

# The Principle of Civil Strife and the Exclusion of Religious Reasoning from the Public Square

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## KEY WORDS

| Philosophy | Philosophy of Religion | Philosophy of Law | Religion and Politics |  
| Religious Epistemology | Legal Philosophy | Religious Persecution | Ethics |

## ABSTRACT

It has been argued that citizens should use restraint in using certain types of reasoning while operating in the public square. Specifically, religious reasoning has been singled out as one that should not be used for the creation of legislation. Though there are a multitude of reasons for this, one rationale that is often cited is the claim that religion is divisive and dangerous. This assumption has become engrained in the legal community, and it has for the most part gone unchallenged. This article argues that religious reasoning is not always divisive and dangerous. It often promotes peace and unity. Moreover, secular reasoning does not always lead to peace, and it has in fact lead to some of the most heinous violations of human rights in history. Furthermore, to use the avoidance of potential division and civil strife to exclude certain types of public reason as a guiding principle is too broad. The principle, if applied universally, would exclude not only religious reasons, but it would also exclude historical, scientific, and legal reasoning. Thus, it would be wise to allow religious reasoning just as the other sources of justification are allowed until certain claims show themselves to be false or in violation of others' rights. This is asking for no more than what other sources of justification are afforded.

## INTRODUCTION

According to Pierre Manent, much of the history of liberalism has been the attempt to escape “decisively the power of the singular religious institution of the Church...”<sup>1</sup> Much like a beat reporter who knows that controversy arouses the passions and is much more likely to hit the front page than the fact that society as a whole is intact, those who tell the story of church and state often tell the sordid tale of crusades, inquisitions, and witch trials.<sup>2</sup> One

result of this has been a push towards strict separation of religion and state. Whereas depicting the interaction of church and state as a problem directs the focus towards division, power plays, and irrational beliefs, it equally directs it away from religion's ability to unify, encourage charity, demand justice, and provide hope. It is very rare indeed that one hears the positive accounts of religion's interaction with the state. The purpose of this article is to point out that much of the legal landscape perceives religious reasoning as divisive and dangerous. Further, I propose to show that this need not be the case. Religious reasoning can be understood to unify and promote peace. Finally, this article will show that abandoning religious reasoning for secular reasoning does not necessarily result

1 Pierre Manent, *An Intellectual History of Liberalism*, Translated by Rebecca Balinski (Princeton, Princeton University Press, 1995), 114.

2 Leo Strauss framed the discussion of church and state as a problem. The majority of literature on the subject works from this perception. This perception of the interaction of church and state as problematic focuses on certain correlatives such as civil strife, irrationality, close-mindedness, and oppression.

in unity and peace. The same conflicts of which religious reasoning is accused are present and often worse with secular reasoning.

### THE COURTS' PERCEPTION OF RELIGION

Several court decisions and dissents reveal how engrained the perception of religion as a divisive force has become entrenched in the minds of many in the legal community. This understanding is not new. In 1943 Justice Frankfurter's dissented in *West Virginia State Bd. of Educ. v. Barnette* by writing:

The great leaders of the American Revolution were determined to remove political support from every religious establishment. They put on an equality the different religious sects — Episcopalians, Presbyterians, Catholics, Baptists, Methodists, Quakers, Huguenots — which, as dissenters, had been under the heel of the various orthodoxies that prevailed in different colonies. So far as the state was concerned, there was to be neither orthodoxy nor heterodoxy. And so Jefferson and those who followed him wrote guaranties of religious freedom into our constitutions. Religious minorities, as well as religious majorities, were to be equal in the eyes of the political state. But Jefferson and the others also knew that minorities may disrupt society. It never would have occurred to them to write into the Constitution the subordination of the general civil authority of the state to sectarian scruples.<sup>3</sup>

For Frankfurter where there is disagreement between religion and state laws the state wins; lest there be civil unrest.

One year later, in the case *Prince v. Massachusetts*, Justice Murphy expressed his perception of religion in his dissent by writing:

3 *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943), 653.

