

Freedom of Religion

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ABSTRACT

Are religious views relevant to our judgments about the common good, or should religion be expelled from public life? The impulses that constitute religion are deeply rooted in human nature. Whatever the difficulties of combining rights to equality with freedom, the one cannot just trump the other. Religion cannot be ignored, and freedom of religion needs a firmer base than just the state's religious neutrality.

KEYWORDS

religious freedom, equality, human nature, Enlightenment, cognitive science of religion

I. TWO ENLIGHTENMENT VIEWS OF FREEDOM AND RELIGION

Religious freedom is part of the more general issue of the role of human freedom, with the latter as the absolute precondition of morality. Without it genuine moral responsibility seems impossible. In the eighteenth century Enlightenment the idea of the importance of freedom, and individual autonomy, went hand in hand with an emphasis on the role of reason. Freedom and reason were regarded as inseparable. This was a continuation of ideas which had flourished in the seventeenth century at the start of modern science, and of the stress by John Locke on the role of consent by citizens to

government. Without a freedom to believe what one chose, as a basis for such consent, the latter would appear meaningless.

In particular, the Cambridge Platonists,¹ a group of philosophers and theologians whose influence is often underestimated, saw the crucial importance of freedom and reason in morality and elsewhere, but with an important distinction from the later Enlightenment, particularly as it developed in France. They grounded their views of human freedom in a theistic view of the world, whereas later materialists were to see the traditional authoritarianism of the Roman Catholic Church as an enemy of freedom.

Thus there came from the Enlightenment a tension between two different visions, one rooting the whole idea of reason in a belief that all reason was ultimately grounded in God, or the divine 'Logos'. For the Cambridge Platonists, in a slogan of theirs which was to be often repeated reason was 'the candle of the Lord'. It may not be a powerful searchlight, and only give partial illumination, but it was rooted in the nature of the world and the Creator of that world. The second vision saw Enlightenment as freedom from the shackles of traditional authority and superstition. For the one side, to be rational was to acknowledge the roots of reason in the God who had made humans in His image. For the other, rationality was bound up the fact of human autonomy and, at its extreme, the ability of humans, particularly in the field of morality, to decide for themselves what was good and bad. Instead of conforming to moral obligations built into the very nature of the world, and stemming from human nature, as believers in natural law would hold, they had the powers, in a strong sense, to decide for themselves how to live.

The different visions could easily lead to opposite views concerning the role of religion in society. The first would stress the importance of human freedom and rationality, but would see this as a result of religious belief. The second would look to religion not as a support for freedom, but as its enemy. Although the French Revolution started by making a Declaration of 'the rights of man and the citizen' recognizing them 'in the presence and under the auspices of the Supreme Being', it soon became more avowedly atheistic, and turned churches into 'Temples of Reason'. The Church was seen as an enemy, even though Article 10 of the Declaration asserted that 'none shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.'

¹ See *Cambridge Platonist Spirituality*, edited and introduced by Charles Taliaferro and Alison Teply (New York: Paulist Press 2004).

The decision to see religion as an indispensable support for ideas of freedom and democracy, or, instead, as an alternative source of power intent on thwarting the will of the people, clearly colours our ideas of religious freedom. The early Enlightenment view, grounding both reason and freedom in theism, not only gave birth to modern science, in the work of Newton and other founders of the Royal Society in 1660, but it also proved a spur to the work of John Locke, who was himself much influenced by the Cambridge Platonists, and used the phrase ‘candle of the Lord’ on more than one occasion. For several years, he attended the church of St Lawrence Jewry in London where Benjamin Whichcote, one of the leading Cambridge Platonists, was the incumbent and an influential preacher. Locke went on to become one of the most influential advocates of religious toleration, and religious freedom, and his ideas underpinned the so-called ‘Glorious Revolution’ in England of 1688, which paved the way to considerable, though not unqualified, religious freedom.

