Treatise

Religious Argument as an Argument from Authority

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Abstract

Assessment of the legitimacy of religious conviction in political deliberation requires a closer inspection of the different forms in which religious arguments appear. This article argues that even if the fundamental premises of liberal critics of religious arguments are correct, the only type of religious argument that can be considered as inherently incompatible with public justification has to contain explicitly religious content and has to be formulated as an argument from authority. This conclusion can be confirmed, on different grounds, by a rival, natural law tradition. The natural law tradition stipulates that the law is an ordinance of reason and should therefore be justified in a way that would allow reasonable citizens to affirm its reasonableness and obey it because of that. Argument from religious authority can therefore be judged impermissible even when religion is not treated with indifference, but as a constitutive aspect of human flourishing. On the other hand, by formulating the problem in terms of authority this debate raises the question of the status of non-political authority in political deliberation. The fundamental importance of non-political communities and the structures of authority they create to coordinate themselves invites a deeper inquiry into whether non-political authorities should play a more essential role in political deliberation and justification.

Keywords: authority, law, natural law, political liberalism, religious argument

1. Religious Argument as an Argument from Authority

Given that religion has been a constant of human civilization across the ages, and still is present even where it is in decline, it is natural to assume that believers will shape their lives and their preferences for the common life in society according to their religious convictions. Perhaps even when we engage in those academic topics we understand as well-secularized, such as justice, human rights, or the respect for the human person, our (European and American) theories 'are all rooted historically in theories of natural law and in conceptions that were specifically theistic and, indeed, Christian in approach.'[1] It seems we are inadvertently swimming in religious waters and breathing religious air, while constructing our secular intellectual monuments. Still, the 'standard view'[2] among many influential political theorists is that religious conviction is a prime example of a rationale unfit for political deliberation. If these theorists are correct, the project of liberal democracy demands a lot from its religious citizens: to accept that what they count among the fundamental reasons for structuring their lives is inferior to secular reasoning, and in fact poses a threat to the political order.[3]

My aim is to challenge this standard view along two distinct lines of reasoning. The first line is that we need to zoom in – religious argument is no single thing and it is crucial to specify whether it matters who uses it and in what relation with secular reasoning it is used. I will accept for the sake of the argument the fundamental premises on which the liberal theory proceeds to tackle these questions. Even so, what would be colloquially called 'religious arguments' are rarely *merely religious*, and to prohibit their use would run the risk of impoverishing political deliberation by eliminating insights that could be endorsable even on other grounds than religious. I argue that that the only principled line to draw in restraining religious reasoning is when it appears in the form of argument from authority.

The second line of reasoning is that zooming in and making the debate more precise in practical terms is necessary, but equally necessary is to zoom out again and ask fundamental questions about the concepts of law and authority.[4] I will address the former by supplying

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[1] WALDRON, Jeremy. Religious Contributions in Public Deliberation. *San Diego Law Review*, 1993, Vol. 30, p. 846.

[2] EBERLE, Chris. CUNEO, Terence. Religion and Political Theory. *The Stanford Encyclopedia of Philosophy*, Published on 15.1.2015, Cited on 29.9.2023. Accessible at https://plato.stanford.edu/archives/win2017/entries/religion-politics/. The more usual label for the standard view in the literature is 'exclusivism' as opposed to 'inclusivism' which advocates for permissibility of religious arguments in political deliberation. Andrew March offers a very fine overview of the literature. MARCH, Andrew F. Rethinking Religious Reasons in Public Justification. *American Political Science Review*, 2013, Vol. 107, No. 3, pp. 523-539,

[3] Paul Billingham argued that this demand creates a conflict of loyalties. BILLINGHAM, Paul. Public Reason and Religion: The Theo-Ethical Equilibrium Argument for Restraint. *Law and Philosophy*, 2017, Vol. 36, No. 6, pp. 675-705.

[4] This move has its precedent for example in the exchange between Robert Audi and Nicholas Wolterstorff which partly turned on whether one accepts the former's justificatory liberalism or the latter's consociational democracy. AUDI, Robert. *Religion in the Public Square: The Place of Religious Convictions in Political Debate*. Lanham: Rowman & Littlefield, 1997; WOLTERSTORFF, Nicholas. *Understanding liberal democracy: essays in political philosophy*. Oxford: Oxford University Press, 2012; AUDI, Robert. *Religious Commitment and Secular Reason*. New York: Cambridge University Press, 2000; AUDI, Robert. Moral Foundations of Liberal Democracy, Secular Reasons, and Liberal Neutrality toward the Good. *Notre Dame Journal of Law, Ethics & Public Policy*, 2005, Vol. 19, No. 197, pp. 197-218. On the other hand, authors such as March argue that conclusions about

a natural law argument against the religious argument from authority. The point will not be to provide a full-fledged defence of this tradition, but to explore from a different perspective the essential properties of law and how they relate to public justification. My argument will consist in arguing that the law is not only an ordinance *of* reason, as is traditionally emphasised in the natural law tradition, but also *for* reason. If the law's function is to provide exclusionary practical reasons for action, then arguments from authority are clearly insufficient to achieve this purpose.

In the penultimate section, I will challenge both the liberal and the natural law approach to the question of religious arguments by highlighting the assumption that I think is present in this debate – that no non-political authority is relevant for, and can be invoked in, political deliberation. This individualist assumption can be challenged by a conception of 'embedded' political authority whereby the state recognizes groups as groups and interacts with them accordingly. Therefore, the discussion about the religious argument should lead us to critically reflect on the terms of the debate, but also to address the issues of both the natural law and liberal tradition.

2. Religious Argument – What, Where, and by Whom

What exactly are we talking about when we say 'religious argument'? For the sake of conceptual clarity, we need to find some definitional criteria that would not lead to forbidding the use of religious arguments by definition. However intuitive it might be – given what the 'standard' position currently is – we need to avoid self-referential simplifications such as 'religious argument is an objectionable use of religious convictions in political deliberation'. A natural criterion would be invoking God, a religious authority, sacred text, or religious notion, but Robert Audi argued that there can be religious arguments that do not explicitly appeal to religious phenomena. He provides several sufficient, but not necessary criteria for identifying a religious argument: content, epistemic, motivational, and historical.

The 'content' criterion is the primary kind that most people associate with religious arguments. Appeals to divine commands, religious leaders, or scripture in a non-trivial way[5] constitute a content-based religious argument. The 'epistemic' criterion means that an argument can be religious not only by its content (what it says), but also by its justification. An argument is epistemically religious if '(a) its premises, or (b) its conclusion, or (c) both, or (d) its premises *warranting* its conclusion, cannot be known, or at least justifiably accepted, apart from reliance on religious considerations.'[6] Majority of the epistemically religious arguments are also religious in terms of their content, but of particular interest are those without it. Audi concedes that there are few uncontroversial examples, but natural law arguments about the fetus personhood or sexual ethics are often considered by their critics

this debate can be reached even when one does not take a position on deliberative, convergence, or agonistic conceptions of democratic engagement. MARCH. Rethinking Religious Reasons…, p. 524.