No chapter in human history has been so largely written in terms of persecution and intolerance as the one dealing with religious freedom. From ancient times to the present day, the ingenuity of man has known no limits in its ability to forge weapons of oppression for use against those who dare to express or practice unorthodox religious beliefs.<sup>4</sup>

According to James Hitchcock, starting with *Everson v. Board of Education* the courts “adopted a consistent view that religious strife was a danger to the nation and needed to be controlled.”<sup>5</sup> In delivering the Court's opinion over state funded transportation of children to Catholic schools Justice Black wrote:

A large proportion of the early settlers of this country came here from Europe to escape the bondage of laws which compelled them to support and attend government favored churches. The centuries immediately before and contemporaneous with the colonization of America had been filled with turmoil, civil strife, and persecutions, generated in large part by established sects determined to maintain their absolute political and religious supremacy. With the power of government supporting them, at various times and places, Catholics had persecuted Protestants, Protestants had persecuted Catholics, Protestant sects had persecuted other Protestant sects, Catholics of one shade of belief had persecuted Catholics of another shade of belief, and all of these had from time to time persecuted Jews. In efforts to force loyalty to whatever religious group happened to be on top and in league with the government of a particular time and place, men and women had been fined, cast in jail, cruelly tortured, and killed. Among the offenses for which these punishments had been inflicted were such things as speaking disrespectfully of the views of ministers of government-

4 *Prince v. Massachusetts*, 321 U.S. 158 (1944), 175-176.

5 James Hitchcock, *The Supreme Court and Religion in American Life, Volume II: From “Higher Law” to “Sectarian Scruples”* (Princeton, Princeton University Press 2004), 49.

established churches, nonattendance at those churches, expressions of non-belief in their doctrines, and failure to pay taxes and tithes to support them.<sup>6</sup>

Justice Black's Old World history is nightmarish to say the least. If one perceives the history of church and state in this fashion, one would conclude that the solution or prevention of such atrocities would be strict separation. Black goes on to suggest that the very same horrific events caused by religion came to America with the colonists. Black writes:

These practices of the old world were transplanted to and began to thrive in the soil of the new America. The very charters granted by the English Crown to the individuals and companies designated to make the laws which would control the destinies of the colonials authorized these individuals and companies to erect religious establishments which all, whether believers or non-believers, would be required to support and attend. An exercise of this authority was accompanied by a repetition of many of the old world practices and persecutions. Catholics found themselves hounded and proscribed because of their faith; Quakers who followed their conscience went to jail; Baptists were peculiarly obnoxious to certain dominant Protestant sects; men and women of varied faiths who happened to be in a minority in a particular locality were persecuted because they steadfastly persisted in worshipping God only as their own consciences dictated. And all of these dissenters were compelled to pay tithes and taxes to support government-sponsored churches whose ministers preached inflammatory sermons designed to strengthen and consolidate the established faith by generating a burning hatred against dissenters. These practices became so commonplace as to shock the freedom-loving colonials into a feeling of abhorrence. The imposition of taxes to

pay ministers' salaries and to build and maintain churches and church property aroused their indignation. It was these feelings which found expression in the First Amendment. No one locality and no one group throughout the Colonies can rightly be given entire credit for having aroused the sentiment that culminated in adoption of the Bill of Rights' provisions embracing religious liberty.<sup>7</sup>

This strong language continued to influence cases that specifically reached for strict separation.

The Supreme Court utilized the ideas of separation from *Everson v. the Board of Education* in *McCullum v. Maryland*. The Court's majority believed that the "commingling of sectarian with secular instruction in the public schools"<sup>8</sup> violates the Establishment Clause. Justice Frankfurter delivered and partially justified the opinion on the grounds of religious divisiveness.

The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice.<sup>9</sup>

Given this perception of religion as dangerous, it is no wonder the courts have steered towards separation.

This perceptual starting point has driven much of the debate over the use of religious reasoning in the public square. Is it possible that religious reasoning may have an acceptable place in a liberal democracy? The goal of the following section is to show that the current

<sup>6</sup> *Everson v. Board of Education of Ewing TP.*, 330 U.S. 1 (1947), 5-6.

<sup>7</sup> *Ibid.*, 6.

<sup>8</sup> *McCullum v. Board of Education*, 333 U.S. 203 (1948).

<sup>9</sup> *Ibid.*

legal culture does not have to perceive religious reason as divisive and potentially dangerous. Thus, if one wants to relegate it to the private sphere, she must justify doing so for different reasons.