Both strands of the Enlightenment have influenced later views of human freedom, and it is no exaggeration to say that the presence of both views is the cause of many of the contemporary tensions concerning the role of law and religion in the United States. Even the Founders of the United States had different ideas concerning the role of religion. Was religion a support for democracy, or a possible enemy? By positing a separate source of authority from the State, or the will of the people, was it a danger, or, on that other hand, an indispensable support in developing the character of a free people? George Washington, James Madison and Thomas Jefferson all had definite, but significantly different, views on the matter.²

II. RELIGION AND MORALITY

One central issue in facing the problem as to whether religion should be discouraged, tolerated or positively encouraged is the general connection between morality and religion. If morality needs some kind of anchorage in the way things are, and through the place of humans in the wider scheme of things, morality cannot be separated from doctrines about human nature. Who we are, and what it is to be human, will be seen as indissolubly linked to wider metaphysical views about the kind of world in which we are situated.

² Vincent Phillip Munoz, *God and the Founders: Madison, Washington and Jefferson* (Cambridge: Cambridge University Press 2009).

Religious ideas will have a direct influence on our beliefs on what is beneficial and harmful to humans. What it is to flourish will not then be seen merely as a matter of personal choice. We can make erroneous decisions, with disastrous results for ourselves and others, if we act in ways which go against the grain of human nature. Religion can then be viewed as a major source of wisdom and inspiration about what should constitute the common good.

Another important element in the connection between morality and religion lies not in the epistemological basis for our moral views, but in the way in which, even if we know what we ought to do, we have the motivation to do it, even at some cost to ourselves. We have to have some idea why other people matter, but we also need to be given the psychological will to do something about it. In other words we need to acquire a good moral character, which comes to see other people as important as ourselves. This needs example, education and practice. Religion may not be essential, but many, in the past, have seen it as a central force for good in society. John Locke, himself, whilst advocating toleration, and influencing a century later the Constitution of the United States, with its stress on the 'free exercise' of religion, drew the line at the toleration of atheists. He said that 'promises, covenants and oaths, which are the bonds of human society, can have no hold upon an atheist.' He adds that 'the taking away of God, though but even in thought, dissolves all.'³ Yet a few pages earlier, he had asserted, in sentiments to be echoed by Thomas Jefferson in his fight for religious freedom in Virginia, that 'if truth makes not her way into the understanding by her own light, she will be but the weaker for any borrowed force violence can add to her.'⁴

The relevance of religion to morality, and to the good of society, can itself be disputed, and in contemporary pluralist societies, it is itself one of the basic matters in dispute. The temptation is to see the issue of religious freedom, as a part of the wider problem of human autonomy. A democratic society is inevitably founded on the assumption of continuing disagreement between citizens. In it, the idea that there can be any substantive beliefs which can hold the society together, and contribute to community cohesion, is itself much argued over. Many 'liberals' would see the need for agreement about procedures for resolving disputes and living together in the face of funda-

³ John Locke, 'A Letter Concerning Toleration', in idem., *Two Treatises of Government and a Letter Concerning Toleration*, Ian Shapiro (ed.) (New Haven, CT: Yale University Press 2003), p. 246.

⁴ Ibid., p. 241.

mental disagreement. They (and John Rawls⁵ was the most famous example) would resist the idea that societies could be based on any substantive beliefs, even of the broadest kind. They would want any society to be totally neutral in its approach to religion, so as not to come down on either side of the differing Enlightenment approaches to religion. They would wish a government neither to support nor to thwart religion. Whether religion was a necessary foundation for reason, and society, or itself a threat to human freedom, would not itself, they would claim, be one of the issues a free society, as a whole, should adjudicate on. Whether atheists or theists make the better citizens, is not itself a judgment to be made by a state, or a society. The respect for diversity implied by democracy should leave this the individual.

