Comment On "The Limits of Rationality and the Place of Religious Conviction: Protecting Animals and the Environment"

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COMMENT ON "THE LIMITS OF RATIONALITY AND THE PLACE OF RELIGIOUS CONVICTION: PROTECTING ANIMALS AND THE ENVIRONMENT"

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I could not be more sympathetic to the anti-liberal direction of Professor Greenawalt's arguments.[1] My problem with his essay is not that it moves in an anti-liberal direction, but that it does not go far enough in rejecting liberal shibboleths about the proper relation of religious belief to political discourse and action. I want to sketch three points that, were Professor Greenawalt to accept them, as I think he should, would take him further along the anti-liberal path than he has yet traveled.

My first point concerns the distinction between rational judgments and nonrational ones—a distinction on which Professor Greenawalt's arguments rely heavily. Professor Greenawalt's position is roughly this: When rational judgments have done all the work they can do, and work remains to be done, what else are we to do but rely on nonrational judgments? We have no good reason to disqualify nonrational judgments that are religious in character, as distinct from those that are not religious.

We should be very skeptical of the distinction between nonrational judgments and rational ones. There are, of course, competing conceptions of rationality—that is, competing sets of criteria for determining what beliefs to accept and what beliefs to reject. No privileged standpoint exists from which to adjudicate among com-

1. "Liberal" has more than one sense. I use it here in the sense of "neutral" or "impartial," not in the sense, for example, of "tolerant." To be a liberal in the latter sense, as I hope I am, is not necessarily to be a liberal in the former sense, as I am not.

Indeed, I am completing work on a book that is emphatically anti-liberal. *See* M. PERRY, MORALITY, POLITICS, AND LAW (1988) (forthcoming, Oxford University Press); *see also* Perry, *A Critique of the "Liberal" Political-Philosophical Project,* 28 WM. & MARY L. REV. 205 (1987).

peting conceptions of rationality—no standpoint that does not it-
self presuppose a particular conception of rationality. Professor
Greenawalt seems to acknowledge this when he cites, approvingly,
Hilary Putnam's statement that "there is no *neutral* conception of
rationality to which to appeal."[2]

Professor Greenawalt, however, seems not to follow through the
implications of the point. A judgment that is not rationally accept-
able relative to one conception of rationality may be quite accept-
able relative to another. Moreover, the rational acceptability of a
judgment, relative to a conception of rationality, is not an all-or-
nothing matter, but a matter of degree. "Truth," which Putnam
rightly indicated "is an *idealization* of rational acceptability,"[3] is
all-or-nothing, but not rational acceptability. As Raymond Geuss
put it: " 'Truth' and 'falsity' as used in science do not admit of
degrees; a proposition is true or false and *tertium non datur.* But
rationality is not like that. Decisions, preferences, attitudes, etc.
can be more or less rational; agents can have stronger or weaker
warrant for their actions . . . ."[4]

Consider, then, this alternative to Professor Greenawalt's posi-
tion. When judgments that are strongly rationally acceptable rela-
tive to a person's conception of rationality have done all the work
they can do, and work remains to be done, what else is a person to
do but rely on judgments that are less strongly, or are "weakly,"
rationally acceptable—for example, judgments that are rationally
acceptable but highly speculative. Note that this distinction is not
between the rational and the nonrational. Note, too, that given a
particular conception of rationality, the judgments that are most
strongly rationally acceptable for a person may well be "religious"
ones.

The liberal attempt to disqualify religious judgments or beliefs is
an attempt to privilege a particular conception or range of concep-
tions of rationality, and thus liberalism is not at all as "neutral" or
"impartial" as it aspires and advertises itself to be. My first recom-
mendation to Professor Greenawalt, then, is that he rethink the

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2. H. PUTNAM, REASON, TRUTH AND HISTORY 136 (1981), *(cited in* Greenawalt, *The Limits
of Rationality and the Place of Religious Conviction: Protecting Animals and the Environ-
ment,* 27 WM. & MARY L. REV. 1011, 1047 n.89 (1986).

3. *See* H. PUTNAM, *supra* note 2, at 55-56.

4. R. GEUSS, THE IDEA OF A CRITICAL THEORY 31 (1981).

putative distinction between rational judgments and nonrational ones, abandon the distinction, and recast his arguments and discussion, which are suffused with the distinction, in other terms.