[5] By trivial I mean something like shouting 'God!' to add rhetorical flourish to a public speech or quoting someone else's religious views without endorsing them.

[6] AUDI, Robert. The Place of Religious Argument in a Free and Democratic Society. *San Diego Law Review*, 1993, Vol. 30, pp. 680-681.

as epistemically unjustifiable without filling in the holes with religious considerations.[7] Thirdly, an argument can be religious in terms of its motivational attribute if 'an essential part of the person's motivation for presenting it is to accomplish a religious purpose', such as fulfilling one's obligation to her church or spreading obedience to God's will. Again, the argument need not have explicitly religious content; insofar as it is motivated religiously, it is a religious argument.[8] Lastly, an argument can be religious in virtue of its historicity if it genetically traces to some other argument(s) that are religious in one of the above senses and draws some or most of its persuasiveness from its historical pedigree.[9]

Analytically, Audi's typology seems plausible, but I would argue that not all of these types of religious arguments are relevant for the debate about legitimacy of religious argument. In terms of the content criterion, the case seems to be straightforward. An explicit reference to a divine command, religious doctrine, authority of a religious leader, or sacred text, warrants the question whether the argument is fit for political deliberation. But it is not so with the other criteria. Consider the epistemic one – if the point is to bracket out an argument *before* we assess its epistemic justifiability, this type of religious argument is not practically relevant for this debate. Once it is not apparent whether an argument is religious in content and we need to engage in evaluating its premises and conclusions, we are beyond the point of constraining religious convictions and might as well judge the argument unsound. Arguments like that can thus be defeated *in* public deliberation without resorting to assumptions about whether the gaps in them can be explained by religious conviction or something else. The same, I think, applies to the motivational criterion. Concerning the historical criterion,[10] if, as Audi says, there are historical religious arguments that are 'persuasively autonomous' and their persuasiveness does not derive from their historically religious character, the question of their religious character will not even surface. If, on the other, they are 'persuasively dependent', that means they have already been judged to be epistemically unsound and therefore eliminated on epistemic grounds.

The preliminary conclusion should be that if we want to think clearly about the permissibility of religious arguments in political deliberation, the content criterion is the only one that we can practically use to judge if an argument is religious. This preliminary conclusion would be invalid if the point of the exclusivist position was to raise only the moral point in the following sense: a citizen is morally culpable when she supports a coercive law for (solely/mostly) religious reasons. No external consequence necessarily follows from the fact that a citizen is so culpable. And there are hints at this position in the exclusivist literature. For John Rawls, the so-called duty of civility to provide reasons based on values acceptable to all

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[7] Ibid., p. 681. Audi later agreed that natural law arguments can serve as secular arguments. Paul Billingham concurs, distinguishing between what seems persuasive for today's audience, and what is accessible. WOLTERSTORFF. AUDI. *Religion in the Public Square*…, p. 127; BILLINGHAM. Public reason and religion…, p. 700.

[8] AUDI. The Place of Religious Argument…, pp. 682-683.

[9] Ibid., pp. 683-684.

[10] If one is persuaded by Waldron's suggestion that virtually all – at least liberal – political theories emerged from a theistic and specifically Christian background (see footnote 2), then Audi's historical criterion may lead to the conclusion that basically all our theories are in the historical sense religious, and that the liberal and the religious are in some non-trivial sense coextensive concepts.

reasonable persons was a moral duty, not a legal duty.[11] Kent Greenawalt argues that 'trying to find common ground may be a moral requirement,'[12] and Andrew March casts the question in terms of 'morality of the inclusion of a religious argument in public deliberation'.[13] So the constraint on religious arguments 'need not be encoded into law, enforced by state coercion or social stigma, promoted in state educational institutions, or in any other way policed by the powers that be.'[14] And it can certainly be the case that this issue can be approached in this limited sense which only concerns moral culpability of the citizen. But insofar as political and legal theorists are involved, the more consequential goal of the exclusivist position is to be able to judge whether an argument is objectionably religious in the political sense, and as such can be externally observed and subjected, at the very least, to 'social stigma', and plausibly to the question of constitutionality of the law based on such an objectionably religious argument.[15]

Related to the question of what constitutes religious argument in a relevant sense are the questions of who and in what context are subject to the doctrine of religious restraint. John Rawls' influential political liberalism is nuanced in its treatment of the distinction between citizens and public officials. If a free society is to transcend mere *modus vivendi* and achieve mutual respect between persons of different comprehensive doctrines as well as stability for the right reasons, the justification principle must be observed: 'Our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of principles and ideals acceptable to them as reasonable and rational.'[16] According to his later *proviso*, religious and other comprehensive arguments are permissible to be introduced into the political debate as far as reasons of the type specified by the justification principle are also introduced 'in due course.'[17] But these constraints apply to the role of government officials, while the 'background culture' is exempt. Thus civil society and ordinary citizens can use their comprehensive doctrines, including religious convictions, without restriction.[18]

There is a debate whether the idea of democracy itself permits a meaningful distinction between ordinary citizens and public officials. Rawls conceded than even individual citizens

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[11] LOOBUYCK, Patrick. RUMMENS, Stefan. Religious Arguments in the Public Sphere: Comparing Habermas with Rawls. In: BRUNSVELD, Niek. *Religion in the Public Sphere: Proceedings of the 2010 Conference of the European Society for Philosophy of Religion*. Utrecht: Ars Disputandi, 2011, pp. 239-240.

[12] GREENAWALT, Kent. Religion and Political Judgments. *Wake Forest Law Review*, 2001, Vol. 36, p. 415.

[13] MARCH. Rethinking Religious Reasons…, p. 524.

[14] EBERLE. CUNEO. Religion and Political Theory…

[15] Jürgen Habermas made a similar point, writing that when it comes to moral judgment, 'the link between the actual motivation for his actions and those reasons he gives in public may be relevant.' But 'only manifest reasons can, and only those do have an impact on the political system as actually affect the formation of majorities and their decisions within political bodies.' So what ultimately matters is justification in the sense of the content criterion. HABERMAS, Jürgen. Religion in Public Sphere. *European Journal of Philosophy,* 2006, Vol. 14, No. 1, pp. 7-8.

[16] RAWLS, John. *Political Liberalism*. New York: Columbia University Press, 1996, p. 217.

[17] RAWLS. *Political Liberalism*…, Ii-Iii; RAWLS, John. The idea of public reason revisited. In: RAWLS, John. *The Law of Peoples*. Cambridge, MA: Harvard University Press, 2001, pp. 144, 152.

