

Two-way Translation: The Ethics of Engaging with Religious Contributions in Public Deliberation

by **Jeremy Waldron***

Our topic for this Symposium panel is “Citizenship and Civility in a Divided Democracy: Political, Religious, and Legal Concerns.”¹ It is a topic that can be approached in the abstract or through a case study. I am going to proceed with a case study, involving the work of one of Mercer University’s most distinguished scholars and public thinkers, University Professor and Professor of Christian Ethics, David Gushee. But the discussion will become abstract before very long.

I. AN EVANGELICAL DECLARATION AGAINST TORTURE

In March 2007, an organization called Evangelicals for Human Rights issued a document entitled *An Evangelical Declaration Against Torture*.² The document opened as follows:

The sanctity of human life, a moral status irrevocably bestowed by the Creator upon each person and confirmed in the costly atoning sacrifice

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1. *See Purpose Statement, Mercer University Law Review Symposium 2011, Citizenship and Civility in a Divided Democracy: Political, Religious, and Legal Concerns*, MERCER LAW (Oct. 7, 2011), <http://www.law.mercer.edu/content/law-review-symposium-2011>.

2. Evangelicals for Human Rights, *An Evangelical Declaration Against Torture: Protecting Human Rights in an Age of Terror* (Mar. 2007), *reprinted in* DAVID P. GUSHEE, *THE FUTURE OF FAITH IN AMERICAN POLITICS: THE PUBLIC WITNESS OF THE EVANGELICAL CENTER* 253-70 (2008).

of Christ on the Cross, is desecrated each day in many ways around the globe. Because we are Christians who are commanded by our Lord Jesus Christ to love God with all of our being and to love our neighbors as ourselves, this mistreatment of human persons comes before us as a source of sorrow and a call to action.

*All humans who are mistreated or tormented are . . . by Jesus' definition, our neighbors [I]n them and through them we encounter God himself.*³

The Declaration went on to say that “[w]hen torture is employed by a state, that act communicates to the world . . . that human lives are not sacred,”⁴ and it said that this is a claim “no one who confesses Christ as Lord can accept.”⁵ The Declaration’s conclusion was uncompromising: “We renounce the use of torture and cruel, inhuman, and degrading treatment by any branch of our government . . . even in the current circumstance of a war between the United States and various radical terrorist groups.”⁶

This document was not just the work of a left-leaning fringe in the white evangelical Christian community. At the time of its release, it was adopted by the Board of the National Association of Evangelicals, an organization representing over 45,000 churches with more than 30,000,000 individual members in the United States.⁷ However, there was opposition to it in the evangelical community. A recent Pew survey suggests that 62% of white evangelicals believe torture is sometimes justified, compared with 49% of the general population.⁸ Some of the responses to it—and to similar statements by Professor Gushee, a leading figure in the organization that drew up the Declaration—indicate the depth of the antagonism. Here is what one of Professor Gushee’s critics said:

In my opinion, the debate and Gushee’s committee are wastes of time. I prefer to deal with things that are important like the US torturing to death 1.5 million unborn babies annually. I can’t speak for the Lord,

3. *Id.* §§ 1.1-1.2, at 253 (citations omitted).

4. *Id.* § 7.9, at 268.

5. *Id.*

6. *Id.* § 7.12(a), at 268.

7. See *An Evangelical Declaration Against Torture: Protecting Human Rights in an Age of Terror*, NAE.NET <http://www.nae.net/government-relations/endorsed-documents/409-an-evangelical-declaration-against-torture-protecting-human-rights-in-an-age-of-terror> (last visited Feb. 7, 2012) [hereinafter NAE.NET].

8. *The Religious Dimensions of the Torture Debate*, PEWRESEARCH.ORG., <http://pewresearch.org/pubs/1210/torture-opinion-religious-differences> (last updated May 11, 2009).

but I believe He is more concerned over abortion than He is about dunking murderers/terrorists in water.⁹

II. TWO SETS OF CONCERNS ABOUT RELIGIOUS INTERVENTIONS

You will be happy to hear that I am not going to try to determine which is the greater abomination in the eyes of the Lord: torture or abortion. Instead I want to ask about the general character of this sort of religious intervention in politics. I want to talk about the ethics of making these interventions and the ethics of responding to them. Of course, people are free to say whatever they like; but the ethics of response is an interesting question.

In particular: How should those who do not share the faith of the authors of these interventions respond to them? Should they be offended? Should they be scared? Are they entitled to condemn them as inappropriate in the politics of a multi-faith society whose political system claims to respect a wall of separation between church and state? Should they try to answer them? Or, should they just politely ignore them as background noise or superstitious gibberish?

I chose the intervention of Professor Gushee and his committee of centrist evangelicals for a number of reasons. One reason, of course, is Professor Gushee's presence here among us today, on this panel. I have long respected Professor Gushee as one of the most thoughtful theologians and Christian ethicists I have ever dealt with. It is a privilege to share a platform with him, and I look forward to his comments on this paper.

Another reason is to broaden our sense of the kinds of topics to which religious interventions are directed, beyond the usual suspects: abortion, gay rights, and bioethics.

Third, I want to remind everyone that there are such things as centrist evangelicals; evangelical Christianity is not just the religious right. Much of what is said in the popular press about Christian

9. Dr. J, Comment to *Opinion: A Christian's Lament Over the Pew Torture Poll*, ABPNEWS.COM (May 13, 2009), http://www.abpnews.com/index.php?option=com_content&task=view&id=4052&Itemid=9. Another critic said this: "I pray for peace in the world, and for our leaders to make the right decisions based on [God's] will. But I don't pretend to care about individual terrorists who would kill me and my family if they had the chance. To hell with them. . . . If you are implicit in a crime against me or my country, I/we have the right to poke your freaking eyes out if it saves lives. Enough of this worthless diatribe from weak-minded fools that care more about ideology than what happens to our children and grandchildren." robber, Comment to *Opinion: A Christians Lament Over the Pew Torture Poll*, ABPNEWS.COM (May 16, 2009), http://www.abpnews.com/index.php?option=com_content&task=view&id=4052&Itemid=9.

political interventions focuses specifically on the threat that comes from Christian conservatives: I have in mind the concerns expressed in books like Kevin Phillips's *American Theocracy*¹⁰ and Chris Hedges's, *American Fascists: The Christian Right and the War on America*.¹¹ These authors think we are faced with the prospect of a sort of Christian Taliban in America, inspired by dreams of what is sometimes called "dominionism"—the deliberate attempt to reconstruct government in this country so that it is based on Christian biblical principles and administered by people of faith.¹² Hedges and Phillips believe—perhaps with good reason—that these interventions are a menace to the constitutional order of the United States.