### RELIGIOUS REASON AS UNIFYING

I pointed out that many scholars and federal court judges enter into the discussion of church state relations from the schema of the theologico-political problem. One problem that federal courts assume is that religion is divisive. Divisiveness is not unique to religious reason; thus, unless restraint is placed on all divisive sources of justification, to do so only in religious cases may be unreasonable. This is not intended to deny that divisions do arise with religious reasoning. However, this is intended to show that historically religion has shown the ability to unify people; and when this is taken into account, it has a mitigating affect. I am making the modest claim that religious reason does not *necessarily* entail division or danger. To show this modest claim requires only one counter example; however, I shall endeavor to provide more than that.

History *lessons* are replete with examples of religious wars, inquisitions, and witch hunts.<sup>10</sup> However, *history* is replete with examples of

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10 See Rodney Stark, *For the Glory of God: How Monotheism Led to Reformations, Science, Witch-Hunts, and the End of Slavery* (Princeton, Princeton University Press, 2003), and *God's Battalions: The Case for the Crusades* (New York, Harper One, 2009). Stark uses these two works to challenge the portrayal of Religious history (particularly Christian history) in a negative light. Stark writes the following about the crusades:

"The thrust of the preceding chapters can be summarized very briefly. The Crusades were not unprovoked. They were not the first round of European colonialism. They were not conducted for land, loot, or converts. The crusaders were not barbarians who victimized the cultivated Muslims. They sincerely believed that they served in God's battalions." 248.

brotherhood and charity that have been the result of religious reasoning and practice. By focusing on one aspect that is correlated with religious thought, the courts ignore the greater picture of theologico-political relations.

On the evening of December 24th, 1914 British troops heard singing from the trenches on the opposing side of the battlefield of the western front. Though the lyrics were in German, the British soldiers recognized the song as *Silent Night*. British soldiers joined in with their enemies from across the battlefield; thus, the *Christmas Truce* had begun. One of the British troops described the onset of the peace thusly:

They finished their carol and we thought that we ought to retaliate in some way, so we sang 'The first Noël', and when we finished that they all began clapping; and then they struck up another favorite of theirs, 'O Tannenbaum'. And so it went on. First the Germans would sing one of their carols and then we would sing one of ours, until when we started up 'O Come All Ye Faithful' the Germans immediately joined in singing the same hymn to the Latin words 'Adeste Fideles'. And I thought, well, this was really a most extraordinary thing - two nations both singing the same carol in the middle of a war.<sup>11</sup>

The following morning a German soldier delivered a Christmas tree to the center of the battlefield known as "No Man's Land." Before long an impromptu armistice broke out in celebration of the holiday. This peace came in the face of charges of treason of those who participated in it. One German soldier who participated in this treasonous act of peace said, "It was a day of peace in war...It is only a pity

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11 Jay Winter and Blaine Baggett, *The Great War: And the Shaping of the 20th Century* (New York: Penguin Books, 1996) 97.

that it was not a decisive peace."<sup>12</sup>

During the short time of peace, the two sides took the time to bury the dead that littered No Man's Land. Single graves were shared by British and German soldiers while chaplains from both sides shared in the duty of providing religious rights for the dead.<sup>13</sup> The enemy combatants celebrated a religious holiday together, sang songs of praise together, and mourned and prayed together. The celebrations also included playing soccer, exchanging gifts, and the sharing of meals. On the British line's eastern flank Muslim allies fired at a Germans while they celebrated. Once they learned about that which was happening in their enemies trenches, they showed due respect to those celebrating. In this case, the religious holiday resulted in a short lived peace even between those of differing faiths.

On September 11th, 2001, four airliners were hijacked and used to attack American civilian and military targets. These terrorists were motivated by their religious beliefs. The hijackers' actions strengthened many people's perception of religion as a divisive and dangerous practice. This is what the prevailing schema allowed into their perceptual framework. What religious critics did not perceive for the most part has gone unspoken.

Later that evening, both houses of Congress bowed their heads for a moment of silence. One of the members, who stood in the front row, could be seen making the sign of the cross. This moment of silence by one of the three branches of government was never denounced as a misuse of governmental authority that might have a coercive effect on those who watched it. Nor did anyone cry out that the practice of

religion was what caused the act of terrorism, thus, Congress should restrain themselves lest they resort to the same terroristic type actions. Instead, it was described as "an act of unity."<sup>14</sup> Immediately following this moment of silence, the two bipartisan houses began to sing *God Bless America*. Whether Congress planned to do this or whether it was reaction to the trauma that arguably the most diverse city on the planet had just experienced, Americans as well as other nations were unified in calling out for God's blessing. Both houses were univocal in believing that something terribly evil had just been committed, and even the atheists among them respected their public display of religiosity.

