

CHRISTIANS AND /AS LIBERALS?

*Steven D. Smith**

INTRODUCTION.....	1497
I. WHAT IS LIBERALISM?.....	1500
A. <i>The Liberal Project</i>	1500
B. <i>The Vulnerability of Liberalism?</i>	1504
II. LIBERALISM AND CHRISTIANITY.....	1508
A. <i>Harmonies</i>	1508
B. <i>Divergences</i>	1510
C. <i>Conflicts</i>	1514
III. LIBERALISM OR . . . WHAT?.....	1518
CONCLUSION.....	1522

INTRODUCTION

Christianity and liberalism were made to fit each other, like hand and glove. According to some interpretations, anyway. Liberal constitutionalism, with its commitments to freedom and equal human dignity, is the political system that reflects and embodies Christian commitments;¹ and the constitutional legal order that accompanies liberalism,² centrally including legally enforced rights of religious freedom,

© 2023 Steven D. Smith. Individuals and nonprofit institutions may reproduce and distribute copies of this Article in any format at or below cost, for educational purposes, so long as each copy identifies the author, provides a citation to the *Notre Dame Law Review*, and includes this provision in the copyright notice.

* Warren Distinguished Professor of Law, University of San Diego. Thanks to Larry Alexander, Nathan Chapman, Maimon Schwarzschild, Horacio Spector, George Wright, and the participants in the “half-baked lunch” workshop at the University of San Diego for helpful comments on earlier drafts.

1 See GRAEME SMITH, *A SHORT HISTORY OF SECULARISM* 15 (2008) (asserting that “[i]deas of individual human worth and dignity, shared public reason, the progress of human society through history, and the ability of humanity to investigate its world, can all be traced to Christian theological sources.”). For careful development of this proposition, see generally LARRY SIEDENTOP, *INVENTING THE INDIVIDUAL: THE ORIGINS OF WESTERN LIBERALISM* (2014).

2 Cf. FRANCIS FUKUYAMA, *LIBERALISM AND ITS DISCONTENTS* 3 (2022) (“Liberalism in the sense I am using it refers to the rule of law, a system of formal rules . . .”).

is the mode of government that best permits Christians to live in accordance with their faith in a fallen and deviant world. Thus, a couple of decades ago, Robert Kraynak reported that “[a]lmost all churches and theologians now believe that the form of government most compatible with the Christian religion is democracy,”³ and Kraynak used the terms “democracy” and “liberal democracy” almost interchangeably.⁴

Kraynak explained, however, that this is a modern view, contrary to the overall authority of Christian Scripture, thought, and practice through the centuries.⁵ And in other interpretations, congenial to some who are Christians and some who emphatically are not, liberalism and Christianity are intrinsically incompatible, even antagonistic. From the non-Christian side, a tradition going back at least to Voltaire and Hume (and to figures in the ancient world like the emperor Julian “the Apostate”) portrays Christianity as the embodiment of illiberal qualities—intellectual narrowmindedness, superstition, intolerance, moral repressiveness.⁶ From the Christian side, liberalism, with its perceived inclinations to secularism, moral relativism, and rampant individualism unconstrained by truth or natural law, may seem the antithesis of Christianity’s sober beliefs and commitments.⁷

So, which family of interpretations is more credible and commendable? Answers to that question must necessarily be tentative, for at least two reasons that should be noted at the outset. First, “liberalism” and “Christianity” are both contested and protean terms: both come in a variety of forms,⁸ and both have evolved, or degenerated, or evolved *and* degenerated, over time. Second, if St. Augustine was right, then we know *a priori* that the City of Man and the City of God will

3 ROBERT P. KRAYNAK, *CHRISTIAN FAITH AND MODERN DEMOCRACY: GOD AND POLITICS IN THE FALLEN WORLD 1* (2001).

4 *Id.* at 9–44.

5 The common Christian assumption today, Kraynak argued,

is that Christianity introduced a revolutionary idea into world history—the equal dignity and infinite worth of every human being in the eyes of God—and that the full social and political implications of this idea were hidden by prejudice and intolerance for many centuries until they emerged in the modern age as the democratic idea of equality and the liberal idea of respect for individual human rights.

Id. at 6. Kraynak’s book strongly criticizes this assumption.

6 See STEVEN D. SMITH, *PAGANS AND CHRISTIANS IN THE CITY: CULTURE WARS FROM THE TIBER TO THE POTOMAC 205–10* (2018).

7 Various forms of what the authors call religious (mostly Christian) “antiliberalism” are discussed and criticized in Richard Schragger & Micah Schwartzman, *Religious Antiliberalism and the First Amendment*, 104 MINN. L. REV. 1341, 1343 (2020).

8 See James R. Rogers, *Counting Liberalisms*, LAW & LIBERTY (Aug. 17, 2022), <https://lawliberty.org/counting-liberalisms/> [<https://perma.cc/4D4K-4X5S>] (arguing that depending on how one defines the elements of liberalism, there can be as many as fifty-seven different plausible versions of liberalism).

never be in complete harmony; at least latent tensions and conflicts will always exist.⁹ Consequently, it will not be dispositive for critics to point out discrepancies between a prevailing political order and Christian commitments. *Of course* such discrepancies exist; that much can be taken for granted. Indeed, the presentation of any this-worldly political arrangement as unqualifiedly in harmony with Christianity should for that very reason arouse suspicions.

From what I am calling the Augustinian perspective, the aspiration would be for some kind of practical peace¹⁰—probably a *modus vivendi* at best—and even that ideal will never be fully and securely realized. Every political arrangement will be flawed and unsatisfactory, and the practical question will always be one of more or less: is some particular form of government and society more or less compatible with the Christian life compared with the available alternatives?¹¹ And it would hardly be surprising if the answers to that question vary, not just from person to person but from time to time and place to place. One kind of political regime may be compatible with Christianity in some ways but incompatible in others. And a relatively Christian-friendly regime that is possible in some historical circumstances may not be a realistic option under other historical conditions.

In this Article, I will pursue these elusive questions in three stages. Part I will offer an interpretation of what “liberalism” is, at least for purposes of this Article. Part II will consider broadly the various ways in which liberalism so understood is in harmony or, conversely, in conflict with the received core of Christianity. Part III will address the question: If not liberalism, then what? Reflecting on various alternatives, the section will suggest, cautiously, tentatively, that all things considered and despite its shortcomings, liberalism may be, for now, for us, in *our* historical circumstances, the alternative that prudent Christians should prefer. The conclusion, however, will indulge in some

9 Of course, Augustine wrote voluminously, and his writings have elicited numerous interpretations. My basic reference here is to Augustine’s idea that the City of God and the City of Man are defined and driven by two different loves, and that they are thus fundamentally in tension even though peace between them is sometimes possible. See AUGUSTINE, *THE CITY OF GOD AGAINST THE PAGANS* bk. XIX, ch. 17, at 193–99 (William McAllen Green trans., Harvard Univ. Press 1960) (426). For a summary of this understanding, see KRAYNAK, *supra* note 3, at 90–94.

10 Cf. KRAYNAK, *supra* note 3, at 91 (explaining that “Augustine lowers the goal of the earthly city from charity and justice to the ‘tranquility of order’ . . . Augustine usually refers to the tranquility of order as a type of ‘peace’ rather than as a type of ‘justice’ in order to lower expectations about politics”).

11 That “more or less” question will of course also be the relevant one for many others who are not Christians but whose (unrealizable) ideal is something like “wise and just government.”

second thoughts about that prescription. (And I hope this preview conveys the ambivalence that is intended.)

I. WHAT IS LIBERALISM?

Taken generically and not as designating a particular set of policies traditionally favored by the Democratic Party, the term “liberalism” comes associated with a set of familiar commitments—to rights (especially including rights to freedom of religion and speech), equality, rule of law, and probably some kind of separation of church and state. These are standard features, but different liberal regimes interpret and prioritize and implement them differently. And on a philosophical level, the positions of three leading liberal Johns—Locke, Mill, and Rawls—differ significantly among themselves.