Now, it is important to understand that Professor Gushee and his co-authors disavow any aim of this sort. "The authors and signatories [of this statement]," they say, "are evangelical Christians and citizens of the United States. . . . As citizens, we bring our Christian convictions to bear on the most important matters that arise in the life of our democracy."¹³ They say they agitate, *as any good citizen is entitled to*, for a change in the laws, and that even if they do not succeed, there is surely nothing wrong with their bearing witness to the deliverances of their faith on this important matter.¹⁴ Professor Gushee concedes that "much of the rhetoric of the evangelical right reflects a nostalgia for a less religiously . . . pluralistic age, when specifically Christian practices dominated American public life in a way that is now impossible and *should be* impossible under our constitutional system."¹⁵ He says: "[W]e must frankly acknowledge the ways in which our own behavior

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

11. CHRIS HEDGES, *AMERICAN FASCISTS: THE CHRISTIAN RIGHT AND THE WAR ON AMERICA* (2006); *see also* MICHELLE GOLDBERG, *KINGDOM COMING: THE RISE OF CHRISTIAN NATIONALISM* (2007).

12. For a discussion and critique of dominionism, see Kimberly J. Cook, *Abortion, Capital Punishment, and the Politics of "God's Will,"* 9 WM. & MARY BILL RTS. J. 105, 118-20 (2000); *see also* BRUCE A. BARRON, *HEAVEN ON EARTH? THE SOCIAL AND POLITICAL AGENDAS OF DOMINION THEOLOGY* (1992).

13. An Evangelical Declaration Against Torture, *supra* note 2, § 1.4, at 254.

14. *Id.* "We call for the legislative or judicial reversal of those executive and legislative provisions that violate the moral and legal standards articulated in this declaration." *Id.* § 7.12(d), at 268. "We know that we may not always succeed in shaping the laws and policies of the United States in the way we believe they should be shaped. But we must, on all occasions, attempt to bear faithful Christian moral witness." *Id.* § 1.4, at 254.

15. DAVID P. GUSHEE, *THE FUTURE OF FAITH IN AMERICAN POLITICS: THE PUBLIC WITNESS OF THE EVANGELICAL CENTER* 6 (2008).

and rhetoric has evoked a legitimate fear among our fellow citizens . . . and reform our public rhetoric and political practice accordingly.”¹⁶

I take these assurances at face value and respect Professor Gushee’s position—that so long as there is due recognition of both the multi-faith and secular aspects of our society and due recognition of our responsive constitutional structure, there is no particular reason for church people to refrain from participation in public life because of their values, provided this participation is accompanied by a willingness “to grant all citizens of every worldview and moral conviction the legitimacy of their own faith-based participation in American public life.”¹⁷

Still, there is more to be said on this issue. Some people in the wider community are concerned that interventions of this kind in politics are, by their very nature, *implicitly* theocratic, whether this is part of anyone’s particular agenda or not. They will say: You cannot understand what is being said in these interventions without grasping the underlying logic of religious authority; that is problematic even when people have given good-faith assurances as to their respect for the constitutional principle separating church and state. When evangelicals—even centrist evangelicals—say that they “long to obey the moral demands of our faith as articulated in the Scriptures,” or when they say that they seek to serve Jesus Christ, “who alone is Lord of our lives, of the church, of our nation, and of the world,” and when they make these statements, not just as part of their personal Christian growth, but to characterize changes they demand in law and executive practice, then maybe (this is what I want to consider), *maybe*, there is room for concern about implicit theocracy.

For is it not the position of the authors of the Evangelical Declaration Against Torture that the United States should not torture *because* Jesus is Lord, or that we should not torture *because* that is what Scripture requires? Surely this reasoning presupposes that we should be governed by *whatever* Jesus requires or by *whatever* scripture demands? So I want to consider this issue of implicit theocracy and see whether there is anything to it, and whether there is anything reasonable that can be said in response by those who offer these sorts of contributions to public debate.

I also want to pursue this in light of some concerns about civility. People say that there is something inherently inappropriate about adducing reasons for one’s political position that make no sense to and fail to resonate with large sections of the public. For example, the Declaration says this about torture:

16. *Id.*

17. *Id.*

The incarnation . . . reveals a God who is . . . deeply moved by the brokenness of creation. . . . It also signifies a mysterious bridging of the gap between God and humanity. Henceforth, the human experience in its joys and sorrows is inscribed upon the very Person of God [T]he Holy Spirit participates in human pathos with groans and sighs too deep for words. The cries of the tortured are in a very real sense . . . the cries of the Spirit.¹⁸

It sounds wonderful, and for Christians, it awakens a connection with some of the deepest elements of our faith. But to people of other faiths—Jews, for example, or Muslims, who do not accept the central doctrine of the Incarnation, let alone the Holy Spirit as the third person of a triune God—it will make little sense. And to secular nonbelievers, it sounds like superstitious gibberish. Furthermore, people in any or all of these categories may say: “What sort of basis is *that* to engage with one’s fellow citizens? How can this possibly be regarded as a contribution to respectful dialogue in our political community?” So I want to consider this concern as well.

Both sets of concerns—civility and implicit theocracy—can be found in the arguments about public reason put forward by the late and great philosopher John Rawls. I mean the arguments Rawls makes in his book, *Political Liberalism*,¹⁹ where he tried to show that public justification in our political system cannot depend upon premises shared only by some sections of the public or upon doctrines intelligible to some citizens but not others.²⁰ So, for instance, if we are to sustain an absolute prohibition on torture—whether under the auspices of the Eighth Amendment²¹ or our various treaty commitments²²—it cannot publicly be based on some premise such as “[t]orture violates the intrinsic dignity of the human being, made in the image of God,”²³ because that is a commitment that many members of our society cannot share. It may represent the ultimate truth about torture in the eyes of

18. An Evangelical Declaration Against Torture, *supra* note 2, § 2.6, at 255 (footnote omitted).

19. JOHN RAWLS, *POLITICAL LIBERALISM* (1996). Rawls notes that “[i]n discussing constitutional essentials and matters of basic justice we are not to appeal to comprehensive religious or philosophical doctrines—to what we as individuals or members of associations see as the whole truth” *Id.* at 224-25.

20. *Id.* at 212-54.