The Christmas truce and the national appeal to God on 9/11 are not the only examples of unity that religion may bring. Religion unifies cultures to cultures and individuals to individuals. When American law permitted practice of slavery in the southern states, many Catholic churches made no distinction between slave and master. Though in civil society the black man was perceived as inferior to the white man, while at mass, there was no segregation between the two races. According to the church, all were perceived as equal in the sight of God.<sup>15</sup> Many Catholic churches were unified with other denominations of Christianity in the abolitionist movement. Their reasoning was unequivocally religious.

There was disagreement between the many congregations and the pro-slavery southerners who often used religious arguments to justify the slave trade. In the south, many slave owning Catholics resisted the Church's official

12 Malcolm Brown, Shirley Seaton, *Christmas Truce: The Western Front 1914* (Pan Grand Strategy Series, 1999) I.

13 See Vikram Jayanti, *The Christmas Truce* (The History Channel, 2002).

14 <http://www.youtube.com/watch?v=Izb459vJ-8Q>.

15 See John T. McGreevy, *Catholicism and American Freedom: A History* (New York, W.W. Norton & Company, 2003).

teachings<sup>16</sup> concerning the practice.<sup>17</sup> However, as time passed, the churches became more and more decidedly abolitionist.<sup>18</sup> As a result of their reasoning, the religionists became more unified in their belief about the nature of humanity and the moral nature of the practice of slavery. Catholics in both the North and South were unified in their denial of the scientific theory of polygenesis. This was the belief that the black man was not merely another race, but instead a completely other species. John McGreevy wrote:

One Mississippi bishop specifically urged local Jesuits to criticize the “abominable idea of the plurality of races,” and Savannah’s Bishop Augustin Verot, a staunch defender

16 Pope Eugene IV, *Sicut Dudum: Against the Enslaving of Black Natives from the Canary Islands*, (1435). <http://www.papalencyclicals.net/Eugene04/eugene04sicut.htm>. At the end of this papal bull, the Pope commands the following:

“And no less do We order and command all and each of the faithful of each sex, within the space of fifteen days of the publication of these letters in the place where they live, that they restore to their earlier liberty all and each person of either sex who were once residents of said Canary Islands, and made captives since the time of their capture, and who have been made subject to slavery. These people are to be totally and perpetually free, and are to be let go without the exaction or reception of money. If this is not done when the fifteen days have passed, they incur the sentence of excommunication by the act itself, from which they cannot be absolved, except at the point of death, even by the Holy See, or by any Spanish bishop, or by the aforementioned Ferdinand, unless they have first given freedom to these captive persons and restored their goods. We will that like sentence of excommunication be incurred by one and all who attempt to capture, sell, or subject to slavery, baptized residents of the Canary Islands, or those who are freely seeking Baptism, from which excommunication cannot be absolved except as was stated above.”

17 See Fr. Joel S. Panzer, “The Popes and Slavery: Setting the Record Straight,” <http://www.cfpeople.org/apologetics/page51a003.html>. Fr. Panzer writes:

“From 1435 to 1890, we have numerous bulls and encyclicals from several popes written to many bishops and the whole Christian faithful condemning both slavery and the slave trade. The very existence of these many papal teachings during this particular period of history is a strong indication that from the viewpoint of the Magisterium, there must have developed a moral problem of a different sort than any previously encountered.”

18 McGreevy, *Catholicism and American Freedom*, 55.

of slavery, later urged the world’s bishops to denounce theories positing a spurious “white humanity” and “Negro humanity.”<sup>19</sup>

It goes without saying that a large portion of the discussions over slavery included religious reasoning.

The debate over God’s will and slavery was not the only consideration that colored the argument. The Southern economy was bound up by the practice of slavery. Moreover, the immediate emancipation of millions of slaves would flood the south with unemployed and uneducated citizens. Religious reasoning was arguing against the strong secular force of economic necessity. George Marsden writes:

Therefore, by the end of the eighteenth century, with changing views of the rights of individuals reinforced by revolutionary ideology, many Americans began to question the anomaly of slavery. After the Revolution, some churches in both the North and the South took stands condemning slavery and slave owning. However, such stands prevailed only in areas where the economic and social reasons for perpetuating slavery were not strong. Hence, slavery was gradually eliminated in the North after the Revolution. In the upper South, however, where antislavery sentiment was strong for a time, both churches and politicians soon found they would lose their constituencies if they took a strong stance. In the Deep South, more economically dependent on the slavery system, abolitionism never had a chance.<sup>20</sup>