My second point concerns another of Professor Greenawalt's distinctions—this one between two sorts of "nonrational" judgments: the religious and the nonreligious. Professor Greenawalt writes:

> Of course, one might say that all nonrational judgments are irreducibly religious; but that position is implausible given the fact that nonrational judgments must be made by those who are agnostic about any transcendent reality and are not infrequently made by religious people on bases that bear no evident connection to their religious convictions.[5]

It is not clear to me what Professor Greenawalt means to say here. Of course, there *is* a distinction between judgments that concern matters as fundamental as one's relationship to other human beings, or to nature, on the one hand, and, on the other hand, judgments that concern less fundamental matters. With respect to judgments of the former sort, does Professor Greenawalt mean to distinguish between "religious" and "nonreligious" judgments? If so, is the distinction between judgments that are theistic or that presuppose theism and judgments that are not theistic or that do not presuppose theism?[6] Any student of religion should know that the distinction between theistic views and nontheistic ones does not track the distinction between religious views and nonreligious ones. Buddhism is, in the main, nontheistic, but it is certainly a religion.

In any event, Professor Greenawalt does not need the religious/nonreligious distinction. First, the liberal view he attacks does not rely on the distinction. As he writes, "[I]n any defensible version . . . [the position that religious convictions are not appropriate bases of political judgment in a liberal democracy] relegates some other possible grounds to the same status as religious grounds."[7] Certainly John Rawls, Bruce Ackerman, and Ronald Dworkin—to mention three prominent liberal thinkers—do not rely on the dis-

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5. K. GREENAWALT, RELIGIOUS CONVICTIONS AND POLITICAL CHOICE (1987) (forthcoming).

6. Note Professor Greenawalt's reference to "those who are agnostic about any *transcendent reality.*" *Id.* (emphasis added).

7. *Id.*

tinction. When they talk about conceptions of human good, they do not distinguish between religious and nonreligous conceptions. Second, the view Professor Greenawalt defends does not rely on the distinction. His position with respect to the admissibility of what he calls nonrational judgments does not depend on whether the judgments are religious or nonreligious.

My second recommendation, then, is that Professor Greenawalt rethink his distinction between "religious" and "nonreligious" nonrational judgments, and that he abandon the distinction if it is meant to track the distinction between theistic and nontheistic views, or that he clarify the distinction if it is meant merely to suggest the difference between judgments that concern very fundamental matters and those that concern less fundamental ones.

My third and final point concerns Professor Greenawalt's prescription for moral discourse. He observes: "[T]he stage that the United States is now in is characterized by . . . [among other things] a generally shared supposition that major political discussions will be carried on in secular terms."[8] Professor Greenawalt goes on to lend his qualified support to this supposition. He writes:

> "[W]hen speaking to an audience of those who share his religious premises, . . . [the individual] properly urges the connection between those premises and his public policy conclusions; when speaking to a more general audience he should ordinarily cast his arguments in nonreligious terms, though not concealing the bases of his own convictions.[9]

A prominent Catholic moral theologian, Bryan Hehir, who helped draft the Bishops' Pastoral Letter on Nuclear Deterrence, and who is a theological adviser to Cardinal Joseph Bernardin, has said, like Professor Greenawalt, that we should employ secular discourse in the public forum.[10] Another Catholic moral theologian, John Coleman, of the Jesuit School of Theology at Berkeley, has taken issue with the Hehir-Greenawalt position. I am sympathetic to Coleman's position, so I want to quote some passages from Coleman's work:

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8. *Id.*
9. *Id.*
10. Hehir, *The Perennial Need for Philosophical Discourse*, 40 THEOLOGICAL STUDIES 710 (1979).

It is my reading of the American record, however, that the strongest American voices for a compassionate just community always appealed in public to religious imagery and sentiments, from Winthrop and Sam Adams, Melville and the Lincoln of the second inaugural address, to Walter Rauschenbusch and Reinhold Niebuhr and Frederick Douglass and Martin Luther King. As McWilliams notes, in respect to these latter black voices: "Black America had far less interest than whites in achieving a 'synthesis' between Christianity and liberal secularism. Its claims could be met best by a victory of the first over the second. In the black churches, there was less talk of the contradictions between the 'real' and the 'ideal,' the 'rational' and matters of 'faith.' Rather there was a clearer understanding that what was involved was a conflict between competing definitions of the real and the rational, a choice between first principles." They knew that you could not really put together an ethic of deep concern for other human beings with an ethic of everybody looking out for number one.