Amidst this diversity, we might nonetheless seek some common core, or logic, or spirit of liberalism, by briefly considering how and why the liberal project arose and how the associated ideas or commitments have evolved out of those origins.

A. *The Liberal Project*

As Rawls and others have suggested,¹² it is helpful to understand liberalism as a project arising in response to the breakup of Christendom and the ensuing “wars of religion.” For a thousand years, Western European peoples had lived under the ideal of a Christianity presided over (at least in theory) by the Roman Catholic Church; but with the Protestant Reformation that sacred canopy was rent asunder and men and women had to devise new ways of living together. This was no simple task: it was not easy to imagine what the alternative to Christendom should be, much less to achieve it. For a century and more, therefore, hostile factions attempted forcibly to reestablish Christendom and then (with the Peace of Westphalia) mini-Christendoms under a Catholic or Protestant banner.¹³ The failure of those bloody campaigns eventually led to the development of a different and on its face gentler strategy for dealing with the now apparently ineradicable pluralism. Namely, liberalism.

12 FUKUYAMA, *supra* note 2, at 5–6; see JOHN RAWLS, POLITICAL LIBERALISM, at xviii (expanded ed. 2005).

13 This is a standard interpretation of the period, but it can be challenged. See DAVID BENTLEY HART, ATHEIST DELUSIONS: THE CHRISTIAN REVOLUTION AND ITS FASHIONABLE ENEMIES 88–98 (2009). For present purposes, the fact that liberal thinkers have typically understood the project in this way is as important as the accuracy of the historical interpretation.

The primary aim of liberalism was thus to achieve peace amid religious and cultural diversity.¹⁴ But not just any kind of peace. Not surprisingly, the peace envisioned by liberalism was shaped by Christian assumptions inherited from the previous centuries.

Thus, a central liberal assumption—the central assumption, arguably—was the value and dignity of the individual person. Larry Siedentop observes that “the fundamental feature of modernity is an individualized model of society—a model in which the individual rather than the family, clan or caste is the basic social unit.”¹⁵ So you are not just a subordinate part of some larger entity—a family, a class, a caste, a nation. Rather, you are *you*, yourself. Your own person, with your own identity, valuable in and of and for yourself.

This emphasis on the independence and dignity of the individual person was not a feature of—it was scarcely imaginable in—the ancient world, in which persons were perceived more as subordinate cells in the body of the family or the city.¹⁶ But Christianity taught (following Jewish scripture) that every person is created *imago Dei*—in the image of God. And that people are saved into eternal life, our ultimate good or destination, *as individuals* and only through a free and sincere personal acceptance of the Gospel. To be sure, the implementation of these ideas during the centuries of Christendom had been, to put the point charitably, uneven—as, arguably, every regime’s implementation of its defining ideals and aspirations is always uneven. (We will notice the point again.) But now, with the irresolvable conflict between Catholicism and Protestantism, or *Protestantisms*, the Christian tradition suggested a solution that initially seemed radical (and thus, to the Church, suspect¹⁷) but that came to seem obvious: let every individual person choose for himself or herself what religion he or she would follow, and then respect that individual’s choice. This individualistic solution came to be advocated by innumerable proponents of freedom of conscience¹⁸—of the *individual* conscience.¹⁹ And the commitment

14 Cf. FUKUYAMA, *supra* note 2, at 5 (asserting that “liberalism is a way of regulating violence and allowing diverse populations to live peacefully with one another”).

15 SIEDENTOP, *supra* note 1, at 337.

16 See *id.* at 7–32.

17 See *id.* at 333 (“[L]iberalism as a coherent doctrine was not born willingly. It was certainly never a project of the church.”).

18 See generally ANDREW R. MURPHY, *CONSCIENCE AND COMMUNITY: REVISITING TOLERATION AND RELIGIOUS DISSENT IN EARLY MODERN ENGLAND AND AMERICA* (2001).

19 The individualistic conception of conscience seminally and stridently asserted by Martin Luther (“Here I stand!”) was a departure from more communal conceptions inherited from the Middle Ages and typified by another early modern champion of and martyr for conscience, Thomas More. See STEVEN D. SMITH, *THE DISINTEGRATING CONSCIENCE AND THE DECLINE OF MODERNITY* (forthcoming 2023) (manuscript at 62) (on file with author).

to respecting individual freedom in matters of religion and conscience expanded into other domains—first speech and then conduct more generally.

Respect for—sometimes perhaps an obsession with—individual autonomy thus came to be the central defining feature of liberal modernity.²⁰ Social peace would be achieved by granting individuals the right to believe and speak and live as they wished, so long as they did not harm others—a “very simple principle,” according to Mill, that has turned out to be far more convoluted and often question-begging than he anticipated.²¹ And the commitment to the individual as the locus of value directly informs other standard features of liberalism—freedom (for *individuals*), rights (primarily *individual* rights, or rights to be one’s authentic self in expression and conduct and sexuality), and equality (of *individuals*). Barack Obama expressed the ideal: “As a nation, we’re founded on the belief that all of us are equal and each of us deserves the freedom to pursue our own version of happiness; to make the most of our talents; to speak our minds; to *not fit in; most of all, to be true to ourselves.*”²²

Which leads to a second defining feature of the liberal project. The decision to leave the choice of religion and other important matters to individuals in turn implied that the government itself would *not* make such choices. Or at least that was a plausible implication that was drawn relatively early on in America, at least with respect to institutional religion.²³ Government’s function was not to promote the true religion (or, by later extension, the good life), but rather to facilitate the pursuit of truth and good *by* individuals and *as conceived by* individuals. And this reconception entailed a new kind of governmental detachment: government would refrain from answering the basic normative questions or from acting on the ultimate normative criteria that

20 Cf. Ekow N. Yankah, *The Sovereign and the Republic: A Republican View of Political Obligation*, in POLITICAL LEGITIMACY 102, 103 (Jack Knight & Melissa Schwartzberg eds., 2019) (observing that “[f]rom the point of view of liberalism, human beings are defined first and foremost by their autonomy or freedom-preserving nature”); see also HORACIO SPECTOR, AUTONOMY AND RIGHTS: THE MORAL FOUNDATIONS OF LIBERALISM 90–100, 179–81 (1992).

21 For discussion of the complications, see STEVEN D. SMITH, THE DISENCHANTMENT OF SECULAR DISCOURSE 70–106 (2010) (discussing the complications).

22 SIMON FELDMAN, AGAINST AUTHENTICITY: WHY YOU SHOULDN’T BE YOURSELF 182 (2015) (second emphasis added) (quoting The Obama White House, *President Obama: It Gets Better*, YOUTUBE (Oct. 21, 2010), <https://youtu.be/geyAFbSDPVk> [<https://perma.cc/RP5M-TDQD>]).

23 *But cf.* PETER L. BERGER, THE MANY ALTARS OF MODERNITY: TOWARD A PARADIGM FOR RELIGION IN A PLURALIST AGE 90 (2014) (asserting that “Britain is a very interesting example of the separation of church and state, where this separation is a social reality that is still denied in the official definition of the state”).

individuals would judge for themselves. This detachment is often described as a kind of “neutrality,” which is typically taken as a characteristic or defining feature of liberalism.

So government is supposed to be “neutral” in matters of religion.²⁴ And religious neutrality has naturally been expanded to entail something like neutrality about ultimate truths, or “the good,” or the good life.²⁵

To be sure, such claims of neutrality can become wildly overambitious and unrealistic.²⁶ Governments will inevitably make decisions, and will make them on the basis of judgments about what is true and good.²⁷ And the ostensible obligation of neutrality has been the source of considerable confusion—and (perhaps sometimes useful) obfuscation, and manipulation.²⁸ Even so, a more modest aspiration to some level of governmental detachment regarding religion and other normative questions does seem to be at the core of the liberal strategy for achieving peace amidst pluralism. It is an unavoidable implication of a commitment to leaving essential normative matters to individual choice.

