

TRADITIONALLY MULTI-RELIGIOUS SOCIETIES AND SECULARISM

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It is very rare in the modern world to find a country whose citizens all profess the same religion. Indeed, in practically every independent political community, one comes across groups whose religious beliefs differ from those of other minority or majority groups. Nor can this difficulty of the co-existence of diverse religions be resolved by assuming that they are the same in essence, and only differ in the way they manifest their beliefs through ritual and external practice. Vital and essential differences in faith and practice do exist among them and have to be admitted. In other words, religious pluralism or the coexistence within one political community of groups holding divergent and incompatible views with regard to religious questions, *i.e.*, those ultimate questions concerning the nature and density of man, is fast becoming the familiar pattern throughout the world of our day.

I. THREE MODELS

There are certain countries that have been traditionally multi-religious, the most outstanding example among the Western nations being the United States of America. In Asia, the home of the world religions, like Confucianism, Hinduism, Christianity and Islam, the problem of religious pluralism never developed in an acute form except perhaps in India, where Hindus and Muslims lived side by side, either in mutually exclusive states or under the uncertain benevolence of the reigning monarch, either Hindu or Muslim. Something similar took place in post-Reformation Europe, when the principle of *cujus regio, ejus religio* found general acceptance. The system implied the setting up of a particular church (to which the ruler belonged) as the established Church, which was recognized as the official religion of the state. The other denominations were granted a certain degree of freedom which differed from country to country. This was the most ancient model of religious tolerance.

A second model known as jurisdictionalism later came into prominence in the West. Under this model, the state aims to maintain equal status for the confessions within its domain. It seeks to give freedom to all religious group and "equal liberty of conscience and worship" to all citizens. But in this model, the state is not separated from the church; instead each is intertwined with the other. The state does not divest itself entirely of its responsibility for the historic church, exercising a considerable measure of control over it and continuing in some cases to grant it subsidies.

But the third model based on the actual separation of church and state, and explicitly stated in the Constitution, is to be found in America. It was only in the United States that a real and successful attempt has been made to confront religious pluralism as an existential fact and to seek a practical solution to the problem in the form of the *secular* state. This brief paper deals for the most part with an analysis of the American experience.

II. AMERICAN PLURALISM AND PROBLEMS OF A PLURALIST SOCIETY

As it arose in America, the problem of pluralism was unique in the modern world, chiefly because pluralism was the native condition of American society. It was not as in Europe the result of disruption or decay of a previously existent religious unity. This fact created the possibility of a new solution. A pluralist society implies the inevitable presence of dissension and disagreement within the community. But it also implies a community within which there must be agreement and consensus. For if a society is to be at all a rational process, some set of principles must motivate the general participation of all religious groups despite their dissensions in the oneness of the community. On the other hand, these common principles must not hinder the maintenance by each group of its own different identity. The problem of pluralism is a practical one.

Every pluralist society suffers from certain acute disadvantages which have to be faced and overcome. In the first place, there is *no common universe of discourse*, which is implied in all civilized society and is at the basis of the state. Civil discourse decays into a veritable confusion.

A second tragic disadvantage is that *each group has its own history and its own traditions*. For instance, in America the Jew does not share the Christian history, nor even the Christian idea of history. Catholic and Protestant history may be parallel but are by no means coincident. These discrepant histories affect styles of thought and of interior life. The more deeply they are experienced, the more do the differences among the citizens appear to be unbridgeable.

Further, in the United States, the question of natural law is a cause of acute divergence between Catholics and Protestants. While the Catholic finds the concept of the natural law easy to accept and part and parcel of his *outlook on life*, the Protestant finds it a challenge to his entire style of moral thought. He finds the doctrine an alien one, foreign to him.

On the other hand, the school question has roused Catholic outbursts against what the Catholic community considers to be an unjust

system of distributing tax funds to state schools and leaving out the Catholic schools on the principle of the separation of church and state. Non-Catholics fail to understand the Catholic grievance.