21. U.S. CONST. amend. VIII.

22. *E.g.*, Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 75 U.N.T.S. 135; United Nations Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85; International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

23. GUSHEE, *supra* note 15, at 130 (emphasis omitted).

Professor Gushee and his associates, but according to Rawls, in a later work, “[t]he zeal to embody the whole truth in politics is incompatible with an idea of public reason that belongs with democratic citizenship.”²⁴ Centrist evangelicals use the political power they have—even if it is only the power of voice and vote—to call for laws to be amended, people to be prosecuted, and homeland security policy to be modified on the basis of a doctrine that many fellow citizens do not subscribe to, one that is neither acceptable nor perhaps even intelligible to them. And that will not do, says Rawls: “[T]he ideal of citizenship imposes a . . . duty . . . to be able to explain to one another . . . how the principles and policies they advocate and vote for can be supported by the political values of *public reason*.”²⁵

The Rawlsian position combines both of the concerns I have articulated: the concern about civility and the concern about theocracy. As I have previously stated in characterizing Rawls’s position,

We must engage with one another in the public square in a way that is mutually respectful. Anything I offer as a contribution in the public debate I must offer as something for others to grasp, consider, and engage with. But since I know that we have different [religious and philosophical convictions], offering something which draws deeply on my own [religious faith does not satisfy this requirement]. I might talk about [the image of God or the cries of the Holy Spirit], but the [non-Christian or] secular individuals I am addressing, with whom I am bound together in common citizenship, may not be able to make any sense of this talk. Accordingly, if my view prevails in public decision-making, it will not be because the others are convinced or even had a real opportunity to be convinced. My view’s prevailing will be simply a fact about *my* ascendancy, [or the ascendancy of the religious faction to which I belong]. . . .²⁶

And that is where the worry about implicit theocracy comes in.

I think it is important, however, to see these concerns not just in a Rawlsian light. The worries about implicit theocracy and the civic intelligibility resonate among many people who have never heard of Rawls’s “original position.” I will refer from time to time to his specific formulations particularly towards the end of the lecture; but, in attempting to answer these concerns, I shall try to cast the net more widely.

24. JOHN RAWLS, *THE LAW OF PEOPLES* 132-33 (1999).

25. RAWLS, *supra* note 19, at 217 (emphasis added).

26. Jeremy Waldron, *Public Reason and “Justification” in the Courtroom*, 1 J.L. PHIL. & CULTURE 107, 112 (2007).

Let me initially acknowledge two other points. First, as many of you will know, I am sympathetic to the position taken in the Evangelical Declaration Against Torture. I have written elsewhere in favor of an absolute legal prohibition on torture.²⁷ Second, as a practicing Episcopalian, I am not myself initially repelled by the specifically Christian character of this intervention. I have written a little about the religious view of torture in a piece published in *Theology Today*;²⁸ and I imagine that some of what I say in that article might elicit similar concerns. People might say to me: Why are you trying to foist your religious view on the rest of us? Why do you think it is appropriate to address the political community in terms that many of its members do not understand? I will try to answer these concerns, but I guess you will have to discount a certain amount of what I say as being motivated by the particular dogs I have in this fight.

III. THE WORRY ABOUT IMPLICIT THEOCRACY

Let us begin with the concern about implicit theocracy. I have no problem accepting at face value the assurance by the authors of the Evangelical Declaration Against Torture that it is not intended as the thin end of a dominionist wedge. Still, as I said a moment ago, is it not the case that the Declaration makes sense only against a background of religious authority? Christianity condemns torture; that seems to be the message of Professor Gushee's intervention. And, that sounds as though he is proceeding on the implicit assumption that it is alright for religious authority to assume a role in our politics and to be decisive in determining some elements of our law and public policy.

Well, I think we have to proceed carefully. Authority, as any political philosopher will tell you, is a very slippery concept. To properly evaluate this concern, we need to focus on this idea of religious authority and do a little bit of analysis.

A first important distinction is between *practical authority* and *theoretical authority*. Theoretical authority is a matter of expertise. For example, Paul Krugman, op-ed columnist for the *New York Times*, and an authority on economics, is incomparably more qualified on this subject than I am, and I would do well to pay attention to his writings

27. See Jeremy Waldron, *Torture and Positive Law: Jurisprudence for the White House*, 105 COLUMBIA L. REV. 1681, 1681-82 (2005), reprinted in JEREMY WALDRON, TORTURE, TERROR, AND TRADE-OFFS: PHILOSOPHY FOR THE WHITE HOUSE 186 (2010) [hereinafter *Torture and Positive Law*].

28. See generally Jeremy Waldron, *What Can Christian Teaching Add to the Debate about Torture?*, 63 THEOLOGY TODAY 330 (2006), reprinted in TORTURE, TERROR, AND TRADE-OFFS, *supra* note 27, at 261.

about the financial crisis than to try to figure it out for myself. But he is not my ruler. Krugman has no practical authority to require anyone to do anything or even to require them to believe anything. His authority in these matters does not impose any duty. That would be practical authority—the sort of authority wielded by the legislature and the judiciary. Maybe Krugman had practical authority over his staff when he was a Professor at Princeton. If he was dean or head of the economics department, maybe he had authority over his colleagues' pay or teaching loads. And in that case, maybe his theoretical authority was a reason for his having that right to rule the department. Still, the two things are not the same.

Many people here today are authorities on law, ethics, and religion. But again, they are theoretical authorities—this is their expertise. That illustrates an interesting point: Theoretical authority can be authority in regard to practical matters, but that does not make it practical authority. Someone can be an authority in ethics without his commands or declarations imposing duties on the rest of us.

Now the *concern* about theocracy is a concern about practical authority; it cannot possibly be a concern about theoretical authority. The real worry is that church leaders might become our political rulers, not that they might be regarded as experts on right and wrong.

But what sort of authority, if any, is appealed to when a Christian believer makes an intervention in politics? I suppose sometimes it is the authority of a church. And sometimes that *is* practical authority. The Roman Catholic Church requires its members to refrain from supporting legalized abortion, for example, and, if they are active in public life, it requires them to bear witness to the wrongness of the laws and precedents permitting abortion. (The church even threatens those who fail to follow these commandments and occasionally tries to carry them out—for example, by denying offenders the benefit of the sacraments.) Now, since the early 1970s we have been in the throes of a great national debate about abortion. And if someone were to offer as a contribution to that debate that “abortion should be made illegal once again, because the Pope has denounced it,” then I agree that that *would* give rise to a concern about theocracy, because it would be predicated on the assumption that the practical authority of the Roman Catholic Church is an appropriate ground for making a change in the law.

In fact, most religious interventions on abortion are not of this kind. They say abortion should be prohibited because it is wrong. They draw on the teachings of their church to understand and explain its wrongness, but they draw on that as theoretical authority; that is, as a heritage of deep thinking about the matter that can inform their own thinking and their own conclusions. It is much the same with Paul

Krugman. I draw on his theoretical authority for my own political views; and, if I ever had the temerity to write an op-ed piece on economics, I hope I would have the good sense to check it out against Krugman's views before committing publicly to my own daft ideas.