[18] LOOBUYCK. RUMMENS. Religious Arguments in the Public Sphere…, p. 240.

are subject to the requirements of public reason in elections that concern constitutional essentials and matters of basic justice.[19] Citizens in democracy are not mere 'subjects and observers', but active participants who shape and give legitimacy to public policies. According to Waldron, consistency requires that citizens should be subjected to the same requirements as officials.[20] Perhaps the most relevant distinction is not between the roles that citizens perform, but between interactions in the 'informal' and 'formal' public sphere,[21] with the latter being the forum for immediate coercive proposals.[22] The result would be that both ordinary citizens and officials (legislators, judges, administrators) could bring their religious views into the informal public sphere – informal conversations, academia, media – without restrictions; but both citizens and officials would have to submit to some form of constraint in the formal public sphere. Particularly in the case of officials, there are bound to be hard cases. Debating a bill in the Parliament or writing a judicial opinion supporting a judgement falls quite clearly into the formal, but if our standard is 'immediate coercive proposal', then even an election programme[23] or media interview might plausibly avoid the requirements of public reason. The clearest example of ordinary citizens taking part in the formal public sphere would be referenda on various levels of governance.

So far I have set up fundamental lines along which the debate should be conducted. I have argued that if the matter is not only of moral, but also of political and legal character, the only criterion for recognizing a religious argument is the content criterion as the rest (epistemic, motivational, and historical) are redundant and/or irrelevant. It also seems correct to subject all citizens, ordinary along with those who bear direct political responsibility, to be subject to the same requirements, but only in the formal public (political) sphere and not in the wider public discourse. The next section will come closer to answering the question whether an exclusivist or inclusivist perspective is justifiable. Initially, I will focus on the argument from respect, but I will then move to see how the general logic of the doctrine of religious restraint reflects in on the practical shapes in which religious arguments enter the public sphere.

3. Religious Argument – Almost Always a Melange

The most prominent and strongest argument against the use of religious arguments is argument from respect. In order to respect our fellow citizens as free and equal persons, we cannot subject them to coercive treatment unless it is justifiable to them. Given that people in modern democratic societies disagree on religious questions, coercion based on religious

[19] RAWLS. *Political Liberalism*…, 215. Rawls' distinction between ordinary political matters and constitutional essentials has also been challenged as 'moot'. HABERMAS, Jürgen. *Between Naturalism and Religion*. Cambridge: Polity Press, 2008, p. 123, n.18; QUONG, Jonathan. The Scope of Public Reason. *Political Studies*, 2004, Vol. 52, No. 2, 233-250; QUONG, Jonathan. *Liberalism Without Perfection*. Oxford: Oxford University Press, 2011, pp. 256-289.

[20] WALDRON. Religious Contributions…, p. 828.

[21] LOOBUYCK and RUMMENS. Religious Arguments in the Public Sphere…, pp. 239-240.

[22] WALDRON. Religious Contributions…, p. 841.

[23] Election programmes are notoriously subject to bargaining and compromise, especially in countries with proportional electorial systems that usually result in the need for coalition governments.

grounds is illegitimate.[24] Other arguments against including religious conviction, such as the risk of sectarian violence[25] tend to be more contingent, largely solvable by robust protection of religious freedom without the need for religious restraint in public deliberation. The advantage of the argument from respect is that it seems to provide a principled and non-contingent reason for religious restraint insofar as the modern pluralistic context is taken as the background assumption. But if that is the case, the argument must also assume some kind of epistemic asymmetry between religious and secular reasons. On this view, religious reasons seem to inherently lack some epistemic property which would cause them to provide justification.[26] It also assumes a kind of impenetrability of one's deeply held convictions and also that proceeding from unshared starting points necessarily produces alienation and unintelligibility, and never novelty or fascination.[27] These are serious questions, and public reason liberalism has been subject to forceful criticism of its epistemological commitments.[28] But I will grant, for the sake of the argument, that there is indeed a kind of justificatory asymmetry between religious and secular reasons. Even in that case, this section will show that if we give due consideration to how secular and religious reasons practically mix, and what forms religious reasons can take, the only principally impermissible use of religious arguments is when they appear in the form of argument from authority.

As a preliminary point, it will be worth it to illustrate why the clarifications made in the previous section were necessary. Consider the case of a purely secular (content-wise) argument for a religiously motivated cause. Suppose that Alfred is an elected representative of a constituency which, based on its religious conviction, believes that online betting should be prohibited on religious grounds. Alfred then produces a series of contestable, but secular arguments, for instance that unregulated online betting causes addiction, exacerbates poverty, contributes to breakdown of families as a consequence, and so on. Suppose that in this case, the political force in this example is clearly supplied by religious reasons, and an exclusivist could therefore argue for impermissibility of such legislation because, in Thomas Nagel's words, a person's liberty 'may not be overruled simply because of the religious convictions of the majority.'[29] But this would require commitments that would in the end prove to be uncivil. The assumption is that the majority that gives momentum to

[24] This is a simplified version of the argument from respect. More elaborate and systematic summary can be found in BOETTCHER, James W. Respect, Recognition, and Public Reason. *Social Theory and Practice*, 2007, Vol. 33, No. 2, pp. 232-233.

[25] AUDI. Religious Commitment and Secular Reason…, p. 103.

[26] EBERLE, Christopher. *Religious Conviction in Liberal Politics*. Cambridge: Cambridge University Press, 2002, pp. 14-15. For example, Greenawalt implies that religious convictions are nonrational claims or judgments. He takes it for granted that in many cases, also *other* nonrational judgments will necessarily enter public deliberation and if that is so, 'religious premises should not be disfavored in comparison with other nonrational premises.' GREENAWALT, Kent. Religious Convictions and Lawmaking. *Michigan Law Review*, 1985, Vol. 84, No. 3, p. 382.

[27] WALDRON. Religious Contributions…, p. 835.

[28] EBERLE. *Religious Conviction*…; WOLTERSTORFF. *Understanding Liberal Democracy…;* more recently ENOCH, David. Against Public Reason. In: SOBEL, David. VALLENTYNE, Peter. WALL, Steven. *Oxford Studies in Political Philosophy*. Oxford: Oxford University Press, 2015, pp. 112-142; ENOCH, David. The Disorder of Public Reason. *Ethics*, 2013, Vol. 124, No. 1, pp. 141-176.

[29] NAGEL, Thomas. *Secular Philosophy and the Religious Temperament*. Oxford: Oxford University Press, 2010, p. 118.

a proposal has to be motivated (primarily) by the best available (secular) reasons, otherwise the proposal is illegitimate even if it is defended with secular reasons. Even exclusivists should not subscribe to this reasoning as it would require too deep a dive into the citizens' psychology and moral reasoning. More seriously, the public deliberation would lose perfectly accessible arguments. Hence religious restraint should not apply in Alfred's case.