Thus, *in the third place*, under the thin surface of civil unity and amity, *one can easily sense a state or a structure of war*. There exist a wide number of conflicting interests, some of them deeply entrenched and powerful, that imperil the pluralist society. The real issues of truth that may arise are complicated by secondary issues of power and prestige which not seldom become primary. For instance, the Jew in America can never forget his ancient resentment against the Christian, upon whose goodwill he has been dependent for his existence for centuries. Again there is the profound distrust between Catholic and Protestant. Their respective conceptions of Christianity are only analogous, by no means identical.

Finally, of more recent origin, is *the growth of secularism*. Although the notion of the secular state arose from fundamentally religious preoccupations, so-called secularism or the secular outlook is dominated today by the growth and expansion of scientific empiricism. According to this philosophy, there is no eternal order of truth and justice, no universal verities requiring the assent of man, no universal moral law that commands his obedience. Such an order of universals is not empirically demonstrable, and must therefore be rejected. In consequence, truth is not to be understood in a positivistic sense; its criteria are either those of science, or those of practical life, *i.e.*, the success of an opinion is getting itself accepted in the market place. Similarly, the essence of freedom is "*non-committalism*." The prohibition of commitment is essential to the very notion of freedom. Hence religion, because it implies unlimited commitment, is not a value, but rather a dis-value. On the other hand religious freedom is a value, because it implies one more sphere of man's life that has been emancipated.

For the modern secularist, civil society is the highest social form of social life. Even the values that are called spiritual and moral are values by reason of their reference to society. Civil law is conceived to be the highest form of law and it is not subject to judgment by prior ethical canons. Civil rights are the highest form of rights; for the dignity of the person, which grounds these rights, is only his civil dignity. The state is purely the instrument of the popular will, than which there is no higher sovereignty. Since the rule of the majority is the method whereby the popular will expresses itself, it is the highest governing principle of statecraft, from which there is no appeal.

Finally, the ultimate value within society and state does not consist in any substantive ends that these social forms may pursue. The ultimate

value resides in the forms of the democratic process itself, because these forms embody the most ultimate of all values, freedom.

Such a political theory reduces the churches to the level of private associations organized for particular purposes. They possess their title to existence from positive law. Their right to freedom is a civil right and it is respected as long as it is not understood to include any claim to independent sovereign authority. Such a claim must be disallowed on grounds of the final and indivisible sovereignty of the democratic process over all the associational aspects of human life. The notion that any church should require status in public life as a society in its own right is *per se* absurd; there is only one society, civil society, which may so exist. In this view, separation of church and state really means subordination of church to state.

III. THE PROBLEM OF UNITY

Given these four divergent groups and interests, how has the American Constitution and the American government and especially the judiciary tried to fuse a oneness of purpose and identity into so diverse and divided a community?

A. Sovereignty of God

The American consensus arises from a common belief in the first truth to which the American proposition makes appeal, and which is clearly stated in the Declaration of Independence. This is *the sovereignty of God over nations as well as individual men*. This belief distinguishes the conservative Christian tradition of America from the Jacobin laicist tradition of Continental Europe. The Jacobin tradition proclaimed that man's reason was the first and sole principle of political organization. In the Jacobin tradition, religion is at best a purely private concern, quite irrelevant to public affairs. Society and government are by definition agnostic, and the statesman is of necessity an unbeliever. And his actions are immune from any other higher judgment than the will of the people, which is supreme and sovereign. This has never been so in the United States.

B. Self-Evident Truths

The second important source of unity in American pluralism was the acceptance of what Clinton Rossiter describes as a "*noble aggregate of 'self-evident truths'* that vindicated the campaign of resistance (1765-1775), the resolution for independence (1776), and the establishment of the new state governments (1776-1780)." These truths, he adds, "had been no less evident to the preachers, merchants, and lawyers who were the mind of colonial America." It was this set of self-evident truths that guided the

study, discussion and decisions of the Assembly that drew up the Federal Constitution.

The force of unity inherent in this tradition was of decisive importance in helping to solve America's problem of being a multi-religious society. This consensus was political, in the sense that it covered a whole constellation of principles that determined the origin and nature of society, the function of the state, the scope and limitations of government.

Thus, the rule of law, the notion of sovereignty as purely political and therefore limited by law, the concept of government as an empire of laws and not of men are all ancient ideas deeply implanted in the British tradition at its origin in medieval times. The major American contribution was to set down this tradition in writing.