Which immediately leads to a third feature: the detachment expected of government already entails a divide between what is “public” and what is “private.” Questions that arise in the public or governmental sphere are to be answered collectively on the basis of the limited set of criteria that a detached government is permitted to consider (or what Rawls calls “public reason”²⁹); conversely, questions in the private domain will be answered by individuals for themselves based on whatever they consider to be true, good, and relevant.³⁰ The “public-private distinction” is thus at the center of the liberal strategy for respecting

24 See ANDREW KOPPELMAN, DEFENDING AMERICAN RELIGIOUS NEUTRALITY 15–45 (2013).

25 See, e.g., RONALD DWORKIN, A MATTER OF PRINCIPLE 191 (1985).

26 See, e.g., BRUCE A. ACKERMAN, SOCIAL JUSTICE IN THE LIBERAL STATE 10–17 (1980).

27 Cf. Francis Canavan, *The Pluralist Game*, 44 LAW & CONTEMP. PROBS. 23, 29 (1981) (“With the advent of the welfare state, the problem of governmental neutrality clearly becomes more acute. A state that acts vigorously on a number of fronts to promote people’s welfare must have some idea of what their welfare is. That necessarily implies some conception of what is good for human beings and what is bad for them. Having such a conception, the state cannot pretend to be neutral about it.”).

28 See, e.g., *id.* at 63–80. See also Steven D. Smith, *The Paralyzing Paradox of Religious Neutrality* 12 (Univ. of San Diego Sch. of L., Rsch. Paper No. 11-060, 2011), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1911399 [<https://perma.cc/SL9T-CLBU>].

29 See RAWLS, *supra* note 12, at 139.

30 Cf. FUKUYAMA, *supra* note 2, at 105 (“If we understand liberalism to be a means of governing over diversity, we assume that there will be no consensus over substantive views of the good life. This does not mean that individuals need to abandon their moral commitments, but only that these commitments need to be observed in private life and not imposed on other people.”).

individual autonomy and achieving peace amidst diversity; and this commitment serves to distinguish “liberal” regimes from more “totalitarian” systems in which the whole or totality of life is thought to be subject to political principles and public authority.

These three related features—respect for individual autonomy, a measure of governmental detachment (often described as “neutrality”) with respect to some basic religious and normative questions, and the division of life into public and private domains—seem central to any position or project deserving of the label “liberal.” As noted, different liberal visions and legal regimes interpret and implement these central commitments in different ways. But a position or regime that declines to embrace these features is not usefully described as “liberal”; it is something else.

If we define liberalism by these three features, we should also notice what is *not* definitive of or identical with liberalism—namely, modernity. Separating liberalism from modernity is not easy, because the two are closely associated: they developed together and in response to similar challenges and influences. Individualism may be said to be at the core of both liberalism and modernity.³¹ Nonetheless, liberalism as understood here is a strategy or project of *governance* under conditions of pluralism. It does not need to embrace all of the features or normative commitments that may be said to be constitutive of modernity—its commitment to progress, for example, or to technology, or to what Charles Taylor calls “exclusive humanism.”³² The distinction will turn out to be important in considering the Christian attitude toward liberalism.

For similar reasons, the somewhat minimalist conception of liberalism offered here takes no position on whether there is any necessary inconsistency between “liberalism” and “civic republicanism”—an opposition assumed in a good deal of scholarly literature. Nor does it assume an opposition between “liberalism” and “conservatism.” “Conservatism” itself is devilishly difficult to define, but there is no obvious reason why the liberal project as defined here could not be carried on with genuine respect for “conservative” values like tradition and family.

B. *The Vulnerability of Liberalism?*

As a response to the warfare potentially and sometimes actually associated with pluralism, the liberal strategy is attractive; it is also worrisome. Among other concerns, the liberal project presents obvious questions of sustainability. Critics perceive liberalism as an internally

31 See SIEDENTOP, *supra* note 1, at 2–3.

32 CHARLES TAYLOR, A SECULAR AGE 19–20 (2007).

incoherent or self-subverting system that depends on deception and self-deception, and that over time is destined to deteriorate or implode.

We might briefly notice several possible vulnerabilities. On the theoretical or ideal level, one might wonder whether liberalism's commitment to neutrality—or to public or governmental detachment from some basic questions of truth³³—might render liberalism unable to defend or justify itself. On what basis is liberalism to be justified if an array of potentially foundational truths is supposed to be excluded from the public domain?³⁴

Indeed, it might be that liberalism not only renders itself defenseless; it might systematically undermine its own supporting rationales. As already noted, for example, as a historical matter commitment to religious freedom is at the core of liberalism. Religious freedom might be said to be the initial and constitutive commitment that got the liberal project going. I have argued elsewhere, however, that the historical commitment to religious freedom was typically justified by religious rationales, as reflected in Thomas Jefferson's Virginia Act for Religious Freedom and in James Madison's renowned "Memorial and Remonstrance."³⁵ But the neutrality also associated with liberalism may lead to the exclusion of such justifications as bases for law or constitutional commitments; in this way, liberalism may cut the ground out from under itself, or at least from under one of its most essential features.³⁶

33 See, e.g., Michael Pakaluk, *Rawls and the Rejection of Truth*, LAW & LIBERTY (Apr. 23, 2021), <https://lawliberty.org/forum/rawls-and-the-rejection-of-truth/> [<https://perma.cc/F3KW-8EHP>] ("Rawls' political philosophy makes no appeal to truth: 'in public reason, ideas of truth [or right] based on comprehensive doctrines are replaced by the idea of the politically reasonable.' 'The search for reasonable grounds of agreement rooted in our conception of ourselves [and in our relation to society] replaces the search for moral truth interpreted as fixed by a prior and independent order of objects and relations, whether natural or divine.' Rawls says such things repeatedly, but it seems hardly anyone grasps the point. What is Rawls' legacy? What is the condition of a society which, following his lead, rejects truth as a criterion?" (first quoting RAWLS, *supra* note 12, at 418; and then quoting John Rawls, *Kantian Constructivism in Moral Theory*, 77 J. PHIL. 515, 519 (1980))); see also Jody S. Kraus, *Political Liberalism and Truth*, 5 LEGAL THEORY 45, 55 (1999) ("Political liberalism's preferred strategy is to substitute the idea of reasonableness for truth.").

34 In this vein, Robert Frost famously defined a liberal as "a man too broadminded to take his own side in a quarrel." GUY DAVENPORT, *THE GEOGRAPHY OF THE IMAGINATION: FORTY ESSAYS BY GUY DAVENPORT* 207–08 (1981).

35 Steven D. Smith, *Equality, Religion, and Nihilism*, in RESEARCH HANDBOOK ON LAW AND RELIGION 37, 40 & n.18, 41 & n.19 (Rex Ahdar ed., 2018).

36 See, e.g., Steven D. Smith, *The Rise and Fall of Religious Freedom in Constitutional Discourse*, 140 U. PA. L. REV. 149, 149 (1991).

And it is possible that this self-cancelling tendency might apply beyond the specific concern with religious freedom.³⁷

In a related vein are concerns that liberalism, with its neutrality or agnosticism toward ultimate truth, entails a kind of spiritual impoverishment. Liberalism over time will be too empty and thin, in contrast to more vigorous and strident political philosophies or visions, to command the necessary allegiance and sacrifice from its subjects.³⁸ Or so one might fear.