The American religious ethic and rhetoric contain rich, polyvalent symbolic power to command commitments of emotional depth, when compared to "secular" language, especially when the latter is governed by the Enlightenment ideals of conceptual clarity and analytic rigor. Secular Enlightenment language remains exceedingly "thin" as a symbol system. I do not think that, sociologically, a genuine sense of vivid *communitas*, in Victor Turner's sense of the term, is possible on the basis of a non-religious symbol system. Yet, it is just such a renewed commitment to an ethic of solidarity in community that overrides individual interest which seems of paramount necessity in American culture and life today.

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. . . [T]he "thicker", more powerfully evocative language of the Bible can become exclusive, divisive in public discourse and overly particularistic. It can rally hearts which share its history and nuances without providing an opening to those who stand as linguistic outsiders to its forms of discourse. This said, however, I do not find the mere "particularism" of the biblical heritage an overwhelming drawback. For I think that pretensions to a universal language and tradition are delusions. Every language is particular. Every language stands within a very particular tradition of interpretation. Every language is caught in the conflict of interpretations. To prefer a speciously "neutral" language of

secular humanism to the biblical language seems to me either to be naive about the pretended neutrality and universality of the secular language or to give up on the claims of the Judaeo-Christian heritage to be illuminative of the human situation. I am further strongly convinced that the Enlightenment desire for an unmediated universal fraternity and language (resting as it did on unreflected allegiance to *very particular* communities and language, conditioned by time and culture) was destructive of the lesser, real "fraternities"—in McWilliams' sense—in American life.

Furthermore, when used as a public discourse, the language of biblical religion is beyond the control of any particular denominational theology. It represents a common American cultural patrimony. In that sense, as James Sellers has noted, "the locus of salvation has been displaced in America from its old setting in a specifically religious community and rebuilt upon a new center *that partakes of the religious* but is also public, civil and political in reality." American public theology or religious ethics, then, cannot be purely sectarian. The biblical language belongs to no one church, denomination or sect.

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. . . The genius of the public American theology, however, is that it has transcended denominations, been espoused by people as diverse as Abraham Lincoln and Robert Bellah who neither were professional theologians nor belonged to any specific church and, even in the work of specifically trained professional theologians, such as Reinhold Niebuhr, has appealed less to revelational warrant for its authority within public policy discussions than to the ability of biblical insights and symbols to convey a deeper human wisdom. In a strong sense, I would argue that the non-sectarian character of the sponsorship, appeal and style of this American religious mode of public address is precisely what characterizes this form of religious ethics as a *public* theology. Its task, in James Sellers' sense of a public ethics, is to criticize American manners and morals (the operative, if unreflected, ethic) on the basis of American cultural ideals. Biblical imagery, I would argue, lies at the heart of the American self-understanding. It is neither parochial nor extrinsic.

. . . .

If I understand Hehir's proposal correctly, he would not allow or, at the least, discourage a public appeal to the Judaeo-Christian or larger religious heritage in societal debates about normative questions of social policy. I would agree if the appeal

violated respect for the specifically pluralistic faith-context of American public life or involved a cultural imposition through some form of force or coercion rather than persuasion in common debate and discussion. Moreover, it may be the case that the most important place for theological symbols in public debate is more as an ethical horizon and set of value preferences than in specific and concrete policy discussion.

But I think Hehir is mistaken inasmuch as he seems to neglect a patrimony which is already very much a *public* strand of our cultural heritage. I also suspect that he is more sanguine than I am about the possibility of escaping the "permanent hermeneutical predicament" of particular languages and community traditions in a conflict of interpretive schemes through the emergence of a common, universal language. I fear that his proposal could court the risk of a continuation of the pernicious intertwining of an ethics of deep concern with an ethic of looking out for number one. But finally, and most persuasive for me, I simply do not know anywhere else to look in American culture besides to our religious ethical resources to find the social wisdom and ethical orientation we would seem to need if we are to face as Americans our new context of increasing interdependence at the national and international level.[11]

My third recommendation, then, is that Professor Greenawalt step back from his prescription for moral discourse and reflect on Coleman's arguments, the contours of which are suggested by the passages just quoted. As I said at the outset, were Professor Greenawalt to move in the direction my comments suggest, he would find himself further along the anti-liberal path than he has yet traveled.

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11. J. COLEMAN, AN AMERICAN STRATEGIC THEOLOGY 193-98 (1982) (footnotes omitted) (reprinted by permission; copyright 1982 by John A. Coleman). For further explication of these arguments, see Coleman, *A Possible Role for Biblical Religion in Public Life*, 40 THEOLOGICAL STUDIES 701 (1979).