There is a definite contrast between the American Bill of Rights and the Declaration of the Rights of Man in the France of 1889. The authors of the latter document did not seem to understand that a political community like man himself has roots in nature and in history. They believed that the state could simply be a work of art. Their exaggerated individualism shut them off from a view of the organic nature of the human community, and their social atomism would permit no intermediaries between the human individual and the state.

In contrast, the men who framed the American Bill of Rights were much more balanced. They too were individualistic, but not to the extent of denying the social nature of man. They were far more dependent on the English heritage of the tradition of freedom under the law. In its turn the English heritage had its roots in the medieval notion of *homo liber et legalis*, the man whose freedom rests on law, whose law was the age-old custom in which the nature of man expressed itself, and whose lawful freedoms were possessed in association with his fellows.

C. *Consent of the Governed*

Next in order comes the American affirmation of the *principle of consent of the governed*. This principle of consent was inherent in the medieval idea of kingship, the king was bound to seek the consent of his people to his legislation. In place of the king, the new Republic of America set up the people. Americans agreed that they would consent to none other than their own legislation, as framed by their representatives whom they had freely elected and who would be responsible to them. Thus government was limited not only by law but also by the will of the people it represented.

This meant a great act of faith in the people, viz., that the people were capable of governing themselves. According to medieval society,

there is sense of justice inherent in the people and it was believed that the people could understand the general objectives of governmental policy, the broad issues put to the decision of government, especially when these issues raised moral problems. It was this political faith that compelled early agreement among Americans to accept the institutions of a free press and free speech.

D. State v. Society

Underlying these free institutions was a second principle—that the state is distinct from society and limited in its offices towards society. In our days, we meet with the omniscient society-state, which has suppressed this distinction. But this distinction is essential because the order of politics and the order of culture are not the same thing. The whole order of ideas in general must be autonomous in the face of government; it must be immune from political discipline. It has to be noted that even the medieval inquisition respected this distinction of orders. It never recognized a crime of opinion; its authority extended only to the repression of organized conspiracy against public order and the common good.

Thirdly, the concept of freedom needs to be correctly understood. Nothing could be a better definition of freedom than the one proposed by Lord Acton; for political freedom has an ethical nature. In Acton's phrase, freedom is "not the power of doing what we like, but the right of being able to do what we ought." Thus while civil society demands order, this order must not be imposed from above, but must rise spontaneously from below. In other words, it should flower from free obedience to the restraints and imperatives that make social living at all possible. It is in this sense that democracy becomes a moral and spiritual enterprise.

These are the fundamental grounds for American unity, which is a unity of a limited order, for it does not go beyond the exigencies of civil conversation. In the light of the First Amendment it is clearly understood that this civil unity does not hinder the various religious communities in American society in the maintenance of their own distinct identities. The one civil society contains within its unity communities divided amongst themselves, but it does not seek to reduce to its own unity the differences that divide them. In other words, the pluralism remains as well as the unity. There is no attempt as is being made recently in India to reduce all religions to one common unity, by maintaining that all religions are equally true, and that the differences among them are only superficial and at the level of ritual and exterior manifestation.

IV. CHURCH AND STATE

The American consensus accepts the two orders : the religious and the civil. It further accepts that they remain distinct, however much they

are, and need to be, related. This is clearly stated in the first amendment. "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

For the English, in contrast, Church establishment would be considered, in the words of Burke as essential to their state; not as a thing heterogenous and separable, something added from accommodation, what they may either keep up or lay aside, according to their temporary ideas of convenience. They consider it as the foundation of their whole Constitution, with which and with every part of which, it holds an indissoluble union. But this prejudice is rapidly weakening in England and even the ecclesiastical authorities are thinking aloud of dis-establishment—the dissolution of their dependence on the state.

Separation of church and state is a fundamental principle for the Americans, and American prejudice or a prejudgment. Such a judgment is a concrete judgment of value, not an abstract judgment of truth. Such judgments are mainly based on experience, and are part of the legacy of the past, a half-intuitive knowledge which enables men to meet successfully the problems of life.