The point is that there is nothing implicitly theocratic about drawing upon theoretical authority so far as the bearing of religious principles on public policy is concerned. Just as I can draw on Krugman's expertise without committing myself to anything remotely like the Platonic proposition that expert economists should rule, so I can draw on the arguments that I find in an encyclical or in the Evangelical Declaration Against Torture to supplement, enrich, and deepen my own thinking on justice, human dignity, and the issues surrounding abortion without committing myself to the view that the Pope, who authored the encyclical, has the right to rule in our society.

I think people miss this because of a silly assumption that there is no such thing as expertise in the great moral and political issues we face—that it is ultimately just a matter of “values,” and therefore, any authority in the area must be the sort of authority that purports to *impose* values upon society as a matter of rule, rather than aiding us as an intellectual guide in reaching our own conclusions.

Certainly, I can see no exercise of practical authority involved in, or presupposed by, the Evangelical Declaration Against Torture. Far from being imposed by a church, the Declaration was proposed *to* a church body for its adoption; and all that its adoption by the Board of the National Association of Evangelicals²⁹ meant was that this organization declared its subscription to the position expressed in the Declaration and made it available for consideration by its members. Its presentation in the public realm was more in the spirit of “Consider this . . .” than in the spirit of “This is what we say; you are now required to believe and do.”

What about the authority claims implicit in the Declaration's biblical quotations? Or the claim that Jesus is Lord? How should we think about that in relation to the analysis I have just articulated?

Well, one thing is to acknowledge that, at this point, we are dealing with substantive doctrines about the sources of political morality that may be hard for non-believers to accept or even evaluate. I will have a lot more to say about that in a moment under the heading of *civic intelligibility*. But these claims do not in themselves intimate the sort of regime change that a claim to practical authority by a church would imply. To talk about the authority of the Bible is, I suppose, to accord theoretical authority to it or its authors. The assumption is that most

29. See NAE.NET, *supra* note 7.

of us would do better to follow what is said in this ancient book—to take its imagery, parables, prophecies, examples, psalms, and teachings to heart—than to try figuring out morality without it. That claim may not be as persuasive to many people as it used to be. It may not be as persuasive as the analogous claim that we would do better to read Paul Krugman’s books on economics than to try to figure economics out for ourselves. Biblical authority seems *weird* to many people in a way that the Krugman claim does not, even for those conservatives who disagree with Krugman’s economics and spit on his books. Still, I maintain that a claim of biblical authority is a claim ultimately of *the same sort* and should be evaluated in roughly the same way.

In fact, many of the religious interventions that people are concerned about are not scripturally based at all, or at least not directly. Some surely are, as when a Bible passage is cited to oppose gay rights or same-sex marriage.³⁰ On many other issues, however, where the religious dimension is equally prominent, there is nary chapter or verse to be seen. Religious opponents of abortion have to scabble around quite unconvincingly to find scripture to support their position.³¹ The Bible simply does not take a view on abortion unless you project pro-life sentiments very heavily back into statements like “thou art my God from my mother’s belly.”³² The argument against abortion, such as it is, is mainly a *natural law* argument based on the apparent continuity of fetal development and it is perfectly intelligible to a secular moral sensibility, though no doubt unconvincing to many. The religious aspect is just the disciplined insistence on taking the continuity of human life, both in and outside the womb, seriously in light of what biblical faith does tell us about the general preciousness of human life.

The same can be said for the Evangelical Declaration Against Torture. There is no Leviticus-like passage in the Bible prohibiting torture. What there is in the Declaration is an *argument* that proceeds to the wrongness of torture from faith-based concerns for the life and dignity of even the most despised and vulnerable. The *premises* of that argument are biblical—man created in the image of God; God’s concern for “the least of these my brethren”³³—but their moral prominence arises from an implicit understanding of their utter centrality in the faith, through centuries of reflection upon the canonical verses in Genesis or in Matthew’s Gospel that first articulate these premises.

30. *E.g.*, *Leviticus* 18:22.

31. *See, e.g.*, Pope John Paul II, *Evangelium Vitae*, Papal Encyclical, §§ 44-45 (1995), available at http://www.catholic-pages.com/documents/evangelium_vitae.pdf.

32. *Psalms* 22:10.

33. *Matthew* 25:40.

Still, there is more to be said. The authors of the Declaration say that Jesus is Lord of the world.³⁴ I suppose I could keep on saying about *this*, what I have been saying so far, that the implicit authority claim is still analogous to the theoretical authority of Paul Krugman. Jesus was a great moral teacher, no doubt. But, let us be honest, any claim about Jesus being Lord transcends this category of theoretical authority among humans. However, I think it also transcends any plausible claim about practical political authority. One can certainly believe that Jesus is Lord and that we should follow His sayings as the Word of God without believing that this makes any difference to the constitutional system of authority in the United States. The insights that Professor Gushee and others draw from the exercise of Jesus's authority as Lord of the world—for example, his saying that on the Last Day our nation will be judged as to how we treated the least and most despicable captive in prison as if that captive had been Jesus himself³⁵—go only to the question of what our actions and policy should be, not to the question of whom among us should have power to set national priorities.

Remember that we are not dealing yet with the concern that claims like this *make no sense* to a large section of the population and that it is therefore uncivil and inappropriate to base policy claims upon them. That complaint has yet to be answered. What I am trying to clear out of the way is the concern that by acceding to the moral force of religious propositions, we are thereby subjecting ourselves to a sort of theocratic rule. That, I have argued, does not follow.

The authors of the Declaration say that, notwithstanding their pride as good citizens of this republic, they long to obey the demands of their faith.³⁶ To a careless ear, that may sound offensively theocratic. A more accurate view is that it is on par with saying: “Notwithstanding our pride as good citizens of this republic, we long to obey the demands of morality.” It is no more offensive than that, no more authoritarian (in a bad political sense). It is distinguished only from the analogous moral resolve by (what in the eyes of many people are) the weird beliefs Christians hold about the sources of moral insight.

IV. ADDRESSING RELIGIOUS TALK TO NON-BELIEVERS

The real issue is not theocracy, it is intelligibility. The Evangelical Declaration Against Torture, and other similar documents—for example,

34. See An Evangelical Declaration Against Torture, *supra* note 2, § 1.4, at 254.

35. *Matthew* 25:31-46.

36. See An Evangelical Declaration Against Torture, *supra* note 2, § 1.4, at 254.

the Roman Catholic Bishops' 1986 pastoral letter on social justice³⁷—are addressed to the nation as a whole. So, what do the authors think they are doing so far as their engagement with non-believers is concerned? How can they reasonably expect these declarations—with their talk of the Holy Ghost, the image of God, and the presence of Christ in every needy person—to be the basis of a respectful political conversation with those who do not have what it takes to make sense of these ideas? So far as that audience is concerned, they might as well speak in Latin (some of them do) or talk about Middle Earth in the voices of elves and pixies.

