

Introduction

REEXAMINING THE ISSUE OF RELIGION IN THE PUBLIC SQUARE*

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An increasingly prominent characteristic of our time is the need to reexamine the issue of religion in the public square. The modern synthesis separating church and state and thereby excluding the institutions of religion from the public square, even while allowing the spirit of religion to help shape the public life of various countries, has come unraveled in the face of postmodern changes. These changes include the rise of neopaganism, which has meant that the principles of separation are applied exclusively to the monotheistic religions while pagan religions can penetrate the public square in the guise of folklore and multiculturalism, coupled with a growing felt need to feel that religion, particularly the monotheistic religions, have something important to contribute to resolving the issues of the day and cannot fairly be excluded. The issue is particularly joined around matters of public morality. As a result, we find ourselves confronted with the issue whether we like it or not, as fundamentalist religions have moved to assert themselves in the public square. Hence, it behooves us to find new ways and means for religion to play its role in public life without sacrificing the democratic benefits of church-state separation. One of the ways to do so in a manner compatible with democracy is by emphasizing the covenantal basis of both religion and democratic republicanism. It would be equally useful to distinguish between federal liberty established by covenant and natural liberty and to pursue the former.

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Separation and Its Discontents

One of the major building blocks of the modern world as we know it is the separation of church and state — more specifically, the separation of institutionalized monotheistic religion and the institutions of government. Early in the modern epoch, religion was redefined as a private matter for every individual to choose both his or her religious faith and the way or manner of its expression, while disestablishing the connection between particular churches and particular states. The philosophic rationale for this separation was that religion was a matter of individual conscience and could not legitimately be forced upon anyone by the organs of state.

Practically, the acceptance of this philosophic position was closely connected with the very widespread desire in Western Europe to end the wars of religion attendant on the Protestant Reformation which had led to numerous local wars in the sixteenth century and the Europe-wide Thirty Years War during the first half of the seventeenth. Indeed, separation of church and state turned out to be very much in tune with the new political, social, and economic liberalization in Europe and its New World offshoots and to the shifting of the basis of interstate conflicts within Europe. Particularly in the British colonies of North America, this principle led to great advances for liberty, especially individual liberty, and even in the Old World it led, albeit more slowly, to such phenomena as the emancipation of the Jews.

As in most such cases, the idea of separation came as a response to a particular problem, and as a new idea, its full implications for civil society could not be foreseen. As long as separation addressed the liberalization of society and its emancipation from the restrictive chains of established public religion, whether in the form of enforced orthodoxies, inquisitions, or the ability of secular rulers to use religion to justify their repression of opponents, the new ideas about the relationship of religion and state proved very useful indeed. But, as the modern epoch moved on and the ideas of modernity became entrenched and in some respects gave birth to new orthodoxies, they also gave birth to new twists involving not only the emancipation of individuals from established churches but increasingly the elimination of the spirit of monotheistic religion and its moral contents from their hold on society. This additional step began with the atheism of the French Revolution, but did not reach problematic proportions even in the West until the late nineteenth and twentieth centuries.

The original idea of the separation of church and state was not viewed as the elimination of religious principles from civil society. It was assumed that what Abraham Lincoln referred to as “the better angels of our nature” would continue to find socially influential religious expression even as the oppressive influences of established religion would be removed. This was particularly true where the idea of ending religious establishment followed the American pattern where it was designed for the protection of the plurality of religious sects rather than, as in the continental European situation, for the freeing of individuals from established church coercion. But in neither case did it occur to most of the advocates of disestablishment and separation that religious-based morality would be jettisoned along with state recognition of institutionalized churches.

The Problem for Jews

Jews were among the most fervent in their support for modern disestablishment. Indeed, the philosophic rationale for disestablishment was best articulated by Spinoza and won widespread acceptance among European Jewry looking to be included in the new European society. True, there were those Jews who understood the implications of separation for Jewish religious life, namely that emancipation would not only allow Jews to enter European society but would also prevent the Jewish religious establishment from maintaining its hold on the Jewish masses. But most Jews belonged to the Jewish masses or, if intellectuals, were outside of the Jewish religious establishment and they welcomed the change, particularly since other forces, those of European statism, were denying Jewish communities their traditional autonomy within their host countries, leaving the Jews with neither self-government nor a chance to participate in the larger society where they lived unless there was disestablishment and equal citizenship for people of other religions. So most of them eagerly rallied to the modern separationist idea so well expressed in the United States by the American founders in the principle that not only Christians but “Jews, Turks, and infidels” should also be given an equal share in modern civil society. As a group, Jews became the strongest partisans of separationism because it invariably worked for their immediate advantage and, having no state of their own, nowhere worked against their interests as individuals.