Let us now consider a situation when a religious argument is introduced as a supplement or a rhetorical flourish to a secular argument. The parliamentary debate might see Alfred adding references to scripture or religious authority in order to explain his position more fully and candidly, to make his case more appealing, or to signal to his constituency that he acknowledges their reasons. The problem with this move is that it will plausibly cause puzzlement and irritation on the part of those who do not belong to that particular religious tradition and will consider that part of the argument not only unpersuasive, but also difficult or impossible to understand. But such situation does not constitute disrespect in the objective sense that matters for justification. Secular citizens do have even in this case arguments that, if sound, can conclusively justify the proposed policy, and thus warrant engagement with their substance. The accompanying religious arguments in this case produce a kind of 'epistemic overdetermination'[30] and add another, though unnecessary, reason to support the policy. Moreover, attempting to apply religious constraint in this case would also have assume the impermissibility of other 'nonrational' elements in political deliberation – a requirement that is surely too strict for ordinary democratic politics.

The reverse case – where the secular reason supplements the religious – is arguably more difficult. Suppose that Alfred took the religious justification of his constituency, made it the central point of his advocacy on the parliamentary floor, but then added the secular reasoning. This case, it seems, is the prime example of the Rawls' proviso that religious arguments are permissible if secular public reasons are provided 'in due course'. What political deliberation ultimately boils down to is that adherents of different doctrines can come together from their respective positions but ultimately offer arguments shareable or accessible with others. But does this not amount to mere rationalization of one's views so as to appear to respect the requirements of political deliberation? In other words: did Rawls allow too much by his proviso? Three distinct responses can be offered against this objection. Firstly, rationalization as used in this context is not necessarily objectionable, and in fact constitutes a fundamental aspect of the political process. Political deliberation at its best provides a forum where citizens are incentivised to think through their preferences and intuitions and formulate them into reasons for common political action. In this sense, rationalization is a natural process of achieving the 'reflective equilibrium' whereby one's intuitions, commitments, and preferences are brought into accord with what one can formulate as principles.[31] Secondly, to mark such rationalization as objectionable in virtue of its insincerity and reducing it to power play may be valid point for moral reflection, but it would require prodding into the

[30] I borrow this term from Robert Audi who used it when arguing that there should be a presumption of epistemic autonomy of ethics (such that ethics could be reasoned about without having to accept their religious grounding) – a presumption that, on the other hand, would not be incompatible with religious grounding of ethics. Such situation would constitute 'epistemic overdetermination'. AUDI. The Place of Religious Argument…, p. 698.

[31] KNIGHT, Carl. Reflective Equilibrium. In: BLAU, Adrian. *Methods in Analytical Political Theory*. Cambridge: Cambridge University Press, 2017, p. 46.

legislator's motives too impractical for political purposes. And thirdly, the point made in the previous example about the risk of ignoring an accessible and potentially sound argument, however badly motivated it might be, is too high. Rawls' proviso seems to stand firm, and Alfred seems to be again on the legitimate side of the political debate.

Lastly, there is the case of a religious arguments without the secular supplement. While the use of religious arguments in the previous examples may understandably raise the question whether legislation so supported is legitimate, this case seems to be clear cut – no secular reasoning, no legitimacy. But yet more precision is needed to test this claim. Religious content comes in various forms which bear different implications for the political deliberation. Andrew March offers a useful typology:[32]

1. A command extracted from a revealed text, religious authority, or personal mystical or revelatory experience.

2. A theological or moral doctrine that is not clearly attributed to a specific claim from a revealed text but is derived from certain theistic claims and revealed knowledge.

3. An appeal or reference to traditional religious commitments or practices.

4. An appeal to practical wisdom or moral insight found in traditions of religious thought.

The consequence of such specification is that

> 'When a citizen quotes the Bible or a Papal encyclical to prove in an authoritative and determinate manner that homosexuality or divorce ought to be forbidden, she is simply not doing the same thing morally, politically, and discursively as when she claims that human life is inherently valuable ("sacred"), that Christian just war doctrine contains enduringly wise lessons for the conduct of war or that human sinfulness cautions us against overconfidence in our own moral intentions… [T]he first form of argument is and undemocratic approach to knowledge, politics, and authority, while the other, equally „comprehensive," reasons are less so from the very outset.'[33]

By making such distinctions, we can still claim that contributions in political deliberation must be formulated in a way that is apt to be received by all reasonable citizens, while stipulating that such formulations do not have to proceed from Rawls' narrow consensual conception which mandates proceeding from shared premises.[34] I may not share the preceding premises, but insofar as the argument takes forms 2, 3, and 4, the relevant parts of its content can still be intelligible and can inform my moral and political reflection. So, taking March's example, I may not share the Christian doctrine of original sin or the 'sin' vocabulary at all, but with application of plausible 'translation' into my moral language, I can see that people are imperfect and fallible which should elicit some measure of humility even in cases when I have genuinely good intentions. There can, of course, be cases when forms 2, 3, or 4 will not achieve this requirement, but it is only the form 1 which seems inherently incapable of producing such results.

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[32] MARCH. Rethinking Religious Reasons…, p. 527.

[33] Ibid., p. 528.

[34] WALDRON. Religious Contributions…, pp. 836-838.

Arguments from authority were traditionally considered as fallacious, although more recent reflections have questioned this widespread belief.[35] Unavoidably, many choices, including political choice, are guided by various authorities, and it is generally unproblematic as far as the authority is a good one.[36] But the trouble is with arguments from *merely putative* authority, that is when one is not ready to justify the genuineness and relevance of the authority, because in that case one does not really provide rational grounds for accepting the authority's conclusion.[37] There are ways to make an argument from authority unproblematic by broadening it and reformulating it into one of the acceptable forms (1-3) of March's typology, but some such attempts may be themselves considered as inappropriate for political deliberation if they required discussions about religious truth. The conclusion is that it is precisely the religious argument from authority that is the archetype of unpublic reasons and therefore impermissible, but other forms of religious arguments, even if they are not accompanied by any freestanding secular argument, are generally permissible.

4. The Central Meaning of Law and the Problem of Authority

Until now I have assumed much that is contested in the debate about religious arguments. I have assumed that one can make a sensible distinction between secular and religious arguments; that there is epistemic asymmetry between the two; that the Rawlsian principle of justification is sound; and that using arguments that would be considered unpublic from the standpoint of political liberalism is disrespectful toward one's fellow citizens. Even with these assumptions I have narrowed down the impermissibility of religious arguments to solitary arguments from authority. In this section, I will argue that even an intellectual tradition that I subscribe to and that rejects many of the assumptions I listed here – the natural law tradition – can support this conclusion.[38] The purpose of this section is to apply the natural law theory's understanding of law to the problem of religious argument. To consider this

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[35] WALTON, Douglas. *Appeal to Expert Opinion: Arguments from Authority*. Penn State Press, 2010, pp. 28-29; WALTON, Douglas. KOSZOWY, Marcin. Two Kinds of Arguments from Authority in the Ad Verecundiam Fallacy. In GARSSEN, Bart et al. (eds.). *Proceedings of the 8th Conference of the International Society for the Study of Argumentation*, 2015, p. 1.