On these grounds, the suggestion has been offered in recent years that people of faith should refrain from participating in public debate in terms that reflect their religious commitments. If we are not to turn democratic politics into a Babel of mutually incomprehensible assertions, maybe we should search for a common vocabulary and a set of premises upon which we can all converge in political dialogue. So, let us consider this concern.

The first thing is that, in addressing these matters, we must beware of exaggerating the *deliberative* character of modern politics. Ideally, we imagine citizens offering all their political statements as contributions to conversation, with each one intended to give everyone else in the polity something to think about, something which may make a difference through reason and bring about a partial or wholesale modification of the other person's views.

But we must not neglect other functions—other *respectable* functions—that a political statement may serve. Someone who says, “All humans who are mistreated or tormented are . . . by Jesus' definition, our neighbors. . . . [I]n them and through them we encounter God himself,”³⁸ may be trying to convince his fellow citizens to support a

37. United States Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy*, National Conference of Catholic Bishops (1986), available at http://uscbb.org/upload/economic_justice_for_all.pdf. The tone and content of that intervention can be gathered from passages like this

All members of society have a special obligation to the poor and vulnerable. From the Scriptures and church teaching we learn that the justice of a society is tested by the treatment of the poor. . . . In the Last Judgment, so dramatically described in St. Matthew's Gospel, we are told that we will be judged according to how we respond to the hungry, the thirsty, the naked, the stranger. As followers of Christ, we are challenged to make a fundamental “option for the poor”—to speak for the voiceless, to defend the defenseless, to assess life styles, policies, and social institutions in terms of their impact on the poor.

Id. ¶ 16, at viii. For additional discussion, see Jeremy Waldron, *Religious Contributions to Political Deliberation*, 30 SAN DIEGO L. REV. 817 (1993).

38. An Evangelical Declaration Against Terror, *supra* note 2, § 1.2, at 253 (emphasis omitted).

policy of humanity. But he may also think of himself as simply *bearing witness* to a particular view of what torture involves, a speech act that is communicative only to the extent that it tries to convey even to non-believers the seriousness and the high stakes that the speaker sees as bound up with the issue. He may be warning them, the best way he can, of the seriousness of the issue as he sees it.³⁹ In a similar mode, the speaker may be just trying to *explain himself* (and the political stand he has taken and the votes he has cast) not in any way that is intended to be persuasive necessarily, but to convey to his fellow citizens, in case they are interested, the *sort of view* he holds.⁴⁰ Or he may be addressing his own community of believers, rallying them with his rhetoric—let us not pretend that Christians are the only people in modern politics who *preach to the choir*—or trying to awaken them to something that he thinks follows from what they already believe. All these are respectable speech acts in politics.

So far, so good. But suppose the statement *is* to be judged as a form of engagement with other minds and other people's views. Is the engagement of non-believers with something like the Evangelical Declaration Against Torture necessarily a dialogue of the deaf? Two philosophical misconceptions may make it seem so.

The first is the misconception that mutual understanding is an all-or-nothing business. Thomas Nagel, in an influential paper entitled *Moral Conflict and Political Legitimacy*,⁴¹ characterizes the ethics of contributing to public justification in this way: “[I]t must be possible to present to others the basis of your own beliefs, so that once you have done so, *they have what you have*, and can arrive at a judgment on the same basis.”⁴² *Maybe* this works as an aspiration or as a limit-idea, but it fails to characterize most episodes of mutual understanding. Besides the

39. Think of William Lloyd Garrison's characterization of the United States Constitution in 1845 as “a covenant with death” and an “agreement with hell.” William Lloyd Garrison, *The American Union*, THE LIBERATOR (Jan. 10, 1945), <http://fairuse.org/the-liberator/1845/01/10/the-american-union> (internal quotation marks omitted). One did not have to be a literal believer in hellfire to see the seriousness of the warning he was giving concerning the slavery clauses.

40. Rawls acknowledges this in *The Law of Peoples*, where he mentions forms of discourse that do not “express[] a form of public reasoning. One is declaration: here we each declare our own comprehensive doctrine, religious or nonreligious. This we do not expect others to share.” RAWLS, *supra* note 24, at 155.

41. Thomas Nagel, *Moral Conflict & Political Legitimacy*, 16 PHIL. & PUB. AFFAIRS 215, 223 (1987).

42. *Id.* at 232. Nagel believes this “is not possible if part of the source of your conviction is personal faith or revelation—because to report your faith or revelation to someone else is not to give him what you have, as you do when you show him your evidence or give him your arguments.” *Id.*

sheer sordid facts of impatience, distraction, imperfect hearing, and comprehension, there is also the hermeneutic point that what I gather has been said by your utterance is always something located and having significance within *my* set of beliefs and, as such, it can never exactly be *my having what you have*. We reason with each other not as identical search engines trawling through an array of identical propositions but as beings who approach public issues from slightly different angles and experience,⁴³ whose reasoning with one another involves the use of propositions that—even if they can be identified *abstractly* with one another—are bound to have (and, if people know their business, are calculated to have) a slightly different impact on the audience than the one they have already had on the speaker, and a slightly different impact on one audience than on another. That is how persuasion and learning take place; and the study of that is not just logic, but rhetoric (in one of the more attractive senses of that word).

A second philosophical mistake is to assume that communication is really possible only between persons who share a common framework of concepts.⁴⁴ This is a basis on which people often express skepticism about the possibility of communication between different cultures. Cultures, they say, are incommensurable; they are oriented to such different values and they embody such a diversity of world-views, that it is impossible to bring them into communicative relation with one another. I have long had doubts about this view, nurtured probably by having listened at an impressionable age to a lecture by Karl Popper entitled *The Myth of the Framework*.⁴⁵ Like Popper, I think we should not underestimate the ability of humans from disparate backgrounds to talk with one another, to learn from one another, even when they do not appear to share any concepts or definitions, or even when it appears to an outsider that the *ex ante* prospects for the encounter are hopeless. Humans are enormously curious about each other's ideas and reasons, and, when they want to be, are resourceful in listening and understanding across what appear to be barriers of incomprehensibility, often far

43. See RAWLS, *supra* note 19, at 59 (discussing “the burdens of judgment”).

44. See LUDWIG WITTGENSTEIN, PHILOSOPHICAL INVESTIGATIONS § 242, at 88e (G.E.M. Anscombe, trans., 9th prtg. 1964). Sometimes it is said, following Wittgenstein, that this sharing of concepts is possible only among people who share certain judgments: “If language is to be a means of communication there must be agreement not only in definitions but also (queer as this may sound) in judgments.” *Id.*

45. KARL R. POPPER, THE MYTH OF THE FRAMEWORK: IN DEFENSE OF SCIENCE AND RATIONALITY (M.A. Notturmo ed., 1994). Here is how Popper summarizes the “myth” that he wants to criticize: “A rational and fruitful discussion is impossible unless the participants share a common framework of basic assumptions or, at least, unless they have agreed on such a framework for the purpose of the discussion.” *Id.* at 34-35.

beyond what philosophers and theorists of culture give them credit for.⁴⁶

In any case, the issue that *we* are dealing with is not incommensurability between cultures, but mutual intelligibility (or its opposite) *within* a given culture—namely the multi-faceted conflicted culture of modern America. We are asking whether believers and non-believers in this country have enough in common to be able to understand one another. And here it seems to me that the opponents of religious interventions simply underestimate the prospects for mutual intelligibility and misrepresent the sources of misunderstanding.