In the last years of the twentieth century numerous people began to discover that, while the basic principles of separation had

produced an appropriately liberal civil society, the extension of those principles to the effort to eliminate all religious expressions, or at least all Judeo-Christian religious expressions, from civil society was far less beneficial. Suddenly it seemed as if the very fundamentals of morality were being excluded from public life on the grounds that their public expression represented the establishment of religion, while the rituals and customs of non-monotheistic religion were entering the public sphere as legitimate subjects of public expression in the name of multiculturalism. This has led to a reopening of the issue of what is the proper relationship between religion, state, and society, and how should the moral principles and social ideals of monotheistic religion be expressed in the public square, a term coined by the American political theologian Richard John Neuhaus some years ago.

For Jews the reopening of this question, albeit in new form, has two directions. The first particularly affects Jews in the diaspora since it relates to how the issue is expressed in the non-Jewish polities of which they are citizens. There the question is two-edged. To what extent do religiously motivated Jews need to have a public square shaped by the moral and social principles of monotheistic religion for their own security and self-expression, and, on the other hand, how will Jews as Jews be affected by the reintroduction of religious principles that will more often than not be associated with non-Jewish religions, most specifically Christianity?

Parallel to that is the question of what is the place of religion in the public square within Jewish polities, most particularly the State of Israel as a Jewish state, but also in the organized Jewish communities of the diaspora.

Israel was established by Jews who did not come from host societies where the separationist principle was in place, but rather from societies where close connections existed between religion and state. Although Jews had suffered as a minority because of those connections, their traditional leadership had also found them sympathetic to traditional Judaism which requires that the public square be thoroughly informed by the principles of Jewish religion and the *halakhot* associated with those principles. Traditional Judaism does not recognize a separation between religion and state in the modern manner, but rather the close intertwining of the religious and the political within any Jewish polity. Thus Israel has had to find a way to synthesize its efforts to become a modern democracy and a Jewish state. We are all well aware of the complications that this situation has generated both within Is-

rael and within the Jewish people as a whole, and the need that Israel has to reach a new resolution of the issue now that the old one has been so seriously challenged. At the same time, Israel, too, is feeling the effects of the removal of certain religious elements heretofore taken for granted in any Jewish society, even a modern secularized one, from the lives of its Jewish citizens.

Perhaps the greatest internal issue facing both Israel and Jewish communities is that of exclusivism versus pluralism, whereby one group demands exclusive powers in defining what is Jewish religion and who can speak in its name, while others demand that plural expressions of Judaism be recognized as equally legitimate. This question exists against the backdrop of the spread of religious ignorance among many Jews and the attractions of postmodern hedonistic individualism for many.

With regard to the place of religion in the public square in civil societies where Jews are in a minority, the needs of the times require us to revisit the entire question of the place of religion in the public square and to look for a new accommodation between religion and public life. The old distinctions between "public" and "private" applied to this issue are no longer adequate. At the same time, very few are interested in going back to premodern ideas of religious establishment even if it were possible to do so, which, of course, it no longer is. The task of thinking people is to define and delineate a new accommodation for our new era.

Modern Accommodations

One way to begin our exploration is to look at the variety of modern accommodations to the separationist principle, for the reality is that, while all modern polities came to accept the idea of disestablishment and separation, there were a number of different ways in which these principles were expressed in practice. These range from the wall of separation ideas of the United States and France to the continuation of formal establishment in a benign way as in the United Kingdom and in certain Swiss cantons, along with the recognition of the equality of other religions or churches. A brief listing of the various models and specific examples of polities with which they are identified follows:

1. *Walls of Separation* (U.S.A. and France)

The eighteenth century revolutions in both of those countries led to the establishment of strong principles of separation of church and state, in the U.S. to protect the multiplicity of sects

within civil society, and in France to force the Catholic Church out of what was to be a highly secular civil society. Tocqueville wrote about the unique situation in the United States where, as he put it, “the spirit of religion and the spirit of liberty marched hand in hand,” as distinct from the situation in France and other Catholic countries of the Old World where religion was viewed, for good reason, as hostile to liberty in all too many cases. In practice this meant that the origins of separationist principles and practices were different in the United States and France and had different consequences, both for religion and for the public square, at least until recently. How each expression of the separation has been expressed over the past two centuries in each of the countries is an important subject for investigation.

2. *Democratic Establishment* (United Kingdom and Switzerland)

Both countries have established churches closely but benignly entangled with the governmental institutions. In both cases, technically, they are established in constituent units — England and Scotland in the UK, and the cantons in Switzerland. Parliament elects the Anglican bishops, and the Queen is the head of the Church of England (in Scotland she is the head of the Church of Scotland which is Presbyterian). In Switzerland there are established churches in some cantons but not in others and arrangements differ from canton to canton.