[36] As with many authorities, the typological status of religious authorities is a complex one. If 'theoretical' (or 'epistemic') authorities provide reasons because of their superior knowledge, and 'practical' (or 'normative') authorities provide reasons because they have special powers or rights, religious authorities are primarily the former because of their claim the be 'experts in religious truth'. On the other hand, it is often a part of these religious truth that religious authorities are imbued with further powers that are practical in character, especially (or exclusively) over the followers of the religion. In modern societies, the relevant aspect of religious authorities when it comes to legislation is primarily the theoretical one as they claim relevant or superior knowledge, not a special right to impose legislation on believers and non-believers alike. But that does not exclude the possibility that in some religions, religious authorities might claim a direct practical authority in the sense of possessing a direct powers over secular authorities as well. This however, is a topic in which I have no particular expertise, and is not key to my argument. For the basic distinction between the theoretical and practical authority, see WENDT, Fabian. *Authority*. Cambridge: Polity, 2018, pp. 1-4.

[37] SIEGEL, Harvey. BIRO, John. Epistemic Normativity, Argumentation, and Fallacies. *Argumentation*, 1997, Vol. 11, No. 3, p. 286.

[38] By the natural law tradition, I mean primarily the New Natural Law Theory as developed by Germain Grisez, John Finnis, and Robert George. There are not insignificant differences between the 'New' and the 'Old', but the

argument, we need to make the opposite move than shown in the previous section – not to zoom into the details of the problem, but to zoom out and consider the fundamental properties of law and how they are incompatible with pure authority arguments.

Barring the argument from authority from political deliberation can be justified because the central meaning of law is to guide practical reason to action. The classical definition provided by Aquinas, to which the natural law theories trace their perspective, is that the law must be an ordinance of reason, for the common good, and made public (promulgated) by a legitimate authority.[39] Natural law theorists consider this fundamentally moral approach to defining law appropriate because to make social phenomena fully intelligible, one needs to consider their point, their purpose, and the principles of their full realization.[40] So a law that has all these properties is the central case of law; a law that lacks some of these properties is at best a peripheral (defective) instance of law. In the case of its relation to reason, it means that the law should be 'reasonable rather than arbitrary, to address itself to the intellect rather than merely the will, to be something that the mind can recognize as right.'[41] The binding power of law comes fundamentally from its relation to reason, not the will of a superior.[42] As an ordinance of reason, a law in its central case responds to a particular and genuine need to direct and coordinate human action in a certain area. Hence a reasonable person obeys a sound law precisely because she sees the reason for it; a person lacking in practical reasonableness (in that particular area) will obey the law only out of fear of punishment or will not obey it at all. Given that human practical reasoning is flawed, some citizens may not always be receptive even when good reasons are provided and thus only comply with the law out of fear of repercussions. Not much can be done about that from the position of legislator and it is encumbent upon the recipient herself and constitutive associations of which she is a member to make her more receptive to good reasons.

If a law is truly guided by reason, it is also inherently capable of appealing to the citizen's reason so that at least the reasonable ones have the best motive to obey it. But for many reasons, a reasonable law will not be automatically appealing to some, even reasonable people. Neither the problem which the law addresses nor the way it is addressed are necessarily obvious. When the laws address the need that stems directly and immediately from the basic principles of practical reasoning, i.e. the non-instrumental basic goods, their point is self-evident to a reasonable person.[43] For example, the point of legal prohibition of murder is obvious because what is at stake is the life of the citizens. But there are needs, still genuine, that are further removed from the basic principles of practical reasoning, such as tax codes

former has been more active in its engagement with the contemporary liberal theory. For the sake of brevity, I will be using the general 'natural law' label for this tradition of thought.

[39] BUDZISZEWSKI, Joseph. *Commentary on Thomas Aquinas' Treatise on Law*. Cambridge: Cambridge University Press, 2014, p. 1.

[40] FINNIS, John. *Natural Law and Natural Rights*. Oxford: Oxford University Press, 2011, pp. 9-11.

[41] BUDZISZEWSKI. *Commentary*…, p. 13.

[42] MOSCHELLA, Melissa. GEORGE, Robert. Natural Law. In WRIGHT, James. *International Encyclopedia of the Social and Behavioral Sciences*. Oxford: Elsevier, 2015, p. 321.

[43] These basic principles are specifications of the most fundamental principle of practical reason – to seek good and avoid evil.

or laws for the protection of cultural heritage, and these will not be obvious. Moreover, those obvious needs directly related to the first principles, such as protection of life, will often require more remote measures than straightforward and universal application of a moral norm, and further determinations[44] (e.g., the extent to which one is justified in self-defence and whether and in what way she is entitled to own a gun for such purpose) of which there can be a number of reasonable alternatives, will have to be chosen.[45] Therefore, in majority of real-life cases, the point of even reasonable laws will not be obvious even to all reasonable citizens and will require justification, whether of the kind related to their objects, or to the chosen means.

Hence the point of public justification from the natural law perspective is to realize fully the purpose of law so that citizens have not only motives (such as fear), but reasons to obey the law. It is not enough that there exist good reasons to enact a law, but those reasons need to be communicated in a way that will enable at least those citizens who are open to rational debate to obey it precisely as an ordinance of reason for the common good. For this reason, it is legislator's duty to supply reasons which are rationally accessible to reasonable fellow citizens.

At this point the resemblance with Rawls' formulations is striking. This resemblance is fortified by the fact that some of the proponents of the natural law theory have embraced the central terms that are currently associated with political liberalism. We should 'unhesitatingly endorse the requirement that political action be founded only on publicly accessible arguments'[46] and we should settle political and legal matters according to 'principles and norms which are reasonable, using criteria of evidence and judgment that are available to all,' a requirement made possible by the premises that moral knowledge is accessible to every person and arises from reason.[47] The term 'public reason' can even be employed to summarize some of the basic tenents of Aquinas' political thought.[48]

But that is roughly where the similarity ends. The natural law theorists have been adamant in their rejection of political liberalism[49] and criticised it for presenting an ambiguous and skewed account of public reasons. Political liberalism needs to defend a broad conception of

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[44] FINNIS. *Natural Law*…, p. 289.

[45] Ibid., pp. 231-233. The primary purpose of authority is to supply unanimity in those numerous 'coordination problems' when there is a plurality of reasonable solutions to reach a goal, but practical reasonableness dictates that unless a single solution is chosen, the goal cannot be achieved.

