

# *The Myth of “Secular Neutrality” and the Privatisation of Religion*

*By Dr Augusto Zimmermann\**

It is a great pleasure to be here in Hobart’s Anglican Cathedral. I was very pleased to be asked by the Chief Justice to speak, and thank him very much for the opportunity.

While the role of Christianity in Australia’s history is irrefutable, strangely, the ongoing decline of Christian faith and morality is also irrefutable. Since our modern society is viewed largely as “secular” and “multicultural,”<sup>1</sup> Christianity is almost never mentioned, much less promoted, in political and intellectual discourse. When it is mentioned among the nation’s public figures, Christian values and traditions are sometimes critiqued, even brushed aside with contempt. And yet, it is worthwhile to observe how significant western legal-institutional concepts, including the very concept of church-state separation, can be traced back to traditional Christian teachings, in particular Christ’s admonition to ‘render therefore unto Caesar the things which be Caesar’s, and unto God the things which be God’s.’<sup>2</sup> As the American law professor, Steven Smith, points out,

[t]he commitment to church-state separation and the derivative commitment to freedom of conscience arose in—and acquired their sense and their urgency from—a classical, Christian

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<sup>1</sup> See, for instance, a description of religion’s “highly circumscribed” relevance to culture in Patrick O’Farrell, *The Cultural Ambivalence of Australian Religion*, in S.L. Goldberg & F.B. Smith, ‘Australian Cultural History’ (ed., 1988), 8.

<sup>2</sup> Luke 20:25 (King James Version)

world view in which the spiritual and temporal were viewed as separate domains within God's overarching order. In the prevailing modern framework, by contrast, the jurisdictional and religious problem has receded, and has been replaced by a problem of justice: the question is simply how a secular liberal state should treat those subject to its governance. But in that secular framework, the inherited commitments of church-state separation and to free exercise of religion lose their grounding, and their sense; indeed, there seems to be no very powerful reason to regard religion as a special category at all.<sup>3</sup>

Curiously, there was no significant distinction between sacred and secular in pre-Christian western societies. Ancient Greek and Roman societies, clearly, were not secular, but deeply religious. In Ancient Rome, for example, the worship of the state in the person of the divine Emperor was the ideology that unified the Roman Empire. Roman law, and the resulting persecution of religious dissidents, testifies that the only religions permitted in Rome were those licensed and approved by the state. As the law from the Twelve Tables (5<sup>th</sup> century BC) determined, 'Let no one have gods on his own, neither new ones nor strange ones, but only those instituted by the State.'

Similarly, statecraft was soul-craft for the ancient Greeks. The Greek polis and the Roman Empire were church-states. Accordingly, Socrates's was executed by his fellow Athenian citizens precisely for being an Atheist; that is, for corrupting the youth by teaching them to doubt the gods of Athens. Others suffered similar fates, fates reserved to all those who defied the gods, which the definitions of law confirmed. Hence, in his classic *The Ancient City* (1866) Fustel de Coulanges (1830–1889) commented that

[i]t is a singular error to believe that in the ancient cities men enjoyed [religious] liberty. They had not even the idea of it. They did not believe that there could exist any right as against the city and its gods...The ancients, particularly the Greeks, always exaggerated the importance, and above all, the rights of society [at the expense of the individual]; this was largely due, doubtless, to the sacred and religious character which society was clothed in the beginning.<sup>4</sup>

Whereas the concept of a secular state was unknown to the people of those ancient civilizations, there is substantial evidence tracing the idea of church-state separation to the Bible. First of all, Christ did not equate the "Kingdom of God" with any specific form of government,

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3 Steven D. Smith, 'Discourse in the Dusk: The Twilight of Religious Freedom?' (2009) 122 *Harvard Law Review* 1869, 1887.