On a more practical level, the liberal commitment to, or possibly obsession with, individual autonomy might threaten to undermine the institutional or cultural bases on which a liberal (or any other) society depends.³⁹ In principle, liberalism avoids this problem by allowing associations—families, churches, communities, institutions of various kinds—to flourish in the private domain. Tocqueville argued that this penchant for private associations was crucial to the maintenance of a healthy liberal democracy.⁴⁰ But this arrangement depends upon resistance to what Nancy Rosenblum calls the logic of “congruence”⁴¹—the logic that holds that if particular values or commitments (to an anti-hierarchical equality, for example, or unconstrained individual authenticity) are good in the public domain, then they ought to be honored by—and enforced upon?—private associations as well. And that logic has proven to be formidable.⁴² Liberalism’s public values are by design egalitarian, thin, and ostensibly “neutral” toward important questions or truths; these second-order values are calculated to be useful in preserving the governmental detachment that is essential to the

37 Cf. KRAYNAK, *supra* note 3, at 26 (arguing that “the dominant schools of liberalism have followed a flawed strategy of trying to vindicate human dignity by denying the objective existence of a greatest good, thereby allowing each person or nation to determine its own identity. But this strategy is self-defeating . . . because it slides inevitably from liberalism to moral relativism and undermines all possible grounds for justice and respect.”).

38 Francis Fukuyama comments on the concern that “liberal societies” create a “spiritual vacuum: they allow individuals to go their own way, and create only a thin sense of community.” FUKUYAMA, *supra* note 2, at 116; cf. ROBERT N. BELLAH, *BEYOND BELIEF: ESSAYS ON RELIGION IN A POST-TRADITIONALIST WORLD* 193 (1970) (“Liberalism could be rejected because of its obvious superficiality.”).

39 Cf. FUKUYAMA, *supra* note 2, at 62 (observing that “belief in the sovereignty of the individual deepens liberalism’s tendency to weaken other forms of communal engagement”).

40 ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA AND TWO ESSAYS ON AMERICA* 219–24, 595–600 (Gerald E. Bevan trans., Penguin Books 2003) (1835).

41 See NANCY L. ROSENBLUM, *MEMBERSHIP AND MORALS: THE PERSONAL USES OF PLURALISM IN AMERICA* 4 (1998) (describing “the demand that secondary associations be congruent with public norms and institutions ‘all the way down’”).

42 The Supreme Court, for example, seems highly susceptible to it. See, e.g., *Christian Legal Soc’y Chapter of the Univ. of Cal., Hastings Coll. of the Law v. Martinez*, 561 U.S. 661, 669 (2010); *Roberts v. U.S. Jaycees*, 468 U.S. 609, 612 (1984).

liberal project. But if those same values are imported into the private sphere as well, thereby becoming first-order values, could they have an acidic quality that will undermine the integrity and authority of necessary associations?

More generally, as noted, liberalism depends on a compartmentalization of life into public and private spheres. But this division poses the risk of fragmenting people into public and private selves and thereby denaturing them. If you are supposed to talk and think differently when you step into the public domain than you do in the private sphere, it seems as if you are two different persons. Which, if either, of these selves is really . . . you? Can a person—a real person—actually survive being cut in half in this way?⁴³ One of these selves—at least one of them—appears to be engaged in a kind of role-playing. And if people try to avoid the fragmentation by identifying with the public self and its values, thus allowing the tolerant and thinly “neutral” public self to dominate the private one, the same question of emptiness or spiritual impoverishment looms.

These vulnerabilities and their consequences have been much noticed of late. On a theoretical level, liberalism has come in for severe criticism.⁴⁴ And a host of concerned observers, including a trio of eminent scholarly Roberts (Nisbet, Bellah, and Putnam)⁴⁵ have decried the weakening of community in modern liberal society. These concerns may inform a general discontent with or move away from liberalism, of which Christian criticisms are only one strand. Thus, it is often said quite matter-of-factly that today we live in a “post-liberal” world.⁴⁶

43 The question is considered at some length in SMITH, *supra* note 19, at 210–71.

44 See, e.g., PATRICK J. DENEEN, *WHY LIBERALISM FAILED* (2018); RYSZARD LEGUTKO, *THE DEMON IN DEMOCRACY: TOTALITARIAN TEMPTATIONS IN FREE SOCIETIES* (Teresa Adelson trans., 2016). For an earlier, much discussed criticism, see MICHAEL J. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (2d ed. 1998). For a brief survey of the most common criticisms, see FUKUYAMA, *supra* note 2, at 65–83. Richard Schragger and Micah Schwartzman comment that “[t]he global critique of liberalism is gaining traction as liberal democratic regimes around the world are under threat from populist and reactionary forces, including in the United States.” Schragger & Schwartzman, *supra* note 7, at 1347.

45 See generally ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000); ROBERT N. BELLAH, RICHARD MADSEN, WILLIAM M. SULLIVAN, ANN SWIDLER & STEVEN M. TIPTON, *HABITS OF THE HEART: INDIVIDUALISM AND COMMITMENT IN AMERICAN LIFE* (updated ed. 1996); ROBERT NISBET, *TWILIGHT OF AUTHORITY* (1975); ROBERT A. NISBET, *THE QUEST FOR COMMUNITY: A STUDY IN THE ETHICS OF ORDER AND FREEDOM* (1953).

46 See, e.g., M.T. Steiner, *Post-Liberal Politics—Left, Right, and Center*, QUILLETTE (July 2, 2019), <https://quillette.com/2019/07/02/post-liberal-politics-left-right-and-center/> [perma.cc/23KM-R4D6]; JOEL HARRISON, *POST-LIBERAL RELIGIOUS LIBERTY: FORMING COMMUNITIES OF CHARITY 4–10* (2020) (“Liberalism is . . . both decadent and increasingly exhausted.”).

We need not attempt to draw any definite conclusions on these questions here. Once again, the conclusions one draws will surely depend in part on the version of liberalism one has in mind. In any case, the perceived vulnerabilities of liberalism will bear on our discussion as it proceeds.

II. LIBERALISM AND CHRISTIANITY

For purposes of this Article, then, liberalism is a project for achieving peace amidst religious and cultural diversity, on the basis of a strategy emphasizing respect for individuals and individual autonomy, governmental detachment from religion and other important normative questions, and a separation of public and private spheres. Standard liberal features like rights to freedom of religion and expression are corollaries of these essential liberal commitments. So, then, how should Christians regard this liberal project—this liberal strategy for addressing the challenge of modern pluralism?

As already suggested, the answer to that question will surely vary, depending among other things on the particular species of Christianity and on the particulars of how the liberal project is implemented. In broad-brush terms, however, we can notice different dimensions of the relationship, which we can describe as “harmonies,” “divergences,” and “conflicts.”

A. *Harmonies*

On one level, Christianity and liberalism seem utterly amiable; indeed, liberalism is basically the product of Christian commitments under conditions of modern pluralism. As a historical matter, every one of the central features of liberalism seems derived from Christianity⁴⁷: the underlying and guiding aspiration to civil peace, the emphasis on individual freedom and the dignity of the individual, the detachment of the government from religious questions, and the consequent separation of the public and private spheres.