It would be facile to point out, first, that there is, in fact, an enormous proportion of the American population committed to religious belief in some form or another. To them the conceptions conveyed in the Evangelical Declaration Against Torture will be perfectly familiar, though no doubt challenging in the way that any theological conception is challenging. Among those who maintain a secular or atheist posture, a good number have had, but have since renounced religious belief so that some of these materials will hardly be alien, even though they do not *want* to be thought of now as capable of understanding them. For those who have had no religious upbringing or have completely forgotten what they learned, there are immense libraries of books and cultural objects in our civilization that resonate with this: our museums are full of them; the shelves of our bookstores groan under their weight; many of our great universities have faculties of theology, religious study, or divinity; and most secular people have religious friends.

Of course this stuff is not easy; theology is a difficult subject. It may seem unreasonable to require people to go away and patiently study it in order to understand the political interventions of their religious, fellow citizens. But remember where we are in the argument. We are dealing with the objection that there is something uncivil about speaking to one's fellow citizens in terms they cannot possibly understand. It is the "cannot possibly" that I am contesting here.

I assume that those who oppose religious declarations are not doing so on the ground that political speech must always be conducted in simple sound bites or that it must not ever make intellectual demands on its audience. If that were required, we should have to abandon most political economy as well. An awful lot of what gets said and what needs

46. See also Jeremy Waldron, *Tribalism and the Myth of the Framework: Some Popperian Thoughts on the Politics of Cultural Recognition*, in KARL POPPER: CRITICAL APPRAISALS 203 (Philip Catton & Graham Macdonald eds., 2004); Jeremy Waldron, *Cultural Identity and Civic Responsibility*, in CITIZENSHIP IN DIVERSE SOCIETIES 155 (Will Kymlicka & Wayne Norman eds., 2000).

to be said in the way of economics requires people to abandon their intuitive views and do some patient study using resources available (though not superficially or easily available) in their culture. When Paul Krugman talks about the banking crisis, a certain amount of background learning is necessary to evaluate what he says. That only a few are willing to do this does not mean that the demand for thoughtful understanding is uncivil. And that is what I think is true in the case of religion. I do not believe that the issue is the “can’t” of unintelligibility; rather, I think the issue is the “won’t” of intellectual refusal. Many people have *resolved* to have nothing to do with religious thought, and standing firm on that resolution, they demand to be spoken to in only secular terms.

Of course they do not do this gratuitously. They do it because they believe that all this stuff about the cries of the Holy Ghost is superstitious nonsense. They think they have good reason to dismiss it and to refuse any further study to try and make sense of it. They would similarly refuse any suggestion that they should read the works of L. Ron Hubbard or the literature of Major Douglas’s Social Credit Party.

In principle there is nothing wrong with this attitude. We cannot engage with and evaluate everything. We tune out from material we think is useless and we pay attention to what we think may be important. That’s fine. But the fact that you are inclined to block out what I say about torture and listen instead to John Yoo or Charles Krauthammer is hardly a reason for denying the civility of my saying it.⁴⁷

V. TWO-WAY TRANSLATION

The title of my lecture was “Two-Way Translation,” and I want to say something now specifically about that.

We are often told, by Thomas Nagel and others, that John Rawls’s historic hero was Abraham Lincoln.⁴⁸ But Rawls’s theory of public

47. In any event, the case against religious interventions in politics—the argument that such interventions are uncivil or in some other way inappropriate—has not usually been based on any claim about the falsity or irrationality of religion. In Rawls’s theory, for example, comprehensive ethical, philosophical, or religious doctrines are not excluded from public reason because they are false or irrational. See John Rawls, *The Idea of Public Reason Revisited*, 64 UNIV. CHI. L. REV. 765, 784 (1997) (“[T]here are no restrictions or requirements on how religious or secular doctrines are themselves to be expressed; these doctrines need not, for example, be by some standards logically correct, or open to rational appraisal, or evidentially supportable.”). To properly evaluate his position (and those like it), we need to be steadfast in focusing on this case.

48. Thomas Nagel, *John Rawls and Affirmative Action*, 39 J. BLACKS IN HIGHER EDUC. 82, 84 (Spring 2003); see also PERCY B. LEHNING, JOHN RAWLS: AN INTRODUCTION 1 (2006)

reason might seem to be embarrassed by the way in which President Lincoln used to address the nation. Think of the last paragraphs of Lincoln's *Second Inaugural Address*, where he advised his fellow citizens to think about slavery and the great shedding of blood in the Civil War in the following terms: If we accept that slavery was an offense against high heaven, he said, then perhaps we must also accept that God has brought this "terrible war" upon us "as the woe due to those by whom the offense came."⁴⁹

Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord are true and righteous altogether."⁵⁰

In *Political Liberalism*, Rawls evaded the question of whether his hero, in saying this, violated the requirements of public reason. Rawls said it might not have violated "public reason . . . as it applied in [Lincoln's] day."⁵¹ And he said that whatever implications the *Second Inaugural Address* had for constitutional decisionmaking "could surely be supported firmly by the values of public reason."⁵²

That last comment might indicate that Rawls thought it alright to introduce religious considerations into public politics so long as one was ready to translate them (or their implications) into secular talk.⁵³ This is more or less what he said in his 1997 article, *The Idea of Public Reason Revisited*. There he talked about a wider and more accommodating view of public reason, saying:

[R]easonable comprehensive doctrines, religious or nonreligious, may be introduced in public political discussion at any time, provided that in due course proper political reasons . . . are presented that are

("His paradigm of injustice was slavery as it had existed in the southern states of the USA. Some judgments Rawls viewed as fixed points: ones we never expect to withdraw, as when Abraham Lincoln said: 'If slavery is not wrong, nothing is wrong.' Lincoln was, next to Immanuel Kant, a permanent source of inspiration.")