There are, however, dangers lurking in the wish to give maximum freedom to the individual, in making decisions about the importance and role of religion, whilst taking up a position of official indifference. It is, for instance, most unlikely that a state would take up the same kind of position of neutrality to science. A neutral state would not see religion of any kind as having a place in the classroom of a school. Yet the teaching of science would undoubtedly be given priority. The implication must be that religion is not as important as science, that scientific method is more reliable than 'faith', or even that science can true, and no religion can be. Implicit signals are being given about the role and importance of religion in human lives, so that, at best, religion is regarded as private, and of only personal importance to individuals. It is not being viewed as something that is of collective value, or as a major contributor to the common good. This only illustrates how absolute neutrality is an illusion.

III. RELIGION AND HUMAN NATURE

Issues about religious freedom will inevitably come up against wider judgments about the role and importance of religion in human society. If religion is regarded as the idiosyncratic pastime of a minority, it may be tolerated within a liberal society, as a matter for individuals. It may, on the other hand, be seen as a potential source of division and conflict, and then more strenuous efforts will be made to control it. Yet efforts by states to control religion have always been seen as exceptionally dangerous. They certainly

⁵ See John Rawls, *Theory of Justice* (revised edition) (Cambridge, MA: Harvard University Press 1999).

strike at the roots of democracy, as do any attempt to influence what people believe, and to coerce them into manifesting the kinds of belief and behaviour which are congenial to those in power. Democracy can only flourish when people are free to come to their own judgments about what constitutes good policy. Coercion of any kind is its enemy. Indeed, democracy and freedom perish, when beliefs and practices are prescribed by those in power. Religion is always the most vulnerable target, as it sets up sources of authority and principle which are totally independent of the will of particular rulers. Those who have wished to keep church and state separate are not only motivated by a fear that religious ideas may govern a state. They also fear that national priorities are imposed on religious institutions, so that the latter can become a tool of the state. This can happen, even with the best of intentions if the availability of state funding alters a religion's priorities so as to follow those of the government of the day. Many feel that it is safer for both if 'church' and state keep each other at arm's length.

It is difficult to avoid judgments about the role of religion in human life. In this context, research in the so-called cognitive science of religion, may be relevant, in that it indicates that many of the impulses that go to constitute religion, are deeply rooted in human nature. As one researcher puts it: 'Belief in God (or gods) comes from the same mental processes that the vast majority of beliefs come from: the operation of mostly non-conscious mental tools.'⁶ He continues: 'Belief in gods in human groups may be an inevitable consequence of the sorts of minds we are born with in the sort of world we are born into.'⁷ Examples of the building-blocks of religion which appear to be built into our cognitive framework include our readiness to assume agency, even if it is not physical, a natural predisposition to see purpose in things and events, and an 'intuitive' dualism which makes it easy to conceive of the separation of mind and body, and to conceive of life after death. In the field of morality, evidence suggests that belief in an all-knowing god who sees everything can act as a powerful constraint on our actions, inclining us to behave more 'morally'. We know in those circumstances we are not escaping detection.

The implication of such research is that religious belief is the 'default option' in human life. Humans are not natural atheists. Certainly this would explain the undoubted ubiquity of religion, in all its various forms, in all human societies across time. Anthropologists can safely take it as a given that

⁶ Justin Barrett, *Why Would Anyone Believe in God?* (Lanham, MD: Altamira Press 2004), p. 90.

⁷ *Ibid.*, p. 91.

any society they are studying will have a religion firmly rooted in its midst. The implications of this in discussions of religious freedom have nothing to do with the alleged truth (or falsity) of any religious beliefs. It has everything to do with the fact that religion is deeply rooted in human nature, and will inevitably be manifested in all human societies. Trying to control, or extinguish it, will be challenging one of the deepest springs of what it is to be human. It will be thwarting our deepest nature, almost as much as we were deprived of other 'goods' such as food or shelter, which we need to enable us to flourish.