4 Fustel de Coulanges, *The Ancient City: A Study of the Religion, Laws and Institutions of Greece and Rome* (New York/NY: Dover Publications, 2006), 223.

which makes it possible to establish a jurisdictional separation of church and state. Further, Christianity regards human redemption and virtue as a product of God's supernatural activity. As such, 'the State became an administrator of justice under God's divine law, and men were to render to Caesar only those things that were Caesar's and to God what was God's.'<sup>5</sup> Such teachings were revolutionary because the Greeks and Romans knew nothing about separating religion and state. To the contrary, according to Dinesh D'Souza,

[f]or the ancient Greeks and Romans, the gods a man should worship were the gods of the state. Each community had its own deities—it was a polytheistic age—and patriotism demanded that a good Athenian make sacrifices to the Athenian gods and a good Roman pay homage to the gods of Rome. The Christians, Celsus fumed, refused to worship the Roman gods. They did not acknowledge the Roman emperor as a god, even though Caesar had been elevated by the Roman Senate to divine status.<sup>6</sup>

Be that as it may, in 1075, Pope Gregory VII declared the church's independence from "secular control," thus freeing the church from dependence on the civil authority. Finding its primary justification in scripture as well as the patristic teachings of the early centuries, this "papal revolution" laid down the foundations for the subsequent emergence of the modern secular state. According to the late professor of legal history at Harvard Law School, Harold Berman, the withdrawal of emperors and kings from the spiritual competence, which they had previously exercised, gave birth to modern western legal systems, the first of which was the modern system of canon law.<sup>7</sup>

But time has passed, and in today's western societies the concept of an entirely secular public square has achieved significant political support.<sup>8</sup> Broadly speaking, the idea implies that everyone ought to support their positions about law, politics, and public policy on solely non-

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5 Gary Amos, 'The Philosophical and Biblical Perspectives that Shaped the Declaration of Independence', in H.W. House (ed.), *The Christian and American Law* (1998), 56.

6 Dinesh D'Souza, *What's so Great About Christianity* (Regnery, 2007), 46.

7 Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Harvard University Press, 1983) 115.

8 Paul Horwitz, *The Agnostic Age* (2011), 10-21.

religious grounds.<sup>9</sup> On these grounds, religious freedom is perceived as being no more than the right of everyone to accept as personal opinions whatever religious beliefs one might choose—or none at all—so that religion can be privatized because the limitation of public debate to “neutral” secular rationales is thought necessary to preserve civil discourse.<sup>10</sup> Among the more notable recent proponents of some form of this secular view is the late American legal philosopher Ronald Dworkin, who argued that the liberal state ‘must be neutral on . . . the question of the good life. . . . [P]olitical decisions must be, so far as is possible, independent of any particular conception of the good life.’<sup>11</sup> Thus, as Dworkin concluded, ‘the central doctrine of modern liberalism is the thesis that questions about the *good life* or the ends of human life are to be regarded from the public standpoint as systematically unsetttable.’<sup>12</sup> As can be seen, academics such Dworkin insist that religion is politically divisive because metaphysical discussions, allegedly, cannot be resolved by rational discussion since each person’s personal belief is absolute for them. It is argued that to have a civil and reasonable public square religion cannot be part of the political discourse, for religion involves metaphysical beliefs and positions not capable of rational discussion.<sup>13</sup>

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9 See Stephen L. Carter, *The Culture of Disbelief* (1993), 54–55; Michael W. McConnell, ‘Religious Freedom at Crossroads’ (1992) 59 *University of Chicago Law Review* 115, 122–25.

10 Gordon J. Spykman, ‘The Principled Pluralist Position’, in Gary Scott Smith (ed.), *God and Politics: Four Views on the Reformation of Civil Government* (Phillipsburg/NJ: Presbyterian and Reformed Publishing Co., 1989), 80.

11 Ronald Dworkin, ‘Liberalism’, in Stuart Hampshire (ed.), *Public and Private Morality* (1978), 127.

12 Ronald Dworkin, cited in Alasdair MacIntyre, *After Virtue*, (3<sup>rd</sup> ed. University of Notre Dame Press, 2007), 119.

13 William A. Galston, ‘Public Morality and Religion in the Liberal State’ (1986) PS: Political Science & Politics 807, 816.