Thus, we have already noticed the longstanding Christian emphasis on individual dignity and freedom. In an essay carefully assessing the ancient sources and influences, historian Kyle Harper shows that “[n]one of the classical political regimes, nor any of the classical philosophical schools, regarded human beings as universally free and incomparably worthy creatures. Classical civilization, in short, lacked the

⁴⁷ See SMITH, *supra* note 1, at 15. And for an erudite and voluminous historical argument for the point, see TOM HOLLAND, *DOMINION: HOW THE CHRISTIAN REVOLUTION REMADE THE WORLD* (2019).

concept of human dignity.”⁴⁸ This concept was introduced by the biblical idea of the *imago dei*. In this way, “Christianization created the grounds for the development of human rights.”⁴⁹ More specifically, scholars have explained how modern commitments to religious freedom are the outgrowth of Christian commitments and rationales.⁵⁰

Similarly, the idea that governments should be detached from matters of religion and religious truth would have seemed perverse in classical antiquity. The Roman assumption had been just the opposite. Cicero had explained:

Among the many institutions . . . created and established by our forebears under the inspiration of the gods, nothing is more famous than their decision to commit to the same men both the worship of the gods and the care of state interests; the result was that the most illustrious citizens might assure the upholding of religion by the proper administration of the state and the upholding of the state through the careful interpretation of religion.⁵¹

A similar position prevailed in Islam.⁵² And modern illiberal thinkers—Thomas Hobbes, for example—have sometimes taken a similar position.⁵³

The contrary view—namely, that church should be separate from secular government, which should accordingly maintain a detachment from religious matters—traces back to the Christian idea of separate spiritual and secular sovereignties. There is a realm that is Caesar’s and a realm that is God’s.⁵⁴ Every person should render unto each sovereign what is his due, and Caesar should avoid intruding into God’s domain.⁵⁵

48 Kyle Harper, *Christianity and the Roots of Human Dignity in Late Antiquity*, in 1 CHRISTIANITY AND FREEDOM: HISTORICAL PERSPECTIVES 123, 127 (Timothy Samuel Shah & Allen D. Hertzke eds., 2016) (footnote omitted).

49 *Id.* at 130.

50 See, e.g., Steven D. Smith, *Christianity and the Law of Religious Freedom*, in OXFORD HANDBOOK ON CHRISTIANITY AND LAW (John Witte, Jr. & Rafael Domingo eds., forthcoming 2023); ROBERT LOUIS WILKEN, LIBERTY IN THE THINGS OF GOD: THE CHRISTIAN ORIGINS OF RELIGIOUS FREEDOM (2019).

51 J.A. NORTH, ROMAN RELIGION 22 (2000) (quoting CICERO, DE DOMO SUA 1).

52 Bernard Lewis explains that “[c]lassical Islam recognized a distinction between things of this world and things of the next, between pious and worldly considerations.” BERNARD LEWIS, THE CRISIS OF ISLAM: HOLY WAR AND UNHOLY TERROR 20 (2003). But “[t]he dichotomy of *regnum* and *sacerdotium*, so crucial in the history of Western Christendom, had no equivalent in Islam.” *Id.* at 6.

53 See generally THOMAS HOBBS, LEVIATHAN (Richard Tuck ed., Cambridge Univ. Press rev. student ed. 1996) (1651).

54 *Luke* 20:21–26.

55 For development of the point, see STEVEN D. SMITH, THE RISE AND DECLINE OF AMERICAN RELIGIOUS FREEDOM 20–22, 31–36 (2014).

As a practical matter, more generally, the defining liberal commitment to freedom, or to maintaining peace by allowing every individual to live in accordance with his or her own view of religious truth and the good life, would seem to be nicely compatible with Christian values and aspirations. At first look anyway. What more could a devout Christian properly want, politically, beyond a government that maintains civil peace and order while allowing people (including Christians) to live as they believe they should, and to try to persuade (not compel) other people to understand the truth and value of their convictions and way of life?

B. Divergences

This harmony is real enough as far as it goes, but it is only one aspect of the complicated relationship between Christianity and liberalism. Although central liberal commitments may descend from Christian assumptions, once removed from their Christian matrix they will tend to evolve or degenerate into forms not entirely consistent with Christian conceptions.

Start with individualism. It is true that Christianity from the outset taught the dignity of every individual person, and the importance of sincere individual choice in matters of faith. However, Christianity also emphasized the relational aspect of the person.⁵⁶ So you are you, yes, with your own intrinsic worth and dignity; but you are who you are in relation to others—to your parents and spouse and children, to God, to the body of Christ that is the Church.⁵⁷ Christ and the Church are the vine, and branches that are separated from the vine will wither.⁵⁸ Conversely, removed from this Christian context and conception, the commitment to the individual can find these relations and dependencies constraining. Liberal individualism may tend to become more unqualified, more absolute, more atomistic (as modern critics of liberalism, whether Christian or not, often complain).

56 For elaborations of the relational conception of personhood, see, for example, STANLEY J. GRENZ, *THE SOCIAL GOD AND THE RELATIONAL SELF: A TRINITARIAN THEOLOGY OF THE IMAGO DEI* (2001); KAROL WOJTYLA, *Personalism: Subjectivity and the Irreducible in the Human Being*, in 4 *CATHOLIC THOUGHT FROM LUBLIN: PERSON AND COMMUNITY: SELECTED ESSAYS* 209, 210 (Andrew N. Woznicki ed., Theresa Sandok trans., 1993); JOHN MACMURRAY, *PERSONS IN RELATION* 61 (1961).

57 Cf. KRAYNAK, *supra* note 3, at 64 (“[B]oth liberalism and the Bible seek to defend human dignity, but they define human dignity in different ways and draw different political conclusions. Liberalism equates dignity with autonomy of personality and mastery of one’s destiny—political ideas that are inherently tied to democratic human rights. By contrast, the Bible equates the dignity of human beings with their relations with God, especially in their original immortality and their capacity for holiness . . .”).

58 *John* 15:5–6.

Or consider the concept of freedom. Freedom is a theme throughout Christian Scripture and tradition, and it is backed by solid theological rationales. And yet Christians have tended to understand freedom as a divine gift to be exercised within the framework of divine and natural law.⁵⁹ Christians tend to agree with Plato that a person who is enslaved to his or her desires or passions is not truly free; hence, a freedom to do whatever one wants (unless this causes “harm”) is a debased kind of freedom. Christian speakers will sometimes say, or seem to say, that freedom means something like the freedom to do what is right. From a liberal perspective, such a proposition will sound like doubletalk: Freedom to do what is right is not freedom; it is like the parent or boss who says, “You are free to choose—so long as you make (what I think is) the right choice.”

Or consider the liberal commitment to governmental detachment from matters of religious truth. Although as noted some such detachment has been an ongoing Christian theme—and one in sharp contrast with classical assumptions—in the Christian conception this was a limited detachment. It primarily meant that secular rulers should not attempt to dictate the selection of church officials or to determine what Church doctrine should be. Detachment did *not* mean that secular rulers were free of their obligations as Christian subjects, or that they were somehow forbidden to receive and act on religious teachings in cooperation with the Church in achieving mutual goals, such as temporal peace. Governments should be “secular,” yes; but “secular” meant that governments were limited in their jurisdiction to matters of this world.⁶⁰ It did *not* mean what it standardly does today⁶¹—namely, that in addressing matters of this world governments should avoid accepting or acting on relevant ideas or truths just because those ideas or truths happen to be “religious.” Indeed, an overly secularist detachment or separationism is not actually “neutral” in any meaningful sense; it becomes positively hostile to religion.

59 See, e.g., CATECHISM OF THE CATHOLIC CHURCH § 1740 (2d ed. 2018) (“The exercise of freedom does not imply a right to say or do everything By deviating from the moral law man violates his own freedom, becomes imprisoned within himself, disrupts neighborly fellowship, and rebels against divine truth.”); cf. HARRISON, *supra* note 46, at 5 (contrasting liberal freedom with “an older understanding of freedom as discerning and pursuing human flourishing, which includes forming the virtues needed to overcome degrading or anti-human inclinations”).

60 For an illuminating discussion, see Nomi Stolzenberg, *The Profanity of Law*, in *LAW AND THE SACRED* 29, 49–51 (Austin Sarat, Lawrence Douglas & Martha Merrill Umphrey eds., 2007).

61 Cf. JOHN AYTO, *DICTIONARY OF WORD ORIGINS* 465 (1990) (“[S]ecular: Latin *saeculum*, a word of uncertain origin, meant ‘generation, age.’ It was used in early Christian texts for the ‘temporal world’ (as opposed to the ‘spiritual world’) The more familiar modern English meaning ‘non-religious’ emerged in the 16th century.”).