One researcher, Scott Atran, holds, that for better or worse religion is 'here to stay'.⁸ This points to the fact that if religion is so much the natural expression of what is to be human, however it is manifested, it is unlikely to go away. Therefore any attempt at repression, however oppressive to our natural inclinations, is unlikely to succeed in the long run. This is to contradict the 'secularisation thesis' popular amongst sociologists in the 1960's, positing the inevitable and continued decline of religion in the face of modern scientific knowledge. As one sociologist puts it: 'Secularisation was made part of a powerful social and historical narrative of what had once been and was now ceasing to be.'⁹ Yet subsequent events have shown that this was to jump to a very speedy, and erroneous, conclusion. If religion is deeply rooted in human nature, one would expect, that however great the oppression, it would reassert itself, and this is certainly what has happened in countries that were Communist. Religion is resurgent, and growing in influence in many parts of the world, with Western Europe an apparent exception. States may attempt to repress religion, seeing it as challenge to their authority, but they will not be successful in doing so in the longer term. Religious freedom is not only a basic human right, springing from our basic needs, but it will always prove to be an insistent demand.

IV. RELIGIOUS FREEDOM AND TOLERATION

One recurring complaint, dating from American debates in the eighteenth century, is that religious toleration is not enough. It does not guarantee real religious freedom. This became explicit in the debates in 1776 in Virginia

⁸ See Scott Atran, *In Gods We Trust: The Evolutionary Landscape of Religion* (Oxford: Oxford University Press 2002), chapter 10.

⁹ David Martin, *On Secularization* (Aldershot: Ashgate 2005), p. 18.

about a Declaration of Rights, and the new Virginia Constitution. George Mason originally wanted to codify the principles of tolerance, enacted in the Act of Toleration in England in 1689, but James Madison, the future President of the United States, intervened in the debate in Williamsburg¹⁰ and revised the article, demanding an equal entitlement for all citizens to the ‘free exercise of religion’, substituting this phrase in preference to the ‘fullest toleration’ of their faith. The argument was that ‘toleration’ assumed the subordination of some groups and authorities to others. The implication (and the reality in colonial Virginia) was that one set of beliefs were the expected norm, (exemplified in Virginia by the Establishment of the Church of England). Deviations from the norm in belief and practice were only to be allowed by the grace of those who held authority. Others were ‘dissenters’ or ‘nonconformists’.

This was not to treat all citizens equally, and Madison’s revision of the proposed Virginian *Bill of Rights* put the notion of equality to the forefront. Freedom alone was not sufficient, if it was merely the gift of those who just as easily withdraw the right. For Madison, freedom was far greater than toleration, and the later *Virginia Statute for Religious Freedom*, of which Thomas Jefferson was the author, made it clear that ‘our civil rights have no dependence on our religious opinions’.¹¹ Instead, the Statute concludes, ‘the rights hereby asserted are of the natural rights of mankind.’ These debates paved the way for the wording in the First Amendment of the Constitution of the United States upholding the free exercise of religion’ and subsequent ideas of the ‘separation of church and state’. Yet although religious belief and civic status were made independent of each other, the role which religion is to have in society, given the demands of religious freedom, was left vague. Fierce debates continue into the twenty-first century over how far freedom demands the exclusion of all religious influence from the public square.¹² The example of Virginia perhaps suggests that it should not, since even the sixteenth article of the Virginian *Bill of Rights*, couples the idea of free exercise, with the ‘Duty which we owe to our Creator’, and ‘the mutual Duty of all to practice Christian Forbearance love and Charity towards each other.’¹³ The

¹⁰ Jeff Broadwater, *George Mason: Forgotten Founder* (Chapel Hill, NC: University of North Carolina Press 2006), p. 85.

¹¹ *The Separation of Church and State Writings on a Fundamental Freedom by America’s Founders*, Forest Church (ed.), (Boston, MA: Beacon Press 2011), p. 75.

¹² See Roger Trigg, *Religion in Public Life: Must Religion Be Privatized?* (Oxford: Oxford University Press 2007).

¹³ Jeff Broadwater, *George Mason*, p. 86.

ideas of freedom and equality which became so important in Virginia, had explicitly Christian foundations, and would have been unlikely to last if not resting on them.