The differences in political culture between the British, especially the English, and other people meant that the British polity never had to confront the issue of formal establishment in the same way that others did. Rather, it could keep formal disestablishment but transform it in critical ways that were appropriate to the liberalization and democratization of the United Kingdom. Such ways allow for such seeming paradoxes, anomalies, and absurdities as Jewish members of the British Parliament participating in the election of the bishops of the established Anglican Church or the British monarch being an Anglican in England and a Presbyterian in Scotland by law without stirring any serious demands for making the system more logical.

3. *Equal Assistance* (Australia and Germany)

In both countries there is formal religious disestablishment but the state has assumed the obligation of providing equal assistance for all recognized religions. In Australia this takes the form of subsidizing educational and social welfare activities sponsored by religious groups, while in Germany it takes the form of the state setting and collecting church taxes and remitting them to the re-

ligious groups for use at the latter's discretion. Issues of equality in matters of recognition and support need investigation in both countries and others like them.

4. *Equal Assistance, with some more equal than others*

In countries such as Canada, Israel, and Italy, religion has been disestablished or was never established, but to a degree, education and social services and perhaps others as well are provided by recognized religious bodies supported or subsidized by the government. In every case, one religion is at least somewhat more favored than the others. In Canada, recognition is given by the provinces with Catholicism favored in Quebec and Protestantism in Ontario. In Israel, Judaism is favored and its definition is even in some respects the subject of legislation. In Italy, all religions have been disestablished but the state collects taxes for all and favors Catholicism to some extent because it is so overwhelmingly the majority religion. Other countries can be added to this list and their variety of principles and practices need to be examined, including an evaluative examination from the perspective of separation according to liberal democratic principles in the largest sense.

It may be of service to us not only to identify these different models but to examine empirically what have been the Jewish experiences under each of them in different settings.

One change that seems to be already underway is the movement either from the extremes of church-state separation or establishment to convergence somewhere in the middle, with governments providing equal support for all recognized religious groups or favoring one in particular but providing equivalent support for the others. Benjamin Neuberger of Israel's Open University has been studying this convergence in Europe. He has identified six positions that have existed in modern Europe and has shown how they are all converging toward the middle two. There is every sign that similar phenomena are occurring in other parts of the world, especially those that are at the cutting edge of post-modern developments.

Refining Our Understanding of the Postmodern Problem

The roots of so many of the issues in the world since the 1960s are cultural. This is certainly true in connection with the place of religion in the public square which grows out of the cultural transformations of postmodernity.

The Emergence of a New Morality

Every generation of social conservatives, it seems, complains about the decline of morals in its generation. This generation is no different, but, in its defense, it may persuasively be argued that we have seen in the last thirty or so years not a decline but a transformation of morality. Ours is not, as conservatives are wont to assert, a condition of amorality, or simply of moral relativism, but of the emergence of a very different form of morality altogether.

Any attempt to characterize the emerging morality faces formidable difficulties commensurate with the complexity of the phenomenon. Indeed, it is a task that awaits the attention of a great scholar. The present purpose, however, is to characterize the emerging morality with a view, first, to showing that the phenomenon, although syncretistic with the received, common biblically derived morality in some of its aspects (as, for example, the equality and intrinsic dignity of the individual), is nonetheless in profound conflict with it. (The syncretisms, to which reference shall be made, are of great importance insofar as moralities may be said to spread by that means). Second, and more important, is to bring out the dilemma for the "public square" that the emerging morality creates.

To begin, the emerging morality is a morality of the unconditional freedom of the individual, understood not in the minimal sense of the expectation of security of the individual to go about his business, and to secure his interests, moral and economic, familial and communal, by the constitutional institutions of republican and federal self-government. Rather, the good, according to this morality is a maximal conception of radical individual autonomy. This is not the rational autonomy of Kant, of the individual giving law to himself in accordance with the categorical imperatives of reason, but autonomy in the sense of what has been called authenticity of the self, of the freedom of self-creation, liberated from the constraints of custom and convention. Custom, the glue of mutual expectations that constitutes the social realm, is itself, in principle, suspect as the "cultural" enemy of liberation. In this sense, the emerging morality may well be the logical outcome in liberal regimes, of the march of modernity, delayed in its inevitable appearance only by the powerful inertia of custom.