In these ways, terms and concepts that descend from Christian doctrines and that Christians continue to embrace can come to have meanings that depart significantly from the Christian conceptions.⁶²

These differences can surely be a source of misunderstanding—and of mutual suspicion and accusation—but are they necessarily a manifestation of conflict that should set devout Christians against liberalism? Again, given an Augustinian understanding of the value of limited, temporal peace, I think the answer has to be: not necessarily.

Thus, a Christian conception of freedom may differ from a more individualistic and secular conception; even so, if the secular conception covers the conduct or worship that the Christian feels called to, there seems to be no reason why a Christian should not invoke that freedom. And it seems overscrupulous to say that the Christian who invokes such freedom is thereby somehow endorsing or acquiescing in the secular conception. Rather, the Christian who asserts a liberal legal right or freedom can be understood to be saying to the liberal government, “Although my conception of freedom may differ from yours, even under your conception it is impermissible for you to constrain or punish me for the exercise of my faith.”

More generally, concepts can diverge without being in practical conflict. Christians can thus invoke de-Christianized political concepts without in some sense betraying their faith. Consider two examples.

In a liberal framework with commitments to rights and individualism, a *church* will be understood as a kind of “voluntary association” among individuals. Individuals may voluntarily choose to form or join a religious association, or church, just as they may choose to form or join a book club or a fantasy football league. And this ability to associate is something that a liberal constitutional order may protect. From a Christian view, by contrast, this understanding of what a church is may seem grossly inadequate.⁶³ A church—the Church—is much more than a mere voluntary association; it is the mystical body of Christ.⁶⁴

62 Cf. MARK DEWOLFE HOWE, *THE GARDEN AND THE WILDERNESS: RELIGION AND GOVERNMENT IN AMERICAN CONSTITUTIONAL HISTORY* 154 (1965) (noting “the unnoted change in the meaning of familiar words and the consequent transformation of controlling concepts”).

63 See, e.g., Gerard V. Bradley, *Church Autonomy in the Constitutional Order: The End of Church and State?*, 49 LA. L. REV. 1057, 1076 (1989) (deploring tendency to treat churches as mere voluntary associations “as if the Jaycees and the Roman Catholic Church were analytically fungible entities”).

64 See, e.g., JACQUES MARITAIN, *THE THINGS THAT ARE NOT CAESAR’S* 31 (J.F. Scanlan trans., 1932) (“[T]he Church is not only a visible and apparent reality but also an object of faith, not a system of administrative cog-wheels but the Body of Christ whose living unity, incomparably more elevated and stronger than anything in this world we describe as moral personality, is guaranteed by the action of the Holy Ghost.”).

And at least under one theological strand, people do not choose to be part of that body but rather are chosen—by God.⁶⁵

Fine. Still, the fact that the secular liberal conception of a church as a voluntary association fails to capture the full Christian understanding should not necessarily make that conception objectionable or unavailable for Christian use. After all, Christians themselves would insist that no one can be compelled to belong to a church—not by government or other human beings, at least. So a church *is* a voluntary association, even if the Church is much more than that, and much more than other voluntary associations. Insofar as the law in a liberal regime has provisions for the formation and legal protection of voluntary associations, there is no apparent reason why using that law involves any compromise of a person's Christian faith.

Here is a second example. Recently, some Christian thinkers have suggested that the invocation of religious freedom by Christians who find themselves in conflict with state policies amounts to acquiescence in moral relativism.⁶⁶ A Christian florist objects to doing floral arrangements for a same-sex wedding and is severely punished under a state's antidiscrimination laws.⁶⁷ Or a Christian baker objects to making a custom-designed cake for a same-sex wedding and is sued by the state's civil rights commission.⁶⁸ In these cases, the Christian defendants have sometimes tried to invoke a constitutional right of religious freedom. But some critics have supposed that there is in this stance some compromise of the Christian faith. The florist and the baker do not really decline to celebrate a same-sex wedding because they believe in religious freedom, the criticism runs; their refusal reflects a belief that same-sex marriage is wrong, or is not really marriage at all, or something along those lines: and that is the defense they ought to make.

But this criticism seems to insist on a conflict where none needs to exist. There is no apparent reason why the florist and the baker

65 Cf. *John* 15:16 (“Ye have not chosen me, but I have chosen you, and ordained you . . .”).

66 See, e.g., Hadley Arkes, *Backing Into Relativism*, FIRST THINGS (June 2019), <https://www.firstthings.com/article/2019/06/backing-into-relativism> [<https://perma.cc/4XCX-K9ZX>]; see also KRAYNAK, *supra* note 3, at 179 (“Most modern churches have accepted religious freedom as a human right in order to protect religious believers from the coercion of hostile states or from the persecution of religious zealots, grounding the right of conscience in the dignity of the person as a free agent. Yet, they have not answered satisfactorily the major objection against it: How can the right of all religions to equal liberty be accepted without diminishing the superior claims of the One True Religion? How can people accept the pluralism of religions as a right without demoting Christianity to mere ‘denominational’ status or relegating it to a private association? Does error really have the same rights as the ultimate, cosmic truth?” (footnote omitted)).

67 See *State v. Arlene’s Flowers, Inc.*, 441 P.3d 1203 (Wash. 2019).

68 See *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm’n*, 138 S. Ct. 1719 (2018).

might not believe, without any inconsistency, *both* that same-sex marriage is wrong *and* that religious freedom is a good thing and a natural or constitutional right. Indeed, that is manifestly what they *do* believe. Moreover, that set of beliefs seems both consistent with Christian faith and conducive to the possibility of peace in a pluralistic world.⁶⁹

Acknowledgment that divergent beliefs and conceptions are not necessarily incompatible in practice may thus reduce the conflict between Christianity and liberalism and enhance the possibility of civil peace—a goal Christians presumably ought to endorse. But the acknowledgment runs only so far. Although divergent conceptions *need not* be in practical conflict, they *can* come into conflict. And that is a possibility that seems increasingly to be realized.

C. Conflicts

Traditional Christians in Western societies increasingly perceive contemporary state policies as restricting their exercise of religion, or as punishing them for the practice of their faith.⁷⁰ It is not necessary or possible to chart all of the conflicts here. For present purposes, several illustrative instances should suffice. The first has already been mentioned: state and federal antidiscrimination laws may be applied to force Christian employees or businesses to violate their religious convictions. Second, public schools or state social service agencies may enforce policies regarding sexual orientation or transgender people that interfere with the ability of religious families to live and to govern their families in accordance with their religious principles. More generally, teaching in the public schools may undermine or contradict the views of Christian (and other) students and parents.⁷¹

Such conflicts are real enough, and serious enough, and they seem to be proliferating. There are different possible explanations for

69 For a clear-headed discussion of the issue, see Ryan T. Anderson, *The Right to Be Wrong*, PUB. DISCOURSE (July 7, 2014), <https://www.thepublicdiscourse.com/2014/07/13432/> [<https://perma.cc/R7XE-CH4L>]. To be sure, the florist and the baker probably should also try to explain their beliefs about marriage. They should do this, among other reasons, because whether or not the explanation convinces skeptics, it might at least help to deflect the convenient accusation that they are acting from mere animus or irrational hatred.

70 See ROD DREHER, *THE BENEDICT OPTION: A STRATEGY FOR CHRISTIANS IN A POST-CHRISTIAN NATION* 179–83 (2017). In *non*-Western nations the conflicts are often much more overt and severe. See K.A. Ellis, *Are American Christians Really 'Persecuted'?*, CHRISTIANITY TODAY (Aug. 22, 2016) <https://www.christianitytoday.com/ct/2016/september/are-us-christians-really-persecuted.html> [<https://perma.cc/LL7G-9DBJ>].