V. LAW AND RELIGION

Religious beliefs go to the roots of who we think we are and how we relate to what we conceive of as reality. For that reason, religious faith can often be felt to be a defining feature of one's identity, and not just a set of beliefs subscribed to by a particular individual. They tend to flourish in communities, and too individualist an understanding of religion can sometimes fail to take this into account. Contemporary declarations of human rights, such as the European Convention on Human Rights tend to look at individuals, and to widen reference to religion by talking of 'religion or beliefs'. This is certainly more inclusive than the American reference to the 'free exercise of religion', but what it gains in breadth, it loses in precision. The definition of religion is always a much vexed issue, and reference to 'belief' may seem to circumvent the problem. No court should want to be in the position of having to accept that whatever individuals treat as their personal religion must be counted as a religion, however idiosyncratic. Particularly, if religion gives ground for exemptions from generally applicable laws, this could give people an all-purpose excuse for disobeying any law they fancy.

Unfortunately, the inclusion of reference to 'belief' can only make the situation worse. The fact of the sincerity of belief could not of itself be enough to give anyone the right to opt out of obeying laws. Yet it is going to be difficult specifying which sorts of beliefs deserve protection. Those which are defined by their relationship with religion, such as agnosticism or atheism, should clearly be covered. Freedom of religion must include the freedom to criticise, or deny any religion, or indeed religion as such. The difficulty comes when other kinds of belief demand equal protection. How important in the lives of people do beliefs have to be to be thought on a par with religious ones? There is clearly scope here for endless arguments in the courts. The mere fact of making religion a species of a more general freedom of conscience could be seen as evidence of a secularizing tendency, intent on downgrading the importance of religion in society. It is no longer singled out for special attention, as it is in the Constitution of the United States. Other aspects of religion can also be treated merely from a secular perspective.

Freedom of public worship, for example, can be viewed merely as a part of a more general freedom of assembly.

Article 9 of the European Convention of Human Rights, follows the pattern of many documents tabulating human rights, by giving an unconditional right to belief. One can believe what one likes. The problem comes when such beliefs are put into action. Even taking a narrow approach to religious belief, many actions sanctioned and motivated by religion would be unacceptable in a free society. The greater the freedom to believe, the more restricted has to be the capability of putting such beliefs into action. Religious beliefs cannot excuse human sacrifice, nor, more controversially, have societies considered polygamy acceptable. That, though, is sanctioned in Islam, amongst other religions. The European Convention tries in part to meet this problem by differentiating between a 'right to freedom of thought, conscience and religion', and distinguishing this from a 'a freedom to manifest one's religion or beliefs'. The unconditional right to believe what one wants is heavily qualified when it comes to action. One may wonder how valuable a right to believe is if it cannot be publicly expressed in some way. Totalitarian governments are no doubt quite satisfied for religious believers to think what they want as long as this is never 'manifested'. For many, though religion is public, not private, communal, not just individual, and a matter of action and not just propositional belief.

The qualification given by the European Convention in its article (2) include 'such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.' The assumption is that these notions can be clarified without the aid of any religious outlook. Yet the idea of an ethically, and religiously, neutral state making such judgments is contradictory. Ethical judgments need some idea of human nature to inform them.¹⁴ Any state with an eye to 'protecting' morals, or with a clear view of which 'rights and freedoms' are important is operating with some principles, perhaps unexamined. What does it base such principles on? They will clearly be of an ethical nature, but without a clearly delineated grounding it is all too easy for them to be dissolved in the mists of political expediency.

Other jurisdictions recognise the need to qualify an untrammelled right to religious freedom. The *Canadian Charter of Rights and Freedoms* makes its

¹⁴ See Roger Trigg, *Ideas of Human Nature* (second edition), (Oxford: Blackwell Publishers 1999).

right of 'freedom of conscience and religion', subject, like other rights 'only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'. Yet this approach leaves open the real possibility that freedom of religion can be overridden by the interests of the state. At the very least, other rights and freedoms can be given precedence. This becomes a very pressing matter, when it is thought that all beliefs must be treated equally. The doctrine is that if a state favours the beliefs of one group of citizens, even those of the majority, as against others, the latter can be made to feel 'second-class' citizens. At its extreme, in a situation where there are religious tests for civic participation, this may well be true. However, it could also appear to demand complete neutrality on the part of the state in religious and ethical matters, so that, as some forms of liberalism demand, individuals can make their own decisions how to live.