[46] FINNIS, John. Political Neutrality and Religious Arguments. In FINNIS, John. *Religion and Public Reasons. Collected Essays*: *Volume V*. Oxford: Oxford University Press, 2011, pp. 111-112.

[47] FINNIS, John. Public Reason, Abortion and Cloning. *Valparaiso University Law Review*, 1998, Vol. 32, pp. 369. Finnis here criticizes Rawls' assumption that these two theses – that moral knowledge is accessible to all people by virtue of their rational nature – differentiates (his) liberalism from earlier traditions, whereas they are in fact shared with the (natural law) tradition. They do, however, represent a departure from the elitism of Aristotle, whose philosophy is one of the fundamental sources of inspirations for the natural law tradition. GEORGE, Robert. *Making Men Moral*. Oxford: Clarendon Press, p. 39-40.

[48] FINNIS. Public Reason, Abortion and Cloning…, p. 363.

[49] GEORGE. *Making Men Moral*…; FINNIS. *Religion and Public Reasons*…; TOLLEFSEN, Christopher. Pure Perfectionism and the Limits of Paternalism. In KEOWN, John. GEORGE, Robert. *Reason, Morality, and Law: The Philosophy of John Finnis*. Oxford: Oxford University Press, 2013, pp. 205-206.

public reason if it wants to eliminate not only appeals to secret knowledge, sheer authority, or private revelation, but also comprehensive doctrines that seek to argue that their arguments are accessible to everyone (what Rawls called 'rationalist believers').[50] But such attempts are either arbitrary or exclude nothing. A person who thinks that a proposition is true should also hold that in ideal epistemic situation all reasonable person would endorse the proposition. Therefore, political liberals cannot (and do not) build their theory on an epistemically ideal situation, because it would not exclude arguments from reasonable (in respect to the particular proposition in question) comprehensive doctrines. The public justification principle also cannot refer to the actual epistemic situation, because if, as Rawls admits, reasonable people can and do hold some unreasonable views, then there is no relevantly substantive proposition that all reasonable people endorse.[51] The idealization employed by political liberalism does not idealize all the way, but that invites an objection that it arbitrarily excludes a kind of propositions that would be endorsed in ideal epistemic circumstances, and does so merely because it sets out to achieve, although with good intentions, the exclusion of comprehensive doctrines from political deliberation. So when Rawls argues that rationalist believers' arguments cannot be 'publicly and fully established by reason',[52] he begs the question precisely against their central claim, unless he addresses the merit of these arguments.[53] But addressing the truth claims of a comprehensive doctrine would defeat the purpose of political liberalism, and so one cannot both exclude the arguments of rationalist believers and remain committed to the principles of political liberalism. Hence why the status of natural law arguments has been used to portray how difficult it is to ascertain how much exactly political liberalism excludes.[54]

Crucially, natural law thinkers hold that a successful political justification cannot be based on merely political conception that would abstain from identifying intrinsic goods. In fact, only a true comprehensive doctrine can be fully reasonable by virtue of its identification of, and building on, ultimate, not-merely-instrumental reasons. For each person's reasons to act in a certain way, both in a private and political domain, have to be reasons which are either basic and intrinsic, or must lead to some more basic and ultimate reasons. One's public acts, which are at the same time one's private acts as they are connected to the one and same life and moral choosing as a person, can only be rational insofar as they can be traced all the way down to reasons that make rational choosing intelligible. These are precisely the reasons

[50] RAWLS. *Political Liberalism*…, pp. 152-153.

[51] FINNIS, John. Religion and Public Life in Pluralistic Society. In FINNIS, John. *Religion and Public Reasons. Collected Essays*: *Volume V*. Oxford: Oxford University Press, 2011, p. 52. Rawls explicitly advocates for the idealized version of his criterion, but then the objection would be that it arbitrarily excludes a class of true propositions (about the 'good life') from the epistemically ideal conditions in order to achieve his pre-determined goal.

[52] RAWLS. Political Liberalism…, p. 153.

[53] GEORGE, Robert P. *In Defense of Natural Law*. Oxford: Oxford University Press, 1999, p. 202-203; FINNIS. Public Reason, Abortion and Cloning…, p. 366.

[54] GREENAWALT, Kent. Natural Law and Public Reasons. *Villanova Law Review*, 2002, Vol. 47, Issue 3, pp. 531-552; BILLINGHAM. Public Reason and Religion…

that political liberalism identifies with ideas about the 'good life' and seeks to prohibit from political deliberation.[55]

A contrast with political liberalism will illustrate the point. To be consistent with its emphasis on excluding arguments based on the idea of the good from political deliberation, Rawls proceeded on a 'thin theory of good', identifying those goods that everyone wants for the sake of pursuing their own ends and their life plans.[56] But instrumental goods need for their intelligibility, as I explain above, more basic reasons and can only be deemed reasonable by recognizing as reasonable those ends whose realization they enable.[57] Rawls may be right to consider his list of primary goods reasonable, but only accidentally. Perhaps reasonable people are indeed justified in wanting those Rawlsian goods, but we have no way of knowing that if we do not address the question of what intermediate and basic ends those instrumental reasons serve, but to do so in political deliberation would be uncivil. A person committed to political liberalism cannot, due to her theoretical commitments, explain why these and only these are reasonable goods in a relevant sense, and her 'goods' are thus indeed merely *wants*,[58] and only presumably reasonable. Political liberalism thus advocates exclusion of all 'really justificatory philosophical arguments'[59] for the sake of arbitrary 'public' justification.

This conclusion is relevant for this debate because from the natural law viewpoint, a comprehensive justification is not only permissible, but actually necessary, in political as well as non-political action.[60] Moreover, for natural law theorists, religion is a basic and intrinsic human good, irreducible to other goods, and intelligible as one's attempt to seek the truth about the ultimate nature of things and to arrange one's life and commitments accordingly to these conclusions. Religious liberty thus conceived is a prime example of a perfectionist justification for what is commonly understood as a fundamental right. But beyond that, the value and intelligibility of religious pursuit can warrant reasonable and judicious recognition and support from the state, preferring prudential cooperation to 'strict' separationism.[61]

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[55] FINNIS. Political Neutrality and Religious Arguments…, p. 107.

[56] RAWLS, John. *A Theory of Justice*. Cambridge, MA: Belknap Press of Harvard University Press, 1999, p. 79.

[57] It is a fundamental premise of the natural law tradition that reason is not purely instrumental in the Humean sense. Reason is not condemned to simply provide the most effective means to non-rationally determined ends but is capable of discerning the proper ends of human action, and a successful identification of an intrinsically choiceworthy end makes possible rationally motivated action. MOSCHELLA. GEORGE. Natural Law…, p. 320; GEORGE. *In Defense of Natural Law*…, p. 128.

[58] GEORGE. *Making Men Moral*…, pp. 137-138.