This, however, turns the western liberal tradition on its head.<sup>14</sup> Proponents of the religiously neutral public square believe that it is possible to detach citizens from their personal convictions, that their reasoning is capable of being exercised in a religiously neutral manner.<sup>15</sup> For them personal beliefs must be kept to one's self and their religious devotions done in private so as not to disturb the public square. Religion's communal aspects must also be kept private or within the four walls of a church.<sup>16</sup> Cardinal George Pell commented on the irony that the foundations for such "secular democracy" appear to rest on 'the invention of a wholly artificial human being who has never existed, pretending that we are all instances of this species.'<sup>17</sup>

Arguably, the neutrality principle that leads to the privatisation of religion is only workable if religion is an isolated component of life.<sup>18</sup> But religion is not an isolated component of life because religion has broad, holistic implications for the lives of its adherents as a worldview that shapes the way individuals think and act. Therefore, it is impossible to implement truly a religion-neutral public square. The U.S. Supreme Court fully recognized this when it declared that secularism is also a form of religious belief, together with other belief systems that do not include the existence of God. In a famous footnote in *Torcaso v Watkins* the court listed a number of 'religions . . . which do not teach what would generally be considered a belief in the existence of God,' including 'Buddhism, Taoism, Ethical Culture, Secular Humanism, and others.'<sup>19</sup> According to philosophy professor Brendan Sweetman,

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14 Michael Cromartie elaborates: 'The claim that the faith of American Christians should always be only an intensely private affair between the individual and God would have been surprising news to such diverse persons as John Winthrop, Jonathan Edwards, Abraham Lincoln, the abolitionist of slavery, fifteen generations of the black church, civil rights leaders, and antiwar activists.' See Michael Cromartie, 'The Evangelical Kaleidoscope: A Survey of Recent Evangelical Political Engagement', in David P. Gushee, *Christians and Politics Beyond the Culture Wars* (Grand Rapids: Baker, 2000), 27.

15 Carter, above n 9, 56.

16 Or any other paradigmatically religious institution (e.g., monastery, synagogue, or mosque).

17 Cardinal George Pell, 'Is There Only Secular Democracy?' (2004) 48 *Quadrant* 12. See also Carter, 56.

18 Galston, above n 13, 819.

[s]ecular humanism is the view that all reality is physical, consisting of some configuration of matter and energy, and that everything that exists either currently has a scientific explanation or will have a scientific explanation in the future. The universe is regarded as a random occurrence, as is the appearance and nature of life on earth. Thus, secularism is not simply the negative claim that there is no God and that there is no soul; rather, these claims are supposed to follow from its positive theses. Like other worldviews, especially religious ones, secularism contains beliefs about the nature of reality, the nature of the human person and the nature of morality. And many of these beliefs have political implications.<sup>20</sup>

Naturally, if religion is defined more narrowly as that which posits a transcendent deity, secular humanism is not a religion. But if religion is defined more broadly, in a way that includes non-theistic worldviews like Buddhism and Confucianism, then this concept certainly applies to secular humanism. And even secular ideologies may be regarded as forms of religion, in particular those in which their adherents faithfully rely on a set of dogmas that purportedly have a complete answer to society's problems. In Marxism, for example, powerful states acquire salvific attributes and capitalists are demonised, while in libertarian economic thought free markets are glorified and governments are the obstacles to happy societies.

Of course, secularists have every right to petition society to adopt their personal values, but they are hypocritical if they deny and castigate others for doing the same. Christ commanded his followers to be the 'Salt and Light' of the world. This is called the 'Great Commission,' meaning that they have the moral duty to serve God and other humans in every sphere of life, including law and politics.

As Christ put it, salt preserves but if salt loses its saltiness it is worthless (Luke 14:34). We can only imagine how this world would be if Christians had not fulfilled their 'Great Commission,' if they had privatised their faith, if they had made no impact on the life of their communities. Think, for instance, of people like William Wilberforce (1759-1833), the English politician who became the voice of the anti-slavery movement in the British Parliament.

19 *Torcaso v. Watkins*, 367 U.S. 488, 495 n. 11 (1961); and compare *United States v. Seeger*, 380 U.S. 163 (1965) (the test for religious belief is whether the belief occupies a place "parallel" to a belief in God).