71 A much-noted instance, although somewhat idiosyncratic and only one among many, is *Mozert v. Hawkins County Board of Education*, 827 F.2d 1058 (6th Cir. 1987).

why this should be so.⁷² How to understand and resolve or at least address such conflicts presents a major challenge that goes far beyond the scope of this Article. For now, it is pertinent to notice that such conflicts present a crucial question of characterization: are these contemporary conflicts between Christianity (or particular versions of Christianity) and *liberalism*? Or rather between Christianity and . . . something else?

But if the conflict is not with liberalism, then what is it with? One possibility is that Christianity is in conflict with aspects of modernity—its “exclusive humanism,” for example, or its obsession with individual autonomy, or what Christians may regard as its distorted conception of equality⁷³—that although manifesting themselves in liberal movements and institutions are nonetheless not identical to liberalism as a strategy or project of governance. As noted, liberalism and modernity are thoroughly entangled; even so, it would be a mistake to conflate them, and thus to reject what may be a valuable political strategy for addressing diversity because it is being contingently used for objectionable ends.

As a comparison, imagine that in a procedurally well-functioning democracy, most of the citizens have come to favor positions on immigration, taxation, safety regulation, health care, and foreign policy that you strongly disapprove. Consequently, democratic governance in this polity consistently produces outcomes that you disagree with. You may well come to be critical or even disdainful of governance in *this particular democracy*. But it would be a mistake to say that your objection is to *democracy* itself. The same reasoning should apply if under conditions of modernity liberal governments regularly adopt pernicious measures or policies: your disagreement, it seems, is with modernity, not with liberalism.⁷⁴

Indeed, it may be that the conflicts experienced by some Christians are not with liberalism *per se*, but rather with public policies or philosophies that are themselves *departures from liberalism*. Christians who resist particular antidiscrimination policies, for example, may not be opposing *liberalism*; on the contrary, they may instead be understood to be appealing to liberal values, premises, and rights in opposition to *antiliberal* programs and policies.

72 For one somewhat abstract and global attempt at a partial explanation, see generally SMITH, *supra* note 6.

73 See Smith, *supra* note 35, at 41–44.

74 Here is another analogy: suppose that most of the people in your community express themselves in English and suppose also that the community has become morally corrupt such that much of what people say seems to you profane, obscene, or blasphemous. It would be a serious category mistake—wouldn't it?—to frame your objection to what is happening in your community as an objection to the English language.

Once again, there can be no definitive answers to these questions in part because, once again, liberalism comes in a range of varieties, and the term is used in various ways. Still, it is by now a common observation that some current political and social movements are commonly described as “progressive” rather than as “liberal,” and that so-called “progressives” often do not seem to maintain the same commitments—to limited government, to a broad freedom of expression, to religious freedom, to tolerance of diverse and sometimes obnoxious or illiberal beliefs and lifestyles—that “liberals” have typically insisted on.⁷⁵ Instead of seeing the role of public institutions as primarily limited to protecting *liberty* for people to live in accordance with their (potentially offensive) beliefs and commitments, progressivism may seem more committed to aggressive and expanding conceptions of sexual autonomy and of group-defined *equality* (sometimes euphemistically packaged as “diversity, equity, and inclusion”) that are to be actively inculcated and imposed on people, businesses, universities, and groups of various sorts. Such progressive measures increasingly attempt to use governmental and institutional power to regulate not only how people act but also how they think, and talk.⁷⁶ And such policies seem to be influenced by theorizing that owes more to nonliberal thinkers (Marx, Nietzsche, Foucault, et al.) than to liberal sources like Locke, Kant, and Mill—or Martin Luther King, Jr.⁷⁷

To be sure, progressivism probably continues to embrace an ideal of freedom—and of particular freedoms, especially in matters of sexuality—under some sort of public-private distinction. Indeed, *any* government, no matter how authoritarian, will from some mix of indifference and necessity allow people freedom to make their own choices in

75 Cf. FUKUYAMA, *supra* note 2, at ix (“In practice, this has led to intolerance of views that deviate from the new progressive orthodoxy, and the use of different forms of social and state power to enforce that orthodoxy.”).

76 See generally DOUGLAS MURRAY, *THE MADNESS OF CROWDS: GENDER, RACE AND IDENTITY* (2021); LEGUTKO, *supra* note 44, at 113–44; cf. Nathaniel Peters & Pierre Manent, *Europe and America After COVID: An Interview with Pierre Manent*, PUB. DISCOURSE (June 12, 2021), <https://www.thepublicdiscourse.com/2021/06/76281/> [<https://perma.cc/NZ5W-CJ59>] (“We now find that public—and I suppose often private—speech and writing are as carefully, even punctiliously, regulated in the country of the First Amendment as in a totalitarian country, but without need of a secret police! To speak of totalitarian traits is all the more apt, since a habit of self-incrimination seems to have taken root in American public life. It is distressing to see American citizens apologizing abjectly for peccadilloes or no fault at all. Penance—which is less and less exacted in Christian churches—has found a very hospitable home in the political realm, except in the latter there is no absolution. Sin with neither responsibility—you are just born with the wrong color—nor redemption is the most perverse trait of wokeism.”).

77 See generally HELEN PLUCKROSE & JAMES LINDSAY, *CYNICAL THEORIES: HOW ACTIVIST SCHOLARSHIP MADE EVERYTHING ABOUT RACE, GENDER, AND IDENTITY—AND WHY THIS HARMS EVERYBODY* (2020); LEGUTKO, *supra* note 44.

innumerable matters. (Brown socks or gray socks? Vanilla ice cream or strawberry?) But as the public-private line is redrawn to bring more and more of life over to the public side and to subject more of life to prevailing public values, the liberal project is compromised. “Liberal” comes to seem an inapt term; government and society slide toward the “totalitarian” end of the spectrum.⁷⁸

Ultimately, just how and whether the term “liberal” should be deployed in this context is no doubt in part a matter of interpretation, and semantics. But the underlying question is not merely semantic. The hard practical question—for Christians, but for many others as well—is whether aggressive public policies that they may find objectionable should lead them to dig in and defend the liberal order as it has traditionally worked. As it has worked in the American constitutional order, for example, with its commitments to separation of powers, federalism, and freedoms of religion and speech? Or should they rather conclude that liberalism is now revealing its disguised but inherent oppressiveness and hypocrisy, and thus choose to reject liberalism in favor of . . . something else?

The answer to that question might depend in part on a related theoretical question. Is there something in the nature or logic of liberalism that will inevitably cause it to evolve or devolve into the more aggressive and suppressive progressivism on display today? Perhaps the vulnerabilities noticed earlier make liberalism unstable and thus inherently likely to transform itself into a “progressive” illiberalism? Think back to a time—the nineteenth century? the 1960s? the Reagan era?—when government and politics (and the media, and the academy) seemed more genuinely “liberal” than they are today. Was there

78 The totalitarian tendencies of contemporary liberal democracy are considered at length in LEGUTKO, *supra* note 44. Liberal democracy is like communism, Legutko argues, in its desire “to control the totality of human life—including these aspects that are most personal or intimate.” *Id.* at 139. As liberal democracy developed, “everything came to be joined under the liberal-democratic formula: the economy, politics and society, and—as it turns out—culture.” *Id.* at 23. The aspiration is that

the political system should permeate every section of public and private life, analogously to the view of the erstwhile *accoucheurs* of the communist system. Not only should the state and the economy be liberal, democratic, or liberal-democratic, but the entire society as well, including ethics and mores, family, churches, schools, universities, community organizations, culture, and even human sentiments and aspirations. The people, structures, thoughts that exist outside the liberal-democratic pattern are deemed outdated, backward-looking, useless, but at the same time extremely dangerous as preserving the remnants of old authoritarianisms.