49. President Abraham Lincoln, *Second Inaugural Address*, (Mar. 4, 1865), <http://www.law.ou.edu/ushistory/lincoln2.shtml>.

50. *Id.*

51. RAWLS, *supra* note 19, at 254.

52. *Id.*

53. But notice that satisfying such a translation requirement is no guarantee that one is not a dominionist. See GOLDBERG, *supra* note 11, 24-49 (discussing the dominionist strategy of arguing in secularly-acceptable terms for key positions).

sufficient to support whatever the comprehensive doctrines . . . are said to support [C]onsider the familiar story of the Good Samaritan. Are the values appealed to properly political values and not simply religious . . . values? While the wide view of public political culture allows us . . . to introduce the Gospel story, public reason requires us to justify our proposal in terms of proper political values.⁵⁴

Rawls called this a *proviso* in his theory of public reason.⁵⁵ Though religious interventions are generally excluded from public reason, they are not inappropriate *provided that* a secular translation is forthcoming—that is, provided (in his example) that “citizens of faith who cite the . . . Good Samaritan do not stop there, but go on to give a public [publicly intelligible] justification for this parable’s conclusions.”⁵⁶

In a recent work, the great German philosopher Jürgen Habermas has taken up this point about attempts to translate religious interventions that may not be intelligible as they stand into secular terms. Rawls seemed to suggest that the burden of this should fall entirely upon the religious speaker. Habermas, however, insists that any “requirement of translation must be conceived as a *cooperative* task in which the non-religious citizens must likewise participate.”⁵⁷

Whereas citizens of faith may make public contributions in their own religious language . . . subject to the proviso that these get translated, the secular citizens must open their minds to the possible truth content of those presentations and enter into dialogues from which religious reasons then might well emerge in the transformed guise of generally accessible arguments.⁵⁸

Habermas therefore conceives the civility burdens of public reason as a two-way street. It is not only speakers who bear a burden of civility; the audience does too. The speaker must strain to convey his points in ways that will communicate as much of their content as he can to those who do not share his faith or the biblical or theological resources he is drawing on. But the listener has a similar responsibility. He must

54. Rawls, *supra* note 47, 778, 783-84 (footnote omitted).

55. *Id.* at 784.

56. *Id.* at 786. Rawls also says: “Obviously, many questions may be raised about how to satisfy the proviso. . . . [T]he details . . . must be worked out in practice and cannot feasibly be governed by a clear family of rules given in advance. How they work out is determined by the nature of the public political culture” *Id.* at 784 (footnote omitted). Although he does acknowledge the need for “good sense and understanding.” *Id.*

57. Jürgen Habermas, *Religion in the Public Sphere*, 14 EUROPEAN J. PHIL. 1, 11 (2006), available at <http://www3.interscience.wiley.com/cgi-bin/fulltext/118574289/PDFSTART> (emphasis added).

58. *Id.* (footnote omitted).

strain to listen and try to understand what is being said, and, if necessary, draw on resources in his own background (even aspects of his background that he has repudiated) or resources in the culture that he has access to, to get a bearing on what is being said, and what is being argued.

Certainly, it is not appropriate—it is not civil—for secular citizens to strain *not to understand* what is being said to publicly burnish their own credentials as non-believers. It is not appropriate for them to block out or refuse to employ available resources for making sense of what is said, because of their own resolve to purge religion from their lives. Or rather, a person *can* do that; people do not have the obligation to listen to and grapple with everything that is said in public discourse.⁵⁹ But then, if they do turn a deaf ear, for whatever reason, to some of what is being said, they can hardly complain about the incivility of the speaker.

VI. RELIGIOUS CONTRIBUTIONS AS IMMODERATE

It may be worth answering one last concern that people have about religious interventions in politics. Religious views are often deeply felt, and it is part of the etiquette of ordinary social life that one tries to avoid the airing of such differences in common conversation because of the tensions and antagonisms that can arise. People do not just disagree, they are often *offended* by one another's religious views; hurt feelings abound. The differences in many cases are uncompromising; they are the sort of differences that people have gone to the stake for, or the sort of differences that people strap bombs to their bodies and blow themselves up for. We do not want that sort of spirit in ordinary conversation; and perhaps we should say it is not particularly desirable in politics either.

Maybe religious interventions on abortion raise the stakes dramatically in this way: People seem prepared to kill, for example, as the sad case of Scott Roeder illustrates.⁶⁰ I am actually not sure whether the abortion assassinations are specifically the result of religious passion; it is partly that abortion itself is seen as a matter of life and death.⁶¹

59. We live in a land of a quarter-billion opinionated people, most of them on drugs: we would go mad if we tried to engage fully with everyone.

60. See Robin Abcarian, *Scott Roeder Convicted of Murder in Shooting of Abortion Provider George Tiller*, L.A. TIMES, Jan. 30, 2010, <http://articles.latimes.com/2010/jan/30/nation/la-na-tiller-trial30-2010jan30>.

61. That said, it is worth bearing in mind that we do often exaggerate the religious dimension of murderous disputes in politics. For years, American newspapers reported the troubles in Northern Ireland as a matter of violence between Catholics and Protestants, as though the dispute there were about transubstantiation. (I owe this point to BRIAN

Anyway, it would be implausible to think that this sort of violence is likely to ensue as a result of the Evangelical Declaration Against Torture.

Still, there might remain a concern about lack of moderation in a broader sense. What Professor Gushee and others are trying to do in their Declaration is to introduce into the political debate a sense that the stakes are *much, much higher* than they are generally supposed to be in the national debate about torture. We thought it was a matter of the pragmatics of homeland security strategy, with perhaps something about America's reputation and the importance of international law thrown in. Now, suddenly, we are being told that it is all about the image of God, the presence of Christ, and the sin against the Holy Ghost for which there is no forgiveness.⁶² Suddenly, the most frightful moral absolutes

BARRY, CULTURE AND EQUALITY 56 (2001).) Even when the parties are properly identified as nationalists and loyalists (or unionists), the *New York Times*, for example, always feels constrained to talk about the "mainly Catholic" nationalists and the "mainly Protestant" loyalists, as though religion were a key element of the dispute and the one largely responsible for the violence and the terrorism. See, most recently, Alan Cowell, *Queen's Visit to Ireland Offers Symbolic Moments of Reconciliation*, N.Y.TIMES, May 21, 2011, at A4:

In a series of public comments, Gerry Adams, the president of Sinn Fein, the political wing of the Irish Republican Army, said normalization between Britain and Ireland would not be complete until the island was reunified. . . . In various guises, Mr. Adams spent decades at the heart of the republican movement in Northern Ireland and was one of the main figures in the 1998 Good Friday agreement that laid the groundwork for peace between the mainly Catholic republicans, who seek a united Ireland, and the mainly Protestant unionists, who stand for union with Britain.