The emerging morality is also a morality garbed in "rights." Here, too, we find a syncretism between the received view of individualism as secured by inherent rights, and the new. This may be glimpsed by a momentary reflection on Locke's anthropology,

which locates rights primarily in property, in the natural acquisitiveness necessary for securing life, the primary right (the foundation on which, it has been argued, the U.S. Constitution rests). Whatever anthropology — Rousseau's is the choice of influential scholars — ties inherent rights to the maximal understanding of unconditional freedom, it would not seem to be Locke's. For Locke, "right" follows from the marginal condition of humanity in a world of natural scarcity, from which, in the biblical sense, survival must be won by labor. As we shall argue, the maximal conception of freedom, and its attendant, expansive understanding of right, owes much to the success of the modern project of "the relief of man's estate" through progress in the sciences. In any event, the emphasis on rights in the emerging morality, as we shall discuss, creates a particular dilemma for religion in the public square.

Too little attention has been paid to the relation of the emerging morality to the success of the scientific project of "the relief of man's estate" with which modernity begins. The amazing advances in medicine — one of the great fulfilled promises of modernity — have made the good of the body, or the body as the good, the central locus of the human. The good of the body, not merely health but pleasure itself and the control or mastery of its consequences, now have a *moral* claim to all the resources of the polity — financial, jurisprudential, and legislative. The body has become the altar on which the liberation of the self is celebrated.

All the major moral issues of present-day politics revolve around the good of the body and the mastery of the consequences of pleasure, not the control of pleasure itself. Surely the abortion question is itself a consequence of the advances in birth control; the "right" of a woman to control her body rests on the prior liberation of the sexual passions from their natural consequences.

A similar argument can be made about the legitimization of homosexuality as a consequence of the general liberation of sexuality from consequences. The liberation of the male-female union from its natural consequences weakens the implicit prejudice in favor of the family. The stable family is the pre-eminent human custom in advanced civilizations, which harmonizes the imperatives of society — the domesticating or taming of the male and the transmission of the wisdom of society's customs. To the extent that the liberation of sexuality from its consequences attenuates the profound prejudice in favor of the family, the polymorphous natural imperatives of eros can also claim equal legitimacy with procreative sexuality. (This speculation about the pre-eminence of the sciences in providing the ground for altering an-

cient custom is not meant to denigrate the complexity of cultural changes; rather the purpose is to indicate the central precondition for realizing the arguments in behalf of liberation that have always been brought forth in modernity in favor of abandoning ancient custom.)

Similar speculations may be advanced concerning issues such as physician-assisted euthanasia at the end of life, and the cloning of humans and eugenics at the beginning. The emerging morality legitimizes with scarcely a second thought practices that bring fear to the old morality, as much for the careless abandon as for unforeseeable consequences.

One might characterize the emerging morality as a return to paganism, as indeed some of its advocates have defiantly asserted. But, if so, it is a paganism of a certain kind. Not, to be sure, the paganism of republican and philosophic classical antiquity, the paganism of the virtues. Nor, despite its emphasis on erotic self-indulgence, is it a paganism dependent upon the worship of gods (except, perhaps the fabled cult of Dionysus). Rather than tragic, it is a *compassionate* paganism. This would appear to be another syncretism with the received biblical morality. In fact, it is not the compassion of *imitatio dei*; rather it is an *effective* compassion that depends, first, on the progress in the sciences, particularly medicine, on the general prosperity of modernity that derives from scientific progress, and finally, critically, on modern, liberal political institutions.

Finally, in perhaps its highest syncretism with biblical morality, it is redemptive and eschatological, in the sense that it looks forward to a time when all men are confirmed in their free self-creation in the mutual recognition — unqualified “respect” — by each of “the other.”

In fact, the emerging morality, in its obsession with the body (its health and pleasure, not its potential for sin), the righteousness of its cause, and intolerance and anathematizing of its opponents, has as much in common with Puritanism as with paganism; it is a *libertine puritanism* made in the older mold while breaking it.

The New Morality and the Public Square

The transformation of morality may or may not be inevitable. Indeed, it is a now classic position that precisely the purpose of enlightenment is the liberation of the individual; the great internal dispute concerns the meaning of liberation, whether it is rational

or not, and if so, the definition of reason. However, over and against this purported inevitability is the self-understanding of revealed religion to be *the* permanent alternative and the enduring possibility of humanity. What is inevitable, therefore, is the inherent tension and conflict between the emerging morality and the conventional, or traditional, biblically-based morality.

This conflict plays itself out in the so-called public square. In the battles over public policy and morality, the emerging morality has a certain advantage peculiar to constitutionalism, at least as it has evolved and is now conventionally understood among Western elites in the media, the law, and the academy. The emerging morality is politically advantaged precisely because it does not appear in religious garb but is clothed in “rights.”