Yet each state has to stand somewhere in deciding how to weigh rights against each other, and how far to constrain, for instance, a right to religious freedom. Some notion of procedural justice alone cannot give the answer to such questions as whether religion contributes to the public good sufficiently to deserve special protection. The Founders of the United States appeared to think so, and therefore singled it out in the first Amendment. For them, the right to free exercise of religion was not just one of a catalogue of rights and freedoms to be weighed against each other. It was given priority. The European Convention is more ambivalent, and, as result, other rights and freedoms, particularly rights for certain groups not to suffer discrimination, can be given priority. Arguments about homosexuality have been proved particularly intractable in recent years. Religious objections to say, homosexual marriage, face equally strong voices wanting an end to what is seen as arbitrary discrimination of a group which has often been victimised. The problem then arises which right – to religious freedom or freedom from discrimination – should 'trump' the other. In many contexts it often appears that both cannot be given equal weight. Needless to say, the test should not be which side one agrees with. The test for religious freedom is how far people are free to practise their beliefs, despite the disapproval of many. The suspicion is that too often religious beliefs are down-graded so that no particular attention is given to the continuing role, and importance of religion in human life.

The problem is always at what point, the interests of society demand that such freedom is limited. Often the decision can only be given on a case by case basis. How great is the social interest at stake? How great a burden is being placed on religious people? Yet if religion is not given special attention,

the latter question becomes of scant interest. In this connection, there is always an issue not just how laws are applied, but in which laws are passed in the first place. An apparently neutral law can bear down more severely on some religious groups than others. A requirement that motor cyclists wear crash helmets, for instance, can appear an innocuous contribution to public safety. Yet it has a disproportionate effect on Sikhs who have to wear turbans because of their religion. An obvious compromise is to provide an exemption from the law for them. Facially neutral laws can, in other words, be far from neutral in their effects. This has been recognised over the years in such instances as conscientious objection for pacifists who think it absolutely wrong to kill. Conscription can exempt them, or at least allow objectors to take non-combative roles.

There are still, however, regular disputes in many countries about how far, if at all, religious obligations should be allowed to override ethical demands such as the need to treat everyone equally. Notions such as those of human dignity come to the fore. Concern is often expressed about what happens when the standards of particular religious communities clash with contemporary beliefs in equality, and the evil of apparently arbitrary discrimination against women, and other disadvantaged groups. How far should membership of a particular religious group provide a barrier for the administration of the law of the land in even-handed way? Some may worry about the possible consequences, say, of recognising Muslim *sharia* law in a country which wishes to see women treated equally with men. Some feminists object to the fact that even when discrimination against women is illegal, the Roman Catholic Church has a dispensation, in the name of religious freedom, to ordain only men to the priesthood. In such disputes, the demands of equality and those of freedom can clearly be seen to clash, and it is not always easy to see the solution.

The law in any country, it may be thought, has to apply to everyone equally without distinction. Yet once religious exemptions are sought, and reasonable accommodation given on grounds of religious conscience, there may be a danger that, at the extreme, a society can begin to fracture, with different laws applying to different groups. This is a very real fear, particularly when readily identifiable groups seem to want to opt out of the society of which they are a part. Yet an opposite view would wish to ignore religious belief entirely, and fail to accommodate any religious conscience. That, though, is to set the state up as the ultimate authority in a way that is anathema to anyone who sees ultimate authority as lying with God. It also subor-

dinates basic human rights, (and assuredly the right to freedom of religion must be one such right), to the will of a legislature. Whatever the difficulties of combining rights to equality and freedom, one cannot just be allowed to trump another. Religion cannot be ignored. Its roots lie too deep in human nature for that. A truly free society must make room both for those who reject all religion and for those who conscientiously wish to practice it. It should recognise that religious institutions can provide an important context in which individuals find meaning for their lives. A free society can in fact only flourish if individuals and institutions are left free to promote their visions of the common good.