[59] FINNIS, John. Introduction. In FINNIS, John. *Religion and Public Reasons. Collected Essays*: *Volume V*. Oxford: Oxford University Press, 2011, p. 8.

[60] Even though arguments need not be formulated 'all the way down' in each and every instance of political deliberation, they always imply a reference to one or more basic axioms of practical reasoning.

[61] GEORGE. *Making Men Moral*…, pp. 225-226; FINNIS, John. Darwin, Dewey, Religion, and the Public Domain. In FINNIS, John. *Religion and Public Reasons. Collected Essays*: *Volume V*. Oxford: Oxford University Press, 2011, p. 31; GEORGE, Religious Liberty and Political Morality…, p. 135-136. For natural law theorists, to inquire into the existence of God through both unaided reason and public revelation is completely rational, and in fact a natural and necessary step when the question of grounding of intrinsic goods arises in one's rational reflection.

Even with all these qualifications and dissimilarities, and its provokingly religious-friendly character, I argue that the natural law tradition can affirm a part of political liberalism's commitments: rejection of arguments from what Robert George calls 'sheer authority'.[62] The reason for this is not respect for moral status of persons or their autonomy, but a more primary requirement that law as an ordinance of reason should aim to provide genuine reasons, not just enforce compliance. The implication is that in this context, a mere argument from authority simply does not provide reasons for those who do not accept given authority. The clearest example would be reference to divine authority: 'God wills it' or 'it is proscribed in the Holy texts', but one can also be guilty of ambiguously referring to 'natural law'. Even if the proposal is in itself reasonable, dissenters are provided no rational grounds for (in)action unless the reasonableness of the proposal is communicated to them. Consequently, the common good and sense of its embodiment in the legal system is put into question and legitimate authority undermined.

Moreover, assuming for the sake of the argument that there could be a universally affirmed authority, such a possibility illustrates even more emphatically the problematic status of arguments from authority. It might seem that the argument in the previous paragraph is subject to contingency. After all, even though the natural law theory recognizes pluralism of values and legitimate ways of life, it does not take present social divisions, including religious ones, as inherently inescapable. Therefore, there could theoretically come a day when the citizens of a country would converge on a single religious doctrine and authority, for instance Christian revelation and the doctrine of the Catholic Church. In such a situation, it might appear that the legislator would be allowed to simply refer to Church's social and moral teaching when passing a legislation. But on the contrary, I argue that even in such a situation, arguments from authority would likely violate the requirement of the reason-guiding essence of the law. For every principle endorsed as a moral rule by a non-political authority stands in need of justification when being translated into human law for two reasons. The first being the legitimate debate about the proper extent of political authority, in general and in particular circumstances; the second being the problem of choosing specific means of pursuing a legitimate goal.

Concerning the limits of the role of government, imagine that in a wholly Catholic country everyone agrees with the Church's teaching that adultery is a grave sin. Even in this case, it is necessary to reason if and how should this precept be recognized by the particular political community in view of its true but limited (subsidiary) role of government in fostering moral development of its citizens.[63] Concerning the means to pursue a specific goal, let us consider the current Pope's insistence on protecting natural environment.[64] Even in society of pious Catholics committed to the Pope's views, further reasoning would be needed on how such common project should be conducted, respecting all the prudential considerations relevant

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[62] GEORGE. Public Reason and Political Conflict…, p. 201.

[63] GEORGE. *Making Men Moral*…, p. 1; FINNIS, John. Is Natural Law Theory Compatible with Limited Government?. In GEORGE, Robert. *Natural Law, Liberalism, and Morality.* Oxford: Oxford University Press, 1996, pp. 4-6.

[64] POPE FRANCIS. *Laudato Si.* 2015. Cited on 28.9.2023. Available at https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.

for the given community. To simply refer to the Pope's authority when justifying any particular policy would make for a defective law.[65]

5. The Status of Non-political Authority in Political Theory

The previous sections have shown that there is a convergence on the principle that political decisions should not be justified merely by arguments from (religious) authority. This principle seems to stand whether one approaches the problem of religious arguments from a position hostile to religion,[66] indifferent to religion, or affirming the value of religion. But in framing the question as the argument from authority, another consideration is necessary, since these conclusions embody an understanding of the position of non-political authorities vis-à-vis political authority and individuals. Hence I want to raise a challenge to the main premise of the arguments in the previous two sections: that the primary mode of political reasoning and justification is between individuals, and between individuals and the state. We should ponder, I argue, the implications of a more 'embedded' understanding of authority, that is rooted not in the contractualist consensus of individuals, but in the needs of non-political authorities that enables non-political communities to realize their reasonable goals.

Contemporary liberal theory, Maria Cahill argues, understands authority very similarly to the 17th century theorists of sovereignty, Jean Bodin and Thomas Hobbes. This archetype of 'disembedded' authority had several key characteristics: it was 1) unitary; 2) addressed to individuals; 3) an abstract construction; 4) superordinate; and 5) impervious to the good. Cahill juxtaposes this archetype to a different understanding of authority, an 'embedded' one based on a robust conception of subsidiarity,[67] which results in the following set dichotomies:[68]

[65] As Finnis persuasively shows on the 19th century example of family wage (the principle that the family should be able to subsist on a single person's (father's) wage), the Church's social teaching should be more modest in its proposals and formulate them hypothetically, taking into account the contingent nature of politics and giving due consideration to the difference in the universality between affirmative and negative moral norms. FINNIS, John. A Radical Critique of Catholic Social Teaching. In: BRADLEY, Gerard V. BRUGGER, Christian E. *Catholic Social Teaching: A Volume of Scholarly Essays*. Cambridge: Cambridge University Press, 2019, pp. 548-584.

[66] Most of the debate about religious arguments is conducted as if from a neutral, indifferent standpoint, but Greenawalt notices that there are law professors and other intellectuals, who, 'display a hostility or skeptical indifference to religion that amounts to a thinly disguised contempt for belief in any reality beyond that discoverable by scientific inquiry and ordinary human experience.' GREENAWALT. Religious Convictions and Lawmaking…, p. 356.

[67] The meaning of the robust conception of subsidiarity will be clarified in the following discussion. Briefly, it is a conception which is not primarily based around the efficiency criterion, but on the ability of communities to pursue their objectives without being supplanted by a higher-level authority.

[68] CAHIL, Maria. Sovereignty, Liberalism and the Intelligibility of Attraction to Subsidiarity. *The American Journal of Jurisprudence*, 2016, Vol. 61, No. 1, pp. 123.

Disembedded authority	vs.	Embedded authority
Unitary		Incommensurable
Addressed to Individuals		Addressed to groups
Abstract Construction		Organic
Superordinate		Supplemental
Impervious to the good		Ordered to the good

Figure 1. Dichotomies of the disembedded and embedded conceptions of authority.