Id.

62. For the "sin against the Holy Ghost" reference, I actually have in mind, not the Evangelical Declaration Against Torture, but the following, which was a motion proposed in the Travaux Préparatoires of the European Convention on Human Rights in 1949 by a United Kingdom delegate, Francis Cocks:

The Consultative Assembly takes this opportunity of declaring that all forms of physical torture . . . are inconsistent with civilized society, are offences against heaven and humanity and must be prohibited. It declares that this prohibition must be absolute and that torture cannot be permitted for any purpose whatsoever, neither for extracting evidence, for saving life nor even for the safety of the State. It believes that it would be better even for society to perish than for it to permit this relic of barbarism to remain.

Eur. Consult. Ass'n, *Collected Edition of the "Travaux Préparatoires" of the European Convention on Human Rights*, 2d Sess., Vol. II, at 36-38 (1949) (internal quotation marks omitted). Lamenting the rise of torture in the twentieth century, Mr. Cocks added this in his speech moving this proposal:

I feel that this is the occasion when this Assembly should condemn in the most forthright and absolute fashion this retrogression into barbarism. I say that to take the straight beautiful bodies of men and women and to maim and mutilate

are being spoken of—the inherent sacredness of the human person, for example—buttressed with the deepest possible sense of what might be at stake in their violation.

Some will say that this sort of extreme moral expression spurred on by religious conviction is inherently inappropriate in politics, as politics's necessary concern with moral relativity and compromise. They might echo Max Weber's famous observation in 1919 that there is a necessary contrast between the pious absolutes of what he called the "ethic of ultimate ends" and the hard-headed compromising pragmatism of the "ethic of responsibility."⁶³ "Politics," said Weber, "is a strong and slow boring of hard boards," and what is needed is a "trained relentlessness in viewing the realities of life, and the ability to face such realities."⁶⁴ Or, more crudely, as John Yoo, author of some of the most infamous "Torture Memos," put it to me in our 2005 debate about torture at Columbia Law School: There is no room for Kantians in government.⁶⁵

At this point, I balk and imagine Professor Gushee does too. We say simply that, in this regard, the critics of the religious spirit in politics are wrong. There is room for Kantians in government. If we have learned anything in the past eighty years, it is that *not everything is negotiable*, not everything is up for grabs or can legitimately be traded

them by torture is a crime against high heaven and the holy spirit of man. I say that it is a sin against the Holy Ghost for which there is no forgiveness.

Id. at 40. I have adapted this note from my article, *Torture and Positive Law*, *supra* note 27, 1710-11.

63. Max Weber, *Politics as a Vocation*, in FROM MAX WEBER: ESSAYS IN SOCIOLOGY 120 (H.H. Gerth and C. Wright Mills eds., 1970) (internal quotation marks omitted). Weber stated:

[T]here is an abysmal contrast between conduct that follows the maxim of an ethic of ultimate ends—that is, in religious terms, "The Christian does rightly and leaves the results with the Lord"—and conduct that follows the maxim of an ethic of responsibility, in which case one has to give an account of the foreseeable results of one's action. . . . Everything that is striven for through political action operating with violent means and following an ethic of responsibility endangers the "salvation of the soul". . . . [T]he world is governed by demons and that he who lets himself in for politics, that is, for power and force as means, contracts with diabolical powers and for his action it is *not* true that good can follow only from good and evil only from evil, but that often the opposite is true. Anyone who fails to see this is, indeed, a political infant.

Id. at 120, 123, 126.

64. *Id.* at 126-28.

65. Professor John Yoo, Waldron-Yoo Debate on Torture at Columbia Law School (Apr. 2005), *available at* <http://expost.blogspot.com/2005/04/waldron-yoo-debate-on-torture.html>. Actually what Professor Yoo said was: "I think it would be very difficult to be a Kantian and have any responsibility in the government. People in the government have to be consequentialists, have to make trade-offs." *Id.*

off for more wealth, more satisfaction, or even more security. *There are some absolutes*, and the crucial thing is not to dismiss moral absolutism and the ethics and theology that might support it out of hand, but to look as carefully as possible at where the absolutes might be and gain the deepest sense we can of what lies behind them.

Somewhere, as Max Weber put it, the good citizen “reaches the point where he says: ‘Here I stand; I can do no other.’”⁶⁶ And, Weber continues,

every one of us who is not spiritually dead must realize the possibility of finding himself at some time in that position. In so far as this is true, an ethic of ultimate ends and an ethic of responsibility are not absolute contrasts but rather supplements, which only in unison constitute a genuine man—a man who *can* have the “calling for politics.”⁶⁷

Weber may be right that some preachers who intervene in politics are “political infant[s] . . . who do not fully realize what they take upon themselves,” or “windbags . . . who intoxicate themselves with romantic sensations.”⁶⁸ The secular world is not short of windbags either. But I would not trade a politics, replete with windbags, that yielded the occasional flash of spiritual insight, for a politics of consequences deadened to sacredness and principle, pursuing the flat inexorable process of trade-off after trade-off after trade-off until there was nothing of integrity to hold on to.

VII. CONCLUSION

At the beginning of my book, *God, Locke and Equality*, I observed that

[s]ecular theorists often assume that they know what a religious argument is like: they present it as a crude prescription from God, backed up with threat of hellfire, derived from general or particular revelation, and they contrast it with the elegant complexity of a philosophical argument by Rawls (say) or Dworkin. With this image in mind, they think it obvious that religious argument should be excluded from public life.⁶⁹

And I said that “those who have bothered to make themselves familiar with [actually] existing religious-based arguments in modern political

66. Weber, *supra* note 63, at 127.

67. *Id.*

68. *Id.* at 123, 127.

69. JEREMY WALDRON, *GOD, LOCKE, AND EQUALITY: CHRISTIAN FOUNDATIONS IN LOCKE'S POLITICAL THOUGHT* 20 (2002).

theory know this is mostly a travesty.”⁷⁰ I said that one of my reasons for exploring what I called Locke’s Christian argument for equality was not just to improve our knowledge of John Locke, or our views about equality, but also “to enrich our sense of what it is like to make a religious argument in politics.”⁷¹ I hope I have been able to do this a bit in this essay.

By focusing steadfastly on a particular religious argument, and by deepening and complicating our sense of its relation by examining first, ecclesiastical and biblical authority; second, its relation to the resources available in our culture for mutual intelligibility; and, third, its relation to a general sense of where moderation is and is not appropriate in modern politics. With all this, I hope I have given you a richer sense of what religious participation involves and the role it can play in the civil political conversation of a democratic citizenry.

70. *Id.*

71. *Id.*