VI. EUROPE'S CHRISTIAN HERITAGE

However much, however, we champion individual freedom, as the basis of democracy, there is still the question where we stand in order to do this. The idea of a liberal state, neutral to all religions, and creating a public space in which everyone is equal, is beloved of some. No one religious view is given a privileged position. All religious symbols, and indeed beliefs, are regarded as private and personal, with no place in the public square. This is not far from the vision of *la laïcité*, which is the official policy of France. Yet the nagging question remains whether people are more or less free in such an environment. Certainly the fact that religion is not regarded as being of public concern implicitly carries with the judgment that it is not a matter of reason, or certainly not the kind of reason which is publicly proclaimed. It therefore does not even purport to concern a universal truth, which ought to be of relevance to everyone. Such a liberalism may think it is providing equal liberty, but it also is coming to implicit judgments in the philosophy of religion about the character of religious utterances.¹⁵ Indeed the implication may be that we are free to believe what we like in religious matters, just because it does not matter unless it impinges on the public sphere. If religious utterances are meant to claim an objective truth they ought to be open to public examination. Indeed it is important that they are so that harmful 'pathologies' of religion can be exposed. Otherwise all 'religion' is treated as being equally valid, or more likely worthy of equal indifference, or equal contempt.

¹⁵ See Roger Trigg, *Rationality and Religion: Does Faith Need Reason?* (Oxford: Blackwell Publishers 1998), especially chapter 1.

Yet if religion is not regarded as being able to make any contribution to rational debate, it becomes clear that it cannot form any kind of justifiable basis for public policy. The idea, for instance of giving a religious justification for respecting religious freedom, or indeed human equality, would be ruled out, because religion cannot be in the business of giving public justifications. This was not the view of John Locke, who gave a profoundly theological justification for not coercing people into apparent belief. He says that ‘faith only, and inward sincerity, are the things that procure acceptance with God.’¹⁶ We should therefore respect other people’s freedom precisely because of a belief in the Christian God.

It can be argued that the heritage of Europe is so imbued with Christianity that its development has made little sense without paying regard to the Christian theology which motivated many. Even the French Revolution with its slogan of ‘*liberté, égalité, fraternité*’, had its roots in a Christian vision. Each of those concepts makes little sense outside a Christian context. Freedom matters, it could be said, (and Locke did say it) because God has endowed humans with free will. Equality is important because we are all equal in the sight of God and have an inherent dignity derived from that status. Brotherhood (to use that old-fashioned concept) itself clearly makes no sense outside an idea that we are all the creation of the same Father. The lingering question must be how belief in such crucial ideals can be sustained when the religious base on which they rested has been removed.

All reference to the Christian heritage of Europe (let alone to God) was deliberately excluded from the preamble to the Lisbon Treaty of the European Union, despite the protests of some. Moreover, in a forum wider than the European Union, the Parliamentary Assembly of the Council of Europe, there is a tendency, no doubt stemming from the later Enlightenment, to see religious principles and human rights as being in opposition to each other. The Assembly in a 2007 recommendation said that states should not allow ‘the dissemination of religious principles, which, if put into practice, would violate human rights.’¹⁷ That may seem innocuous, although there is no recognition that the right to religious freedom is one of the most basic of human rights, and needs to be carefully balanced against other rights. Some, particularly in the United States, would see it as ‘the first freedom’. However the Assembly goes on to say: ‘States must require religious leaders to take an un-

¹⁶ John Locke, ‘A Letter Concerning Toleration’, p. 232.