When the economic variable was taken out of the picture, the prophetic voice of religious reasoning was less likely to be ignored or relegated to the private sphere.<sup>21</sup> The North

19 Ibid.

20 George M. Marsden, *Religion and American Culture*, 2nd ed. (USA, Wadsworth, 2001) 77.

21 In 1854, Senator Mason argued for the silencing of the

and South's perceptual experience of religious reasoning concerning the practice of slavery became clearer and more univocal as the economic lens was lifted. While racism still exists in the United States, the predominant religious and political voices are in unison on the subject of slavery, that it was immoral and a stain on American history.

## MORALITY AND JUSTICE

As mentioned earlier, scholars and federal court judges describe the history of church and state in ways that imply that the inclusion of religious reasoning with state policy leads to injustice and atrocities. Though Robert Audi is congenial to religious reason, he believes that due to religious wars it is best that religionists apply restraint when it comes to voting on coercive policy. I mention Robert Audi specifically because he is a Christian, and that he perceives issues of church and state largely through the same schema as many secularists. I intend to suggest that a schema that broadly paints religious reasoning as a risk factor for war is quite possibly a misrepresentation of reality.

First, correlation does not entail causation.<sup>22</sup>

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religious abolitionist movement. He argued:

"...I understand this petition to come from a class who have put aside their character of citizens. It comes from a class who style themselves in the petition, ministers of the Gospel, and not citizens. ...Sir, ministers of the Gospel are unknown to this Government, and God forbid the day should ever come when they shall be known to it. The great effort of the American people has been, by every form of defensive measures, to keep that class away from the Government; to deny to them any access to it as a class, or any interference in its proceedings."

See Senator Mason, "Statement in the Senate, March 14, 1854," *Right of Petition: New England Clergymen* (Washington, D.C.: Buell and Blanchard, 1854), 5.

22 For an excellent discussion of this see Meic Pearse, *The Gods of War: Is Religion the Primary Cause of Violent Conflict?* (Nottingham, England: InterVarsity Press), 2007. Pearse argues that the major causes of war are cultural and the desire for more land and natural resources. Given that culture is correlated with religion, these clashes are often mistaken for religious wars.

Religious critics Kramnick and Moore reference the "millions" of people killed in all the religious wars of Europe.<sup>23</sup> It is true, there were wars in Europe. However, to refer to the wars that took place throughout the middle ages as "religious wars" is perhaps a misnomer. Because of the high level of integration of religion and society prior to the reformation, it would have been hard to make a distinction between church and state. The church was the center of societal life. It provided not only a place of worship; the church was also the hub of the social intercourse.<sup>24</sup> It does not necessarily follow that because state endorsed religion correlated with state military action the former caused the latter. Each military action would have to be addressed independently to determine what role religious reasoning played in choosing to engage an enemy nation. This is especially true of one of the paradigm cases of religious wars, the Crusades.

With the above said, it should be noted that the history of European conflict is one of nations fighting nations and empires fighting empires. The Crusades do not comprise a single war but are a constellation of conflicts over several decades are not one war. Each Crusade has to be judged on its own merit. Paul F. Crawford lists four myths about the Crusades; one of which, was "The Crusades represented an unprovoked attack by Western Christians on the Muslim world."<sup>25</sup> In A.D. 638 Jerusalem had been taken over, and the Byzantine Empire was in constant defense of its territories. By A.D. 732 Christian

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23 Isaak Kramnick and R. Laurence Moore, *The Godless Constitution: The Case Against Religious Correctness* (New York, W.W. Norton & Company, 1997), 76.

24 See R.W. Southern, *Western Society and the Church in the Middle Ages*, The Penguin History of the Church, Vol. 2 (London, Penguin Books, 1990).