To the extent that religion is understood as essentially “private,” while “rights” is understood as belonging to the realm of the public — the subject of legislation, regulation, and jurisprudence — the emerging morality does not have to defend itself as such. The public square is thus diminished. Moreover, as we have observed, any candid understanding of the conflict must also recognize that modern enlightenment liberalism, in the broadest sense, may itself favor the transformation of traditional morality. This only sharpens the dilemma of the traditionally minded in claiming and sustaining a place in the public square; if religion is defined as “private,” how can its concern with public morality be made the public’s business, especially when faced with a publicly supported transformation of the very notion of the moral? It also sharpens, and perhaps redefines, the political conflicts inherent in a liberal polity whose received public morality, until recently, has been at least tacitly understood to be biblical.

Covenantal Religion and the Public Square

The decline of the tacit Jewish self-understanding as a “biblical people” brings with it, at century’s end, a widespread anxiety. The compulsion toward total liberation has its costs. Words such as “balkanization” and “tribalization” mark this sense of anxiety. Multiculturalists celebrate the many heritages and commitments in the world and urge that our social order has not gone far enough in affirming “difference.” For them, “diversity” appears as a good in itself. Others fear the center is falling apart. They reproach the partisans of diversity for neglecting the old, once constitutive traditions of the presumed majority. As the older morality is displaced by the new, the fundamental consensus on once-

taken-for-granted assumptions, the inherent rightness of heterosexual marriage, for example, proves elusive. People fear themselves to be breaking up into groups incapable of finding common ground. Their frameworks of moral discourse are, or at least seem to be, incommensurable and this imperils the on-going democratic conversation on which a free society is based.

The new morality's conceptual relegation of religion to the private sphere impedes this search for a compelling common good. From Tocqueville's time to the present, it has been biblically-based religion that has animated Western public life and brought countless people to work for the public good. Religious groups have filled the public but non-governmental sector of society not only with churches and synagogues, but with hospitals, charities, and colleges. These innumerable civic-minded societies have afforded people meaningful participation in public life, without any infringement on their private realms. Indeed, their public endeavor has enabled their private lives. The contribution of biblical religion to the theory and practice of the common good is one of the great modern stories. Biblical religion, in turn, is rooted in the idea of covenant. While the history of this contribution is well-understood, if often forgotten, a philosophical account of it is lacking.

Discussion of the common good has often been dominated by the Aristotelian tradition, mediated by St. Thomas, on the one hand, and by Rousseau, on the other. The problem with both of these traditions for those rooted in a covenantal outlook is their ambivalent relation to liberal democracy. St. Thomas believes that the common good is a species-wide good grounded in biology. Rooted in our universal nature as humans, the common good is discerned by the wise legislator and imposed on wayward and fallible humans who would otherwise seek their individual good, were they not coerced to sacrifice for the whole. Whatever truth such insights undoubtedly contain, in a free society they inspire a certain distaste and have worked to discredit the very idea of a common good. Rousseau shares this same tendency toward compulsion. The general will has priority over the will of each and the will of all. Humans should be coerced (to believe in the civil religion, for example) for the good of the whole. This is not to reduce such complex and ambiguous thinkers to these simple and somewhat caricatured formulas. It is to indicate why some of the received frameworks for explicating the concept of the common good have run afoul of the idea of liberty, even at a time before the rise of the new morality. An appropriately framed common good will not be able to supervene on personal liberty in advance

of free citizens in democratic dialogue choosing the limits of their own liberty. The idea of covenant is an old idea that has proven very useful in the past and shows signs of being useful again. Covenant is an important foundation of both morality and community and it is within this paradigm that we can find the balancing tools necessary for a healthy civil society. Covenant is an idea which defines political justice, shapes political behavior, and directs humans toward an appropriately civic synthesis of the two. As such, covenant is an idea whose importance is akin to natural law in defining justice, and to natural right in delineating the origins and proper constitution of political society. On this point, the covenantal tradition is more modest than the philosophical ones. It does not claim to know in advance the particulars of what is good for humans beyond certain fundamentals. It allows humans to discover, individually and in association, what proximate aims and goals they find most compelling, insisting only that they order their public lives with justice within the context of federal liberty, that is, the liberty to live according to the terms of their covenants as to what is good and just.

While the idea of covenant is often thought of in religious terms, it is more than a sectarian concept. Rather than merely “religious in the narrow sense,” covenant is based on moral commitment. Thinkers from Hobbes onward recognized it as a political moral commitment necessary for people to live in a civil society. Indeed, the American founders recognized covenant as an important ingredient in building a balanced democratic society. Covenant depends on civic capital. Civic capital and community lead to commonwealth. Commonwealth promotes civil responsibilities and obligation. These values are important in conjunction with civil society. Civil society promotes liberal democracy and freedom while commonwealth promote responsibility. Covenant can bring back a balance between freedom and responsibility. Covenant creates bonds between individuals and one another, peoples and states, groups with other groups.

