeless. The theory of church-state separation presented in this chapter is shown to bear on all of these problems. From the point of view of constitutional law, the chapter takes account of both issues concerning governmental establishment of religion and problems regarding the free exercise of religion. Both kinds of issues are addressed in the First Amendment of the Constitution of the United States, but both are also quite general. They concern any pluralistic democracy in which religion is important.

The optimal balance between secularity in the state—which in practice implies a kind of governmental neutrality toward religion—and protection of religious liberty requires at least two kinds of principles: *institutional principles*, such as those appropriate to framing constitutions and to guiding

legislation, and *individual principles* articulating standards of civic virtue that apply to conduct by individuals. Chapter 2 concerns mainly the former principles; Chapter 3, “The Secular State and the Religious Citizen,” concerns mainly the latter. My previous work has stressed, as necessary for justified support of coercive laws and public policies, what I have called “adequate secular reason”—a kind of religiously neutral reason—and in earlier work I have explicated both adequacy and secularity, though not in all the aspects discussed in this book. A principle presented and defended in this chapter (and much discussed in the literature on religion and politics) is the principle of secular rationale—or (as it might equally well be called) a principle of *natural reason*: citizens in a democracy have a prima facie obligation not to advocate or support any law or public policy that restricts human conduct, unless they have, and are willing to offer, adequate secular reason for this advocacy or support (e.g. for a vote) (pp. 67-68). John Rawls has used the different, though overlapping, terminology of “public reason,” and both my view and his (among others addressing the same problem) have been widely examined.

Chapter 3 connects the idea of secular reason with what, historically—particularly from Thomas Aquinas on—has been called “natural reason.” Natural reason—though perhaps not “public reason” (a phrase not adequately clarified by Rawls)—is a basic human endowment manifested in everyday reasoning. Fortunately, it is prominently recognized by many clergy and by many writers on political questions (though usually under different names), and indeed it is central, in some major religions. Part of my task in this chapter and elsewhere is to show how the kind of governmental neutrality I defend is

consonant with natural reason—roughly, reason as a natural endowment of normal adult human beings.

To be sure, natural reason may be taken, as it has been by philosophical theologians since medieval times, to provide sufficient grounds for accepting theism, say as the only good explanation of why there is a world at all, or as the best explanation of the natural order, or as evidenced by ordinary matters of fact, such as some stressed by Aquinas, for instance that there are motions and, apparently, causal chains. This raises a question not generally pursued in contemporary literature on religion and politics: whether, if natural reason itself favors theism, there is any need for democratic governments—which themselves depend on natural reason as a foundational source of standards—to separate church and state. Let me explain.

Suppose a theistically oriented conception of natural reason can be sustained or, in any case, cannot be supposed by democratic governments to fail. That conception poses a challenge to liberal political theory that has not been generally noticed. To see this challenge, suppose we make the plausible assumption that democracies may not properly assume that natural reason, which is shared by us all and does not rely on religious premises, cannot establish theism. If it can establish theism (and perhaps even if it cannot but cannot be assumed by government to fail in this), democracies would then seem to lack an adequate basis for a truly robust separation of church and state, one that rules out establishing even the generic “civil religion” historically present at least in the United States, though perhaps now declining in most quarters. How can a democracy completely separate church and state if the

proper use of human reason as shared by us all regardless of religious commitment leads to a theistic outlook? Without good grounds for a robust separation of church and state, democratic theory cannot justify the far-reaching governmental neutrality toward religion endorsed by liberal political theory. Chapter 3 is partly devoted to addressing this challenge to liberal political theory.

The first three chapters, then, clarify how an adequate conception of the proper relation between religion and politics is needed not just for political philosophy but also as an element in the constitutional development of evolving nations and as a contribution to peaceful coexistence in and among nations. But many questions remain concerning the kinds and limits of tolerance that are appropriate within the theory of religion and politics which the book provides. The final chapter, “Democratic Tolerance and Religious Obligation in a Globalized World,” proposes standards of tolerance that are supported by the theory and are partly constitutive of civic virtue. I argue that these standards are harmonious both with major, widely shared ethical views and with the reciprocity appropriate to the principles I propose in the ethics of citizenship. One such standard is “*The principle of toleration*: If it not reasonable for proponents of coercion in a given matter to consider themselves epistemically superior in that matter to supporters of the corresponding liberty, then in that matter the former have a prima facie obligation to tolerate rather than coerce” (pp. 119-120). I also contend that civic virtue is not just a matter of overt behavior in matters of citizenship such as votes on public policy issues. Civic virtue requires acting for the right kind of reason. Another important element in it is what I call *civic voice*, a way of speaking that is specially appropriate to public political discourse. Civic voice can vary

independently of what is being said and may be manifested in written communication as well as orally.

The fourth and final chapter addresses the not uncommon cases (such as stem cell research and capital punishment) in which we may find ourselves in disagreement with people we consider equally rational and equally informed on the matter in question, where equal rationality in relation to a matter (such as the justification of military conscription) implies equal ability to assess relevant evidence regarding it. The principles of tolerance proposed for these cases (which are not presented as the only principles of tolerance one might support) are framed on the basis of an account of rational disagreement I have developed elsewhere.² In the light of my theory of religion and politics and my related account of tolerance, this final chapter also addresses such global issues as religion in the workplace, the rights of women, and the tension between nationalism and cosmopolitanism. The account of church-state separation and the associated account of the ethics of citizenship are shown to have international implications, for instance for the conduct of non-governmental international organizations such as multinational corporations and quasi-governmental institutions such as the United Nations.

Overall, the book is an attempt to advance the theory of liberal democracy, clarify the relation between religion and ethics, provide distinctive principles governing the place of religion in politics, and outline a theory of toleration. It frames institutional principles for the guidance of governmental policy toward religious institutions; it

² In, e.g., “The Ethics of Belief and the Morality of Disagreement: Intellectual Responsibility and Rational Disagreement,” *Philosophy* 86 (2011), 5-29.

articulates citizenship standards for political conduct by individuals; it examines the case for affirming these two kinds of standards on the basis of what, historically, has been called natural reason; and it defends an account of toleration that enhances the practical application of the overall ethical framework.

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If you need to cite this article, please use the following format:

Audi, Robert, "A *Précis* to Democracy Authority and the Separation of Church and State,"
Philosophy and Public Issues (New Series), Vol. 3, No. 2 (2013), 1-9, edited by S. Maffettone, G.
Pellegrino and M. Bocchiola