25 Paul F. Crawford, "Four Myths about the Crusades," *The Intercollegiate Review: A Journal of Scholarship and Opinion*, Spring (2011), 13-22.

territories were under threat of invasion by Muslim expansion. The original motivation for the Western Christian Empire's engagement with the Muslim Empire was not religious; it was instead defensive in nature. This defensive war would have been fought by any secular government without any religious motivation. However, given that there was such a close link to the religions of Islam and Christianity to their respective homelands, it was hard to make a distinction between the bureaucratic acts of government and the theocratic identities of the people. To this day, many Muslims associate western countries with Christianity despite attempts to separate religion from politics.<sup>26</sup>

Regarding wars stemming from the Protestant Reformation, the religious motivations may have been overstated. William T. Cavanaugh writes:

For the main instigators of the carnage, doctrinal loyalties were at best secondary to their stake in the rise or defeat of the centralized State. Both Huguenot and Catholic noble factions plotted for control of the monarchy. The Queen Mother Catherine de Medici, for her part, attempted to bring both factions under the sway of the crown. At the Colloquy of Poissy in 1561, Catherine proposed bringing Calvinist and Catholic together under a State-controlled Church modeled on Elizabeth's Church of England. Catherine had no particular theological scruples and was therefore stunned to find that both Catholic and Calvinist ecclesiologies prevented such an arrangement. Eventually Catherine decided that statecraft was more satisfying than theology, and, convinced that the Huguenot nobility were gaining too much influence over the king, she unleashed the infamous 1572 St. Bartholomew's Day massacre of thousands of Protestants. After years of playing Protestant and Catholic

26 "Justice and Peace: Because Broken Promises Fueled Islamic Militancy, the Road to Stability must be Paved with Good Faith; A Conversation with J. Dudley Woodberry," *Christian History*, issue 74, XXI, 2, (2002), 43.

factions off one another, Catherine finally threw in her lot with the Catholic Guises. She would attempt to wipe out the Huguenot leadership and thereby quash the Huguenot nobility's influence over king and country.

The St. Bartholomew's Day massacre was the last time it was easy to sort out the Catholics from the Protestants in the French civil wars.<sup>27</sup>

At least in this case, it seems that secular interests played a role in causing strife.

### SECULAR REASONING AND WAR

Has secular reasoning minimized the problems of strife and injustice that comes with religious reasoning? The answer is no it has not. There have been several wars that have been waged on exclusively secular grounds. The short essay, *The Communist Manifesto*, encouraged revolutions that resulted in the loss of millions of lives. Georg von Rauch wrote the following regarding the great communist purge of Russia:

The upheavals were set off by the murder of a prominent Party member, the Leningrad Party Secretary, Sergei Mironovich Kirov. The murder, which occurred on December 1, 1934, started a chain reaction of arrests, interrogations and executions which found its climax in the great purge, the *Chistka* of 1937-1938. According to conservative estimates about 7 to 8 million people—according to others, 23 million—became victims of this purge.<sup>28</sup>

While much of the purge had to do with political enemies, the Soviets targeted the church as

27 William T. Cavanaugh, "A Fire Strong Enough to Consume the House: The Wars of Religion and the Rise of the State," *Modern Theology* 11:4 October 1995.

28 Georg Von Rauch, *A History of Soviet Russian*, Trans. Peter and Annette Jacobsohn, revised ed. (New York, Frederick A. Praeger Publishers, 1957), 238.

well. The communist government killed 28 archbishops and bishops and 6775 priests. They also confiscated church land, treasures, and sacred objects. The Soviets arrested the Patriarch and almost all of the surviving ecclesiastical dignitaries.<sup>29</sup>

Sixty-seven million Germans embraced Hitler's vision to rebuild Germany on the back of a master race. Hitler's propaganda tactic was not religious or intellectual, it was emotional. Hitler did not want to deliver complex speeches that could only be understood by the educated. He believed that by offering both sides of an argument would result in the ambivalence of the crowd. According to Randall Bytwerk:

He [Hitler] thought that the average person is uninterested in complex arguments, being ruled more by emotion than intellect. Nazi rhetoric therefore avoided presenting detailed solutions to complex problems. The effective leader, Hitler thought, made things seem simple, and could "make even adversaries far removed from one another seem to belong to a single category." A speaker who attempts to persuade an audience by a complicated, developed argument, or by attacking multiple enemies, is doomed to fail.