Covenantal societies tend to be both simultaneously closed and open. A closed covenant is one that limits interaction and inclusion of those outside of the relationship. An open covenant has an inclusive characteristic that emphasizes bringing outsiders into the relationship. In fact, the openness even limits the use of concepts like outside. In reality, there are degrees of openness and exclusivity, and covenants can have both open and exclusive characteristics.

Covenant and the Challenge for Our Times

The challenge for our time is how to achieve community in an age in which freedom and individualism have become essential characteristics and are valued for their own sake. While the idea of community is important to the covenant principle, this community needs to also emphasize personal responsibility and voluntary decisions. Mutual responsibility based upon a commitment to deal with common concerns or possible problems leads to covenantal relationships. If community is to be achieved, it must be achieved within this environment. Freedom is a desirable and highly valued principle. Individualism, also desirable in many respects, is well imbedded in the American political culture.

Where there are no strong organic ties, covenant can achieve community. To the extent that covenant is both a theological and a political concept, it is informed by a moral or ethical perspective that treats political relationships in the classical manner, that is, it links power and justice — the two faces of politics — and preserves the classic and ancient linkages between ethics and politics. Again, the emphasis is on relationships rather than structures, *per se*, as the key to political justice. Structures are always important, but ultimately, no matter how finely tuned the structures, they come alive (or fail to) only through the human relationships that inform them.

While there have been different interpretations of the covenant principle across various regions and from generation to generation, there also has been a broad area of agreement which has unified those who subscribed to the principle and which set them and their doctrine apart within the larger realm of political theory. For Americans, for example, covenant provided a means for a free people to form political communities without sacrificing their essential freedom and without making energetic government impossible. Federal liberty, which is based on covenant, enhances pluralism and makes it workable. Federal liberty limits individual freedom. Those who live in a system of federal liberty live by rules that society has created. These rules limit both the individual and the government.

Covenant needs to be examined in three dimensions: as a form of political conceptualization and mode of political expression, as a source of political ideology, and as a factor shaping political culture and behavior. As a form of political conceptualization, covenant shapes the way in which people look at the world and understand the nature of civil society. As a source of political ideology, covenant shapes the world views or perspectives of

whole societies, defining their civil character and political relationships, and serving as a touchstone for testing the legitimacy and even the efficiency of their political institutions and those who operate them.

Perhaps most important is the role of covenant as a factor in shaping political culture and behavior. This factor is the most difficult to measure and yet is operationally the most significant dimension of covenant. All evidence points to the existence of certain covenantal peoples whose political cultures are informed by covenantal and related concepts, which in turn influence their political behavior. Adherence to the covenant maintains the health of these peoples.

Any study of covenant as a phenomenon must focus on these dimensions. Indeed, the intellectual challenge of studying this phenomenon grows out of the possibility of using covenant as a seminal concept which has been given ideological expression and, even more importantly, has shaped political culture and, through it, political behavior. Studying the linkages between these and the way in which they occurred in various communities and societies is a major intellectual challenge of political science.

The need exists to re-examine some of the characteristics of covenantal groups in order to regain an understanding of how covenant can be reinvigorated. The question needs to be asked, "Is a synthesis of openness and exclusivity possible?" An understanding of theoretical models of open and closed covenants will lead to an improved basis upon which to both study and encourage covenantal relationships. Much of what we think regarding partnerships is based on the notion that they are closed. Covenantal relationships, by their very nature, are limiting. However, there are cases of openness in covenantal relationships, such as alliances with respect to nations and adoption with respect to families. Both of these examples show some degree of openness in an otherwise closed covenant.

The question of openness and exclusivity in a particular polity is an important one. This aspect of a polity informs policy as well as perceptions from outside. Institutionalized racism and ideological extremism are just two examples of how the degree to which a given polity is closed impacts upon it. Further, a culturally or ethnically homogeneous society may not intend for its policies to create the reaction they do from the outside.

Returning to covenantal roots reemphasizes civil society and the necessary balance between the private and public spheres. A reassessment of the covenantal idea would change the way con-

temporaries view important questions and contribute to citizenship.

No doubt any resolution to the issue of religion in the public square will rest heavily on public nongovernmental action rather than governmental, but action sustained by governmental backing of a certain kind.

It is a central contention here that the covenantal tradition in both theory and practice presents a compelling framework for articulating the common good. Indeed, as Donald Lutz has shown, it is found at the roots of American constitutionalism, just as Eugene Borowitz and his colleagues have shown it to be at the roots of twentieth-century Judaism. Covenantalism acknowledges equally the legitimacy of individual projects and associative loyalties. It does not rigidly subordinate the personal and the local either in a hierarchical or a collective whole.