Id. at 20–21. Earlier thinkers including Isaiah Berlin and Jacob Talmon likewise perceived a potentially totalitarian dimension in liberal democracy. For an illuminating discussion, see Maimon Schwarzschild, *Liberalism, Liberal and Illiberal*, 54 SAN DIEGO L. REV. 299, 304–11 (2017).

something in the DNA of that more “liberal” regime that was bound to mutate into the illiberal progressivism of the present?

Beyond this theoretical question, though, there is also a more practical one. In deciding whether to defend (and perhaps attempt to reclaim) liberalism, a Christian (or anyone else) needs to ask: what is the alternative?

III. LIBERALISM OR . . . WHAT?

If our world is to be something other than liberal, what would that something be? What would we *want* it to be?

It is a hard question to answer, among other reasons because there is no canonical catalogue or menu listing the available options. But consider the major alternatives that were tried (or are still being tried) in the twentieth and twenty-first centuries. The communist regimes of the Soviet Union and Eastern Europe. The fascist regimes of Italy and Germany in the 1930s and 1940s. The nations and societies in which Islam is the dominant power. The authoritarian regime currently looming in China. Should any of these alternatives be attractive to Christians—or to other residents of Western societies?

Suppose we instead look backwards, to history. The history of the West displays two possibilities that some have found alluring. First, there was the world of classical antiquity—“the glory that was Greece, [a]nd the grandeur that was Rome.”⁷⁹ That world has often been depicted in appealing terms, prompting a desire to recover or return to that ancient world. Such an aspiration was the characteristic core of the Renaissance. And the venerable (and anti-Christian) historian Edward Gibbon thought that the Roman Empire in the second century was the most blessed time in human history.⁸⁰ More contemporary authors sometimes describe antiquity as a world of freedom, truth, and beauty that was crushed by an oppressive emergent Christianity.⁸¹ One author reports cheerfully that our modern world is indeed returning to its ancient forms.⁸²

79 Edgar Allen Poe, *To Helen*, POETRY FOUND., <https://www.poetryfoundation.org/poems/44888/to-helen> [<https://perma.cc/C5ZU-2EDC>].

80 See 1 EDWARD GIBBON, *THE HISTORY OF THE DECLINE AND FALL OF THE ROMAN EMPIRE*, 103–04 (David Womersley ed., The Penguin Press 1994) (1776).

81 See generally CHARLES FREEMAN, *A.D. 381: HERETICS, PAGANS, AND THE DAWN OF THE MONOTHEISTIC STATE* (2008).

82 See FERDINAND MOUNT, *FULL CIRCLE: HOW THE CLASSICAL WORLD CAME BACK TO US* (2010).

Such depictions often involve gross distortions of history.⁸³ And they tend to focus on the life of the leisured and leisurely elites, neglecting to notice that this seemingly free and elegant life was maintained on the backs of a much larger class of subjugated workers, slaves, and prostitutes.⁸⁴ Abject poverty was pervasive.⁸⁵ Violence—against foreigners, dissenters, unwanted infants, the poor, those who were conscripted to be part of the gladiatorial spectacles—was routine.⁸⁶ Respectable women were heavily constrained; less privileged women were often relegated to a life of prostitution.⁸⁷ But even if these features of the ancient world are disregarded, that world will not likely be attractive to Christians, who were of course subjects of severe persecution (albeit intermittently, not routinely) under rulers like Nero, Decius, and Diocletian.⁸⁸

Christians may find themselves more drawn to the era that followed the collapse of antiquity—the Middle Ages, or Christendom, as it is often called. Not of course to those features of the period that gave rise to the pejorative label “Dark Ages”—the poverty, illiteracy, ignorance, disease, violence, the largely unchecked oppression of local masters or marauding invaders—but to the “integralist” ideal of a society in which religious and secular institutions would work together to further Christian values and practices.⁸⁹ Lately, it seems that some

83 For an incisive demonstration of some of the common distortions, see HART, *supra* note 13, at 88. See also RODNEY STARK, BEARING FALSE WITNESS: DEBUNKING CENTURIES OF ANTI-CATHOLIC HISTORY 53–91 (2016).

84 Cf. LUC FERRY, A BRIEF HISTORY OF THOUGHT: A PHILOSOPHICAL GUIDE TO LIVING 72 (2011) (observing that “[t]he Greek world was fundamentally an aristocratic world. . . . founded on slavery”).

85 See RODNEY STARK, THE TRIUMPH OF CHRISTIANITY: HOW THE JESUS MOVEMENT BECAME THE WORLD’S LARGEST RELIGION 106 (2011) (describing the cities of the Roman Empire as “far more crowded, crime-infested, filthy, disease-ridden, and miserable than are the worst cities in the world today”); see also ROBIN LANE FOX, THE CLASSICAL WORLD: AN EPIC HISTORY FROM HOMER TO HADRIAN 462 (2006) (explaining that “[t]he modern cardboard cities of refugees in Egypt or Pakistan are the nearest we can come to imagining this ‘other Rome,’ though they lack Rome’s openly accepted slavery”).

86 Consider the practice of exposure. Unwanted infants were routinely left on a street corner or outside a city, and Philo of Alexandria explained that “all the beasts that feed on human flesh visit the spot and feast unhindered on the infants.” O.M. BAKKE, WHEN CHILDREN BECAME PEOPLE: THE BIRTH OF CHILDHOOD IN EARLY CHRISTIANITY 112 (Brian McNeil trans., 2005) (quoting 7 PHILO, ON THE SPECIAL LAWS, bk. 3, § 114–115 (F.H. Colson trans., 1937)).

87 See generally KYLE HARPER, FROM SHAME TO SIN: THE CHRISTIAN TRANSFORMATION OF SEXUAL MORALITY IN LATE ANTIQUITY (2013).

88 For a review of the persecutions, see SMITH, *supra* note 6, at 130–57.

89 Cf. HOLLAND, *supra* note 47, at 11 (“There was barely a rhythm of life that [the Roman Church] did not define. From dawn to dusk, from midsummer to the depths of winter, from the hour of their birth to the very last drawing of their breath, the men and women of medieval Europe absorbed its assumptions into their bones.”).

Christian writers have been looking back affectionately to a time when Christian beliefs and values were openly embraced and provided the ideal and discourse by which society was governed.⁹⁰

A major and obvious objection to adopting the medieval arrangements of Christendom as the preferred alternative to liberalism is that there seems no realistic chance that such an arrangement could actually be realized today.⁹¹ One prominent Christian legal scholar advocates a powerful administrative state largely unconstrained by constitutional features such as limited powers, separation of powers, federalism, even judicial review; but how likely is it today that such a Leviathan would use its massive powers to promote traditional Christian morality and policies?⁹²

In addition, though, the world of Christendom contained an inherent disadvantage that Christians in particular ought to find troublesome. When Christian truths come to be officially accepted by a society as defining *political* ideals, those ideals will likely need to be implemented and enforced in the ways any society and government implement and enforce their defining ideals—i.e., through the application of government-administered indoctrination and coercion and violence. But such methods arguably reflect a compromise or fundamental betrayal of the Christian faith. Thus, during the Middle Ages when Christianity enjoyed political hegemony, there were Christian dissenters who looked back wistfully to the time when Jesus’s disciples had been a powerless and persecuted minority—they perceived that earlier period as a time when the faith was held and lived in a purer form⁹³—and this of course became a frequent theme among the Reformers.⁹⁴ To put the point differently, Christians of a certain temperament today

90 Cf. FUKUYAMA, *supra* note 2, at 120 (observing that “[s]ome conservatives may hope that their societies could return to imagined Christian moral order”). Richard Schragger and Micah Schwartzman perceive a group of religious “antiliberal” thinkers—they include me in the company—who are taking “recourse to the medieval.” Schragger & Schwartzman, *supra* note 7, at 1368–69.

91 Cf. FUKUYAMA, *supra* note 2, at 121 (“The idea of rolling back the clock and restoring a shared