Contemporary liberal theory does represent a departure from these earlier sources, but especially in the influential Rawlsian iteration, represents also a fundamental continuity with them. Starting with the contrast between the unitary and incommensurable character of authority, both the break and the continuity manifests clearly. Political liberalism obviously does not propose a model of authority as monolithic as those proposed by early theorists of sovereignty. It is also its central premise that individuals are imbued with an essential capacity to pursue their conception of the good and in this they posses a kind of exclusive authority or self-authorship that the state is bound to respect. On the other hand, the relation between communities through which individuals pursue their flourishing, and the state, is left undescribed. In this sense, political liberalism ignores how authorities that govern non-political communities relate to the political authority and therefore operates on a unitary understanding of authority, such that is vested solely in the political leadership.

Other dichotomies can be assessed more easily. When specifying its principles of justice, political liberalism clearly operates on the relationship between mutually disinterested individuals and the state, and while the citizens can in due course discover they have natural ties, the society's laws are not meant to promote their welfare. There is a direct and unmediated connection between the individuals and the political authority, and principles of justice have to be constructed on this basis.[69] Political liberalism is also an abstract construction. The 'veil of ignorance' behind which self-interested individuals, stripped of their personality and particularities and endowed with general theoretical information, ensures that our idealization will help us arrive at the political conception of justice.[70] Political authority according to political liberalism is also clearly superordinate rather than supplemental, primarily because there is nothing to supplement if non-political communities and associations play virtually no role in constructing a conception of justice. Individuals may retain their comprehensive doctrines, but they are also required to consider the principles of justice as the ultimate guides of practical reasoning and internalize that there are no higher standards, so that reasoning is best guided by the political conception and can supplant comprehensive doctrines if need be.[71]

[69] CAHIL. *Sovereignty, Liberalism*…, pp. 126-127.

[70] Ibid., p. 127.

[71] Ibid., p. 128.

Lastly, political liberalism's insistence on splitting the justice from the good and orienting the political authority solely toward the former makes it impervious to the good. Political liberals stress that it is an essential capacity of the person to follow her conception of the good,[72] but this capacity should not manifest politically. A quasi-Hobbesian fear that if everyone is allowed to pursue their comprehensive doctrine politically, then society becomes a battleground, motivates political liberals to excise the questions about transcendent truth or moral good from politics, hoping that adopting necessary moral positions is possible 'without any moral, epistemological of philosophical expertise.'[73]

This all means that political authority is in several fundamental aspects detached from the broader society in which individuals are essentially tied to one another in ties of family, friendship, local or professional community, religious affiliation and so on, and thus seek to pursue their irreducibly social flourishing. Moreover, they subject themselves to various authorities among which the state is but one (though overarching). Liberal theory rarely takes this seriously or ascribes it much relevance and so remains inherently individualistic, bypassing the institutions of civic society.[74]

The major consequence for the debate about religious argument is obvious. If other (such as religious) authorities are irrelevant for, or even incompatible with, proper political interactions between individuals and the state, then arguments from authority are impermissible. Citizens can address each other only as individual citizens, not members of families, chess clubs, volunteer firemen, and believers, even though these memberships and particular authorities are essential for their capacity to form and follow their conceptions of the good life. So the solution that political liberalism offers to the problem of peaceful coexistence in pluralistic societies comes at a high cost as it detaches what is organically connected in any individual's life – the political with the non-political. That is why, Cahil suggests, the idea of subsidiarity is so inadvertently attractive – it provides a counterweight to liberal individualism.[75] It stipulates that relationships and communities of different purposes are essential to human flourishing, and that these communities create structures of authority to coordinate themselves. These are horizontally and vertically differentiated, different both in terms of the level at which they operate and the specific purpose for which they exist. The need for political authority arises 'organically' from the need to coordinate and establish an overarching authority that could resolve disputes and so enable those various communities (and hence their members) to flourish. It 'supplements' in the sense that it should assist these communities, and in the sense that it cannot replace them insofar as they are capable of fulfilling their purpose, even when absorbing them would be more effective.[76] It is fundamentally 'ordered to the good' because it addresses the needs that stem from efforts to pursue the good, is 'addressed to the groups' that channel these efforts, and

[72] QUONG. Liberalism without Perfection…, p. 100.

[73] CAHIL. Sovereignty, Liberalism…, p. 129.

[74] Ibid., p. 115.

[75] Ibid., p. 129.

[76] FINNIS. Natural Law and Natural Rights…, p. 169.

is 'incommensurable' because it recognizes that it cannot sweep up all the horizontally and vertically differentiated authorities under the same unitary structure.[77]

The 'embedded' understanding of authority challenges the natural law tradition and political liberalism in different ways. The former already models its understanding of authority in this way while still being capable of formulating a position against arguments from religious authority. The challenge is therefore an internal one – the question is whether the implications of an embedded nature of political authority and its affirmation of the essential importance of non-political authorities for human flourishing should not in fact lead to a kind of Wollterstorfian consociational democracy. In that case, one could proceed on the grounds of religious or other non-political authority precisely because it is reasonable to affirm that religious community is a constitutive aspect of one's flourishing.

The challenge for the liberal theory is of external character and thus creates a much more complex set of problems. The robust account of subsidiarity, such that would not become reducible to a principle of efficiency or decentralization, is not a 'trinket' that can be simply added to liberal individualism.[78] It may be the case that fruitful engagement with this fundamentally rival conception would only be possible if liberalism faced a fundamental crisis. Perhaps such crisis is already on our hands, indicated by deep theoretical division around the attempt to justify liberal democracy at least to the liberals, but also by practical problems in liberal societies, such as fragmentation, polarization, decline and corresponding overregulation of non-political associations, and disintegration of families.[79] Perhaps these phenomena can create the perfect storm to reflect on the fundamental commitments of contemporary liberalism.

6. Conclusion

My goal in this article was threefold. First, I argued from the principles of the exclusivist position to show that even when one concludes that religious arguments are impermissible in political deliberation, they need to be specified in terms of arguments from authority if we want to maintain appropriate openness of the public debate. Second, I argued that rejecting fundamental premises of exclusivists, such as political liberals, does not necessarily lead to the negation of their conclusion. The natural law tradition can reject these premises and at the same time endorse the conclusion since it should argue that not only is law an ordinance *of* reason, but also an ordinance *for* reason. Justifications from mere authority therefore fail to provide a fundamental purpose of law. Third, I argued that both these conclusions possibly rest on a shared, but controversial premise – that non-political authorities are normatively irrelevant for political deliberation. These arguments should lead us to 1) embrace an interpretation of the church-state separation that does not constitutionally exclude many of ordinarily used religious arguments; 2) challenge the individualistic foundations of our political thinking despite the fact that the debate about communitarianism has its best years behind it.

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[77] CAHIL. Sovereignty, Liberalism…, p. 119.

[78] Ibid., p. 131.

[79] Ibid., p. 130.