The covenantal tradition as it has developed respects the private sphere and requires that persons be secure in their liberty to fulfill their chosen projects of life. But it also urges that one of the uses of liberty is for persons to bond together in mutual association. A fully private life is not worth living. Consequently, covenantal liberty is a bonded liberty. It is not the unconditional autonomy of the new morality, but a liberty of self-willed limits. The common good requires that a point of self-sacrifice is always reached.

The wise individual, imbued with a covenantal ethos, knows that, in contrast to the ideal-typical ethos of Millsian liberty (an antecedent of the new morality), humans owe each other more than to stay out of one another's way. Covenantalism makes thematic our debt and obligation to one another, our expectation for one another. It constitutes the public realm not on an anthropology of discrete individuals and their rights, but on the equilibration of negative and positive liberty. It does not fetishize "freedom from" or valorize "freedom to." It sees both as requisite to human fulfillment and opens up a democratic conversation in which the balance is continuously negotiated. Thus, unlike the new morality's advocacy of diversity as an end in itself, a covenantal perspective both celebrates and orders difference. It celebrates diversity insofar as its ontology postulates a world of diverse beings with irreducibly concrete projects. But it orders this diversity in light of a common good, that is, it urges to orient their projects toward mutual and public benefit.

One might object that this characterization of the covenantal tradition of biblical religion is altogether too benign, that, after all, biblical religion mandates a certain more or less severe exclu-

sivism. Boldly put, the Israelites had their liberty while the Canaanites were subject to death, expulsion, or slavery. Nor were black slaves or many aboriginal peoples subject to liberty under the terms of the initial national covenant. Are not these hypocrisies a cause of the discrediting of the older, biblical ethos by the partisans of the new morality? How can the covenantal perspective with its innate exclusivism serve as a basis for a common good in a multicultural society? There is no quick or easy answer to this question, but the outlines of an answer have at least been limned: covenantalism implies an ongoing endeavor by free people to work out their common life in an appropriate balance of the public and private, the mutual and solitary. In the nature of the case, the past is not ideal. The past is formative, not definitive. Covenantalism does not require that citizens subordinate themselves to the terms of an original contract, but rather that they understand themselves as bound to one another in a common endeavor.

The Restoration of Civil Society in the Original Sense

The ideal of civil society holds that every political-social order has to have three spheres: governmental, voluntary, and private, and that government does not have the authority to intervene in every aspect of the social order. Private is private. The private sphere is authentically private in that it is originally private by virtue of individual and natural rights and therefore is independent of government intervention in most ways, except where a limited public good is defined. The governmental and private spheres are linked in a very important way by a public non-governmental sphere comprised of voluntary associations. This third sphere is necessary if the civil society is to be a republican civil society. Indeed, one can visualize civil society as a stool resting upon three legs. One leg consists of the governmental institutions framing the society, the second is the private sphere, and the third, the public non-governmental sphere consisting of the voluntary public cooperative institutions and activities that make it possible for civil society to function beyond simply protecting the individual and, at the same time, to do so without turning to government with its coercive powers as the whole matter of the public realm.

The idea of civil society, as we have been reminded recently by those who revived its public discussion in the former Communist bloc as a weapon against totalitarianism, stands in diametric

opposition to the idea of the totalitarian state. The totalitarian state allows no private sphere and no voluntary associations. As the totalitarianism of Communist rule was challenged and eliminated, the challenge was framed by the locals as the idea of reviving civil society in the Communist-ruled lands. At the time, that was an idea much neglected, even forgotten, in the West two and three centuries after the idea reached its highest development and served as the foundation of Western democratic republicanism.

Jews and the Public Square

An object lesson in how the claims of covenantal belonging are moderated by participation in a larger open society is provided by American Jewry. The American Jewish community is a laboratory for analyzing how the exclusivistic dimension of covenantalism can be at once sustaining and subverted. American Jewish life shows both the promise of a covenantal ethos for structuring a good society, and the ways in which that ethos is challenged by modern liberalism.

Although one purpose of this essay is to address the dilemma of traditional, biblically-based moral convention, which is compelled by conviction and self-interest to claim a voice in the public square, more particularly, it looks at the situation of the Jewish community in claiming such a place. The question for Jews is how to define that place; should Jews speak for the traditional, biblical morality that is their unique heritage? Or should they speak for the emerging morality because it now appears to be the cutting edge of the agenda of liberalism? And anything that advances the interests of liberalism *per se*, with which, after all, Jews have closely identified, and from which they have greatly benefited, would seem to be in the Jewish self-interest. Jews, after all, are no less invested in the prospects of liberalism than Christians, and may be no less confused about the inner conflict between the emerging morality and biblical tradition. Indeed, the tension between wishing to advance the interests of liberal democracy and preserving religious identity often leads to a redefinition of the latter syncretistically in terms of the former, among Jews no less than Christians.