A speaker should aim at the lowest common denominator, speaking so that everyone in the audience could understand. "Among a thousand speakers there is perhaps only a single one who can manage to speak to locksmiths and university professors at the same time, in a form which not only is suitable to the receptivity

of both parties, but also influences both parties with equal effect of actually lashing them into a wild storm of applause."<sup>30</sup>

Yet, while Hitler's propaganda tactic was emotional, he used a form of reason that was common to the general public. Hitler's public reasoning was in line with social Darwinism. In his book *From Darwin to Hitler*, Richard Weikart pointed out that while "Darwin was a typical English liberal, supporting laissez-faire economics and opposing slavery,"<sup>31</sup> the political demagogue Hitler made use of Darwinism to convince his citizens that killing millions of people was justified.<sup>32</sup>

Beyond justifying acts against public enemies with Darwinian ideas, Hitler:

...removed some of his [religious] opposition by falsely accusing churchmen of treason, theft, or sexual malpractices. Goebbels, the propaganda minister, insisted that those trials be published in detail in newspapers, thus parading lurid details about known ministers, priests, and nuns. Priests who warned parents against letting their children become a part of the Hitler Youth were subject to blackmail. Thus Catholic priests, nuns, and church leaders were arrested on trumped-up charges, and religious publications were suppressed.<sup>33</sup>

30 Randall L. Bytwerk, "The Magic of the Spoken Word: The National Socialist Approach to Rhetoric," *Landmark Speeches of National Socialism*, ed. Randall L. Bytwerk (College Station, Texas A&M University Press, 2008), 2.

31 Richard Weikart, *From Darwin to Hitler: Evolutionary Ethics, Eugenics, and Racism in Germany* (New York, Palgrave Macmillan, 2004) 3.

32 This is not to say that Darwinism is sufficient for Nazism; however, it may be argued that it is a necessary condition to justify the types of acts committed by the Nazis against their enemies. By this I mean to say that the Nazis justified their treatment of Jews, Gypsies, and the handicapped on grounds that these groups were less than humans or at least malformed and detrimental to the advancement of the species.

33 Erwin W. Lutzer, *Hitler's Cross: The Revealing Story of How the Cross of Christ was used as a Symbol of the Nazi Agenda* (Chicago, Moody Publishers, (1995) 114.

29 Ibid., 141-143. Rauch included the following description of the treatment of religious believers in Soviet Russia:

"The complete separation of State and Church marked the beginning of a number of other measures which thoroughly isolated the life of the Church and excluded it from public affairs. The clergy were deprived of its civil rights. Religious instruction of the young was prohibited in 1921; the Criminal Code of 1926 decreed forced labor as the punishment for any violation of this prohibition. The state's hostile attitude toward religion was clearly expressed in the new school text books. All religious literature was banned and parochial schools, seminaries and monasteries were closed."

Hitler believed that one was a German first and a Christian second.<sup>34</sup>

I used the examples from communism and German fascism for three reasons. First, both of the above wars were undergirded by philosophical assumptions that would pass as secular reasoning in the eyes of the United States federal courts.<sup>35</sup> Second, these two examples both shared a commitment to the silencing of the Religious voice in matters that conflicted with state policy. Third, by widening one's perceptual scheme one can see that theistic reason does not necessitate war and that it may even be necessary for justice.

It goes without saying that divisiveness and civil strife should be avoided whenever possible. However, the principle that requires sources of belief that cause or result in civil strife should be separated from statecraft proves too much. To suggest that if the source of one's political beliefs may be divisive or dangerous, one should refrain from using it would cut disciplines such as history, law, and science out of public discourse. The truth is that there is not one source of belief about the most important issues in life and government that is not potentially divisive and dangerous. Thus, the principle of civil strife is too broad. The answer then may not be in the exclusion of religious reasoning from the public square; but instead, it may in the use of all sources of justification to promote unity, peace, and well-being. Inasmuch as religious beliefs can be useful to these ends, there seems to be no

reason to exclude them from the discussion.<sup>36</sup>

### **Shannon Holzer**

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34 See John S. Conway, *The Nazi Persecution of the Churches 1933-45* (London, Weidenfeld & Nicholson, 1968) 15. Conway wrote that Hitler's intentions were to rid Germany of Christianity. Hitler stated that "making peace with the church won't stop me from stamping out Christianity in Germany, root and branch. One is either a Christian or a German. You can't be both."

35 This is not to say that public reason leads to communism or fascism. I am only showing that what counts as public reason in American federal courts was used in these two instances of mass violence.

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36 See Shannon Holzer and Jonathon Fuqua, "Courting Epistemology: Legal Scholarship, the Courts, and the Rationality of Religious Belief," *Oxford Journal of Law and Religion*, Vol. 3, No 2 (2014). In this article my co-author and I defend the rationality of religious reasoning in the public square and its role in public reason. Whereas, this current article shows that religious reasoning should not *a priori* be left out of the discussion based on the assumption that its inclusion will necessarily lead to civil strife.