¹⁷ Parliamentary Assembly, Council of Europe, Rec. 180492007, ‘State, Religion, Secularity and Human Rights’.

ambiguous stand in favour of the precedence of human rights, as set forth in the European Convention on Human Rights' over any religious principle."¹⁸ Thus a 'religion' of human rights is proclaimed so that all religious principles are subservient to it. If religious leaders see religious freedom as 'trumping' another right, so that they can hold to certain principles, they may be 'required' to take a different and 'unambiguous' ideological stand. If a religious leader can be required in this way to make beliefs conform to state policy, we are well on the way to the kind of totalitarianism which has not long been shaken off in Eastern Europe.

Some may see the Assembly as having some forms of radical Islam in their sights, although Roman Catholicism may also be a target. As the Parliament is anxious to be even-handed to all religions, they assume the right of a state to dictate beliefs to any religion' particularly if it is well-intentioned. The Assembly seems to think it can operate in a religious vacuum. The European Court of Human Rights certainly shows little sympathy for the fostering of religion in general and Christianity in particular. It sees its role as encouraging a pluralist democracy which is neutral to all religion. Such pluralism can quickly degenerate into a pernicious relativism which will demand that religion retreats into appropriate ghettos. A recent example of the Court's approach is its refusal to allow Norway to continue its traditional stress on the teaching of Christianity in its schools. It objects to the fact that 'not only quantitative but even qualitative differences'¹⁹ are applied to the teaching of Christianity as compared with other religions and philosophies. Thus a state is forbidden from showing any preference for Christianity, as this would, the Court controversially claims, impair the promotion of understanding, respect and dialogue between people of different beliefs.

Many would see these developments as healthy. Equality between beliefs would, they think, increase both freedom of belief and freedom from belief. Philosophers, following liberal thinkers such as Rawls, would argue that it is good that the days of religious hegemony and 'theocracy' are over. Does this not make people more free? As Troels Nørager puts it, in applauding secularisation:

¹⁸ Parliamentary Assembly, Council of Europe, Rec. 180492007.

¹⁹ *Folgero v. Norway* (No 15472/02) Judgment, 29th June 2007 #952.

God's law is no longer the foundation of society. Or as Habermas would phrase it: In modern societies religion can no longer serve as the normative foundation of a public morality shared by all.²⁰

Yet the problem with any thesis about secularisation is that it seems more like a sociological comment about the present state of belief in Western Europe, than a philosophical justification of a neutral state. Furthermore, the thesis certainly does not apply to most of the world, and ignores the deep roots of religious impulses in human nature. Most of all, however, it fails to explain why such basic concepts as freedom and equality matter in the first place. Do they just matter because we think they do? Are human rights important because we (whoever 'we' are) have agreed they are? Why, anyway, are humans so important that they have such rights? The problem is that there have always been specifically Christian answers to such questions, and if Christianity is officially removed from the scene, it is far from clear what alternative justifications there can be. At the very least, it is optimistic to assume that principles which developed in Christian soil can not only survive, but be transmitted to future generations without that Christian basis. Nicholas Wolterstorff draws attention to this problem when he stresses that human rights have a theistic grounding. He argues that 'if God loves...each and every human being equally and permanently, then natural human rights inhere in the worth bestowed on human beings by that love.'²¹ He stresses that 'natural human rights are what respect for that worth requires' This though implicitly poses the question as to what happens to human rights, including the right to freedom of religion, when we no longer believe in God's love. That is certainly the position to which Europe is heading. Freedom of religion, and respect for all other rights, needs a firmer basis than one of religious neutrality from the State. The Christian heritage itself gave birth to, and sustained, a respect for religious freedom and other rights. It is often being marginalised, or submerged, in an unthinking pluralism, shading into relativism. How in those circumstances can that belief in rights survive into future generations?

²⁰ Troels Nørgaard, *Taking Leave of Abraham: An Essay on Religion and Democracy* (Aarhus: Aarhus University Press 2008), p. 221.

²¹ Nicholas Wolterstorff, *Justice: Rights and Wrongs* (Princeton, NJ: Princeton University Press 2008), p. 360.