Nevertheless, the Jewish situation is, in a way, *sui generis*. Although Jews historically have been defined, and have defined themselves, by their devotion to a rabbinically defined biblicism, under the conditions of modern liberalism, and most especially in

the United States, the Jewish community has both benefited and suffered from an embarrassment of riches. Accepted as never before, Jews have been free both to pursue their traditions, and to be — sometimes without inquiring into the consequences — at the forefront of liberalism, which today often means at the cutting edge of the moral transformations wrought by post-modern liberalism. Indeed, Jews are famously influential in these matters in ways disproportionate to their numbers, a fact that, in modern times, left them even more exposed to all the winds of reaction, anti-Judaism, and anti-Semitism.

The tensions and conflicts of the public square, between traditional morality and the emerging morality, are thus also played out within the Jewish community itself, rendering it less a community than ever before, and more a polity of increasingly narrowly defined common interests. Primarily, these interests are to promote the security of the State of Israel, to fight anti-Semitism, and to support social services for the community. The support for Israel has itself become a growing source of internal conflict that reflects the growing split within the community along Orthodox and non-Orthodox religious lines. (The revival of Orthodoxy, with its implicit rejection of the emerging morality, is a troubling intra-communal fault line.) It is increasingly apparent, however, that the very success of liberating Jews from ancient disabilities, and the indiscriminate advancing of the cause of liberalism, has undermined Jewish identity and cohesiveness. How to slow and possibly reverse this process has become a theme of internal Jewish communal deliberation. But the internal deliberations have also brought to the surface deepening internal divisions that verge on, if not cross over into schism, theological and communal. This is not new, indeed it may be seen as a replay of nineteenth century German Jewry, but the stakes are higher today. Indeed, the future of an organized Jewish polity is today in doubt as never before, as Jews take sides in the so-called culture wars, and take either the side of tradition or the side of post-modernity in defining identity and purpose.

From their earliest beginnings, modern Jews were liberals and pursued the most liberal agenda of the times in matters of religion and state. As a minority they sought equal recognition and support at the time when government support and even establishment of churches was widely recognized. With the coming of disestablishment, Jews as a group shifted to strongly support the separation of church and state, although even in the United States it took a century before the present “wall of separation” position — that some three-quarters of American Jews, as reflected in the

public opinion polls, claim to accept — became the dominant one. In the nineteenth century, Jews not only recognized and accepted but even expected much closer ties between religion and state, even if they wanted separation between church and state. Beginning in the 1920s, the U.S. Supreme Court began to build a wall of separation, but Jewish organizations helped them build the wall ever higher, succeeding in the first post-World War II generation. As the struggle intensified between those who are heirs of biblical religion and those embracing the new hedonism, most Jews were at least somewhat disturbed by these trends. A few wholeheartedly embraced hedonistic individualism and became leaders in promoting it, but somewhere between one-quarter and one-third of the Jewish community rejected conventional Jewish “Orthodoxy” on matters of separation of religion and state.

At the present time Jews are beginning the slow process of revisiting their position issue by issue. An increasing number feel themselves caught in a dilemma between the public secularism that they see as protecting them as a very small minority in a Christian sea, and a more integrationist position needed to maintain the value of biblical religion in the public square. The scope of that change needs to be studied and understood with all its nuances and the issue needs to be reconsidered from a unique Jewish perspective as well from the overall Western perspective, to see what can be done to achieve a new relationship between religion and state that will accommodate both needs.

A Possible Resolution

A central issue in this discussion should be the covenant tradition in democratic republicanism at the present time. One pressing problem is how to allow the maximum amount of freedom while at the same time allowing communities to protect themselves. As a result of these conflicting issues and also in spite of them, there is a new recognition that humans need these ties of community as well as some degree of openness. Civil society needs to find ways and means to balance the two.

There have been other efforts to balance freedom with the needs of the community. Liberal communitarianism’s emphasis on the group has argued that this balance is achieved by emphasizing the needs of the group and those individual freedoms that make the community better. Conservative political ideas have argued that freedoms that are good for the individual will make for a

healthier community. Freedoms that do not promote virtue in the individual do no good for the community either.

In the last analysis, the resolution of these new tensions will probably have to depend upon a number of voluntary covenants of some special standing as parts of the public nongovernmental sphere that are “backstopped” by government support where necessary. These are the issues that require greater exploration as we move ahead to confront the larger questions raised here.

Note

- * I am indebted to my close friends and colleagues Robert Licht and Alan Mittleman for their contribution to this introduction.