The historical factors that made for religious liberty and separation of church and state in America were mainly four. The first of these was that a large number of people were already living outside religious influence, or were not at all concerned with religion, or though confirmed believers, were still opposed to an organized church. None of these, however, was anti-religious in the Continental tradition. Unbelief in America was rather easygoing. Secondly, there was a multiplicity of denominations. Thirdly the economic factor was by no means unimportant, because persecution and discrimination were as bad for the affairs of business as for the affairs of the soul. Finally, there was the influence of the widening of religious freedom in England that had its repercussions on America.

These demands of social necessity were overwhelming and made freedom of religion and separation of church and state absolutely necessary for peace and progress. Still this appeal and urgency for maintaining peace should not be regarded as a mean-spirited expediency. The appeal to social peace is an appeal to a high moral value, because behind the will to social peace stands the Christian imperative "Render to Caesar the things that are Caesar's, and to God the things that are God's," (an implicit division of temporal and spiritual spheres) and further in the words of Roger Williams, that "there could be no reconciliation, pacification, or living together but by permitting of dissenting consciences to live amongst them." The establishment of such peace within the community is regarded as of high moral value and worthy to be secured by the toleration at times of that which it is impossible to correct.

Experience has proved the validity of this political behaviour in the United States. For over a century and a half, America has proved that political unity and stability are possible without uniformity of religious belief and practice. Indeed, this political unity can be strengthened by the exclusion of religious differences from the area of concern allotted to government. Finally, religion itself has benefited by such separation.

On the other hand, the American government has never undertaken to represent transcendental truth in the many versions of it that are upheld by different religious groups. But it does represent the commonly shared moral values of the community, and the supreme religious truth of the existence of God. For the rest, government represents the truth of American society as it really is, viz., a pluralist society. It may be that some of the beliefs of these groups are false, but it is not for government to pass judgment on them. It has neither the duty nor the mandate to legislate in favour or discriminate against any religious confession. It must only represent their freedom to exist in the face of civil law.

V. THE COMMON GROUND

If religious beliefs cannot be used as a unifying factor in the community, what common grounds are there on which the political consensus can be based? This common ground, I suggest, should rather be metaphysical than religious. This follows from the fact that our reflection on the problem of freedom, of human rights, and political order inevitably lead us to a metaphysical enquiry into the nature of man. *Sacra res homo*. Man is sacred, or possesses a certain sacredness that distinguishes him from the rest of nature.

At the same time, man is an intelligent being and reality is intelligible. As reason emerges from the darkness of infant animalism, the child intuitively grasps the first principle of the moral consciousness. It becomes aware of good and evil, of right and wrong, and grows conscious of the norm that good is to be done and evil avoided. It clings to its parents and feels that disrespect to its parents is intrinsically wrong, antecedent to any human prohibition. Gradually with experience of various relationships and situations that are the reality of human life, intelligence with the aid of simple reasoning can know and know to be obligatory a set of natural law principles and the basic moral laws sanctioned by reason, and also contained in some of the religious codes.

These achievements are common to most men because they require only a modicum of reflection and reasoning, which means that rational human nature works competently in most men, though in particular instances it may fail. Finally, as the human mind advances towards apprehending the particulars of morals, greater knowledge, experience,

reflection and dispassionateness of judgment is required. And this is achieved through the interaction of the best minds in the whole community.

Man is, however, not an abstract essence but a historical existent. Fortunately history does not alter the basic structure of human nature. That is why even in the twentieth century we can produce a Declaration of Human Rights which are applicable to man at all times and in all places.

The American consensus is based on this concept of natural law and its implication for social living. Obviously, even natural law implies the notion of a supreme law-giver. And, therefore, the admission of the sovereignty of God in the Declaration of Independence does not stem from purely religious belief, but is a conviction born of human intelligence.

On the other hand, human history is progressive and human living is involved in an increasing multitude of institutions of all kinds to satisfy new human needs. It changes the community of mankind and alters the modes of communication between man and man. But while new problems are being put to the wisdom of the wise, at the same time the same old problems are being put to every man, wise or not. The same basic issue arises: what should man or society do in order that personal or social action may fulfil the human inclination to act according to the norms and judgment of intelligent human nature. And the same answers have to be provided with some adjustment to the new context.