20 Brendan Sweetman, *Why Politics Needs Religion: The Place of Religious Arguments in the Public Sphere* (2006), 17–18.

Wilberforce was someone who took the Great Commission seriously, and as a result of this belief he literally changed the world.<sup>21</sup> Abraham Lincoln and Frederick Douglass spoke of him reverently as the great pioneer and father of the abolitionist movement.<sup>22</sup>

When Wilberforce embraced Christianity he had no idea how to reconcile his strong belief in the Christian God with his political life. Should he leave politics so as to become more religious? Wilberforce still had to develop a biblical worldview, so he thought about retreating from everything, perhaps joining a monastery or the priesthood. But a visit to the colourful John Newton, the author of the famous hymn ‘Amazing Grace,’ who was then sixty and rector of a church in an area of East London, encouraged Wilberforce to stay in politics. Who knew, Newton argued, whether God had not prepared him ‘for a time such as this?’ Newton then explained to his young friend that God would use him mightily in the world of politics, where he was needed more than ever.<sup>23</sup>

So Wilberforce decided to take his faith into politics, serving God with his gifts faithfully in the realm of law and politics. ‘God Almighty,’ Wilberforce wrote, ‘has set before me two Great Objects: the suppression of the Slave Trade and the Reformation of Manners.’ The first object is obviously self-explanatory, but the second means the “Great Mandate” of all faithful Christians to reform morality and culture in general. So Wilberforce knew that in order to get the votes he needed to abolish the slave trade he would have to change the hearts and minds of people first.

According to his biographer, Eric Metaxas, ‘Wilberforce wasn’t just “religious” but actually had a personal relationship with God. He seems to have been motivated by love—love of God and the love of his fellow man—more than by a simple sense of right and wrong or justice and injustice. This is probably the single most important factor in what he was able to do.’<sup>24</sup> From a Christian perspective all this seems quite natural because the Bible commands believers to love others as they love themselves. Indeed, Christians are called to love even their enemies and pray

<sup>21</sup> Eric Metaxas, *7 Men and the Secret of their Greatness* (Nashville/TN: Thomas Nelson, 2013), 33.

<sup>22</sup> Ibid 31.

<sup>23</sup> Ibid 43.

<sup>24</sup> Ibid 53.

for those who persecute them (Matthew 5:44). As has been properly stated, ‘this universal love command is a critical foundation of our modern understanding of human dignity and human rights.’<sup>25</sup> In *Render Unto Caesar* the Catholic Archbishop of Philadelphia, Charles J. Chaput, commented that

[f]or Christians, love is a small word that relentlessly unpacks into a lot of other words: *truth, repentance, forgiveness, mercy, charity, courage, justice*. These are action words, all of them, including *truth*, because in accepting Jesus Christ, the Gospel says that we will know the truth, and the truth *will make us free* (John 8:32)—not comfortable; not respected; but *free* in the real sense of the word: able to see and do what’s right. This freedom is meant to be used in the service of others. Working for justice is an obligation of Christian freedom.<sup>26</sup>

To conclude, although radical secularists have tried to turn the separation of church and state into the separation of beliefs and state, it is actually a profound mistake to confuse the autonomy exercised by the different churches with the democratic right of individual believers to participate in political life. There is nothing in the constitution of western democracies that justifies the suppression of religious discourse in the public sphere. Nor is there anything that could possibly justify the denial of equal rights of free speech for all people, religious or not. By dictating what people can say and treating the most fundamental aspect of their lives exclusively as a private matter, those who view the moral duty of Christians to act in accordance with their religious conscience as something that disqualifies them from political life are basically guilty of promoting an undemocratic form of secular intolerance. Such a form of secular radicalism has never been a natural step towards democratic maturity—quite to the contrary.

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25 John Witte, Jr, ‘Introduction’, John Witte, Jr and Frank S Alexander (eds), *Christianity and Law: An Introduction* (Cambridge/UK: Cambridge University Press, 2008), 4.

26 Charles J. Chaput, *Render Unto Caesar: Serving the Nation by Living Our Catholic Beliefs in Political Life* (New York/NY: Image Books, 2008), 38.