It has to be noted at this point that the principles and the standards of the consensus are by no means self-evident. They are reached after careful enquiry and much reflection. Much of the scrutiny and formulation has to be undertaken by experts, very often by judges. Finally, if these conclusions win the public assent and inform the public consensus, then they are passed into law to give them the public coercive force they need for implementation.

VI. THE SECULARIZATION OF VALUES

How is social advance made possible in a pluralist society, especially where such advance may conflict with some of the religious prejudices of various groups. A case in point in America was the legislation on monogamy and also on divorce. In the case of monogamy, the Mormon Church was affected, while the legislation on divorce conflicted with the Roman Catholic doctrine and practice of indissoluble marriage. However, the state never attempted to change directly the doctrinal beliefs of either the Mormons or the Roman Catholics. That was an area outside its sphere of authority. Those of the Roman Catholic persuasion who wished to avail themselves of divorce could do so. Obviously,

in doing so, they would have to sunder their ties with the church. But it is an acknowledged American principle that the State has no power to compel the church to retain such members within its fold or to acknowledge their divorce. The church is a free institution and is free to make its own laws that bind its own subjects.

In dealing with this matter, it is necessary to distinguish between the moral law and the legislation passed by the state. Moral law governs the entire order of human conduct, personal and social, and extends even to motivations and interior acts. On the other hand, law enacted by the state is concerned only with the public order of human society. It touches only external acts, and regards only social values. Moreover, it contains an element of coercion. Indeed though it is concerned with the moral good of society as a whole it relies for its ultimate observance on coercion. And men can be coerced only into a minimal amount of moral action. So the sphere of law is rather limited. Hence its aim should not be to remove every moral taint from society, for that is not its purpose. It has to enforce only what is *minimally acceptable and is socially necessary*. Beyond this, society must look to other institutions for the elevation and maintenance of its moral standards, *i.e.*, to the church, the home, the school, and the whole network of voluntary organizations that concern themselves with public morality in one way or the other.

Therefore, law will have to be tolerant of many evils condemned by morality. And the goodness of the law will also have to be judged by its effectiveness. And its effectiveness will depend on how much of popular consent it has won, for coercion alone will never make a law effective, however powerful and complete that coercion may be.

In view of this analysis, it will be clearly seen that social reform cannot be achieved by the state alone through legal coercion. It is voluntary organizations that must enthuse the popular thinking in favour of such reforms.

On the other hand, a complete secularization or "de-sacrilization" of values that implies a rejection of religious values altogether, or some of those fundamental human values written for instance into the Declaration of Human Rights is by no means desirable. It would be like emptying the baby with the bath-tub. By "secular" must be understood rather the adhesion in affairs of state to the principle of freedom of conscience, and the limiting of the authority of the state to only those areas that are strictly concerned with the public good and are amenable to law. Control over religious belief and practice does not fall within the purview of the modern state; this much more so since the Christian era when the church as an organized body confronted the state and insisted on its autonomy within the spiritual sphere. Obviously, there were bound to be difficulties

since the same person is at the same time a member of the church and a citizen of the state and there may often occur an overlapping of the temporary and spiritual spheres.

American experience seems to show that a separation of the two powers can be worked out with some degree of harmony and satisfaction to both sides. It reveals that state and church need not necessarily be at loggerheads with each other. In many respects they can complement each other. A profoundly religious man can be a good citizen and vice versa. It is only in those areas where a conflict of opinion and practice arises, that a solution needs to be applied. But even when a decision is taken by the state, the right of the conscientious objector must be respected. On the other hand, the citizen must abide by the decisions of the state, at least as regards external action. But he should not be coerced into performing acts which he believes are against his conscience.

These are delicate matters and require patient education of the citizen into an understanding of his rights and liberties as well as his obligations to his religion and his state. The principle of religious freedom is clear and will have to be applied to each case, *mutatis mutandis*. And the legislator and administrator must realize that there are limitations to their authority. They are not the supreme arbiters of man's destinies. The notion of the secular state is a precious heritage, based as it is on some of the finest human wisdom of the ages, and there can be no other rational solution to the problem of religious pluralism but the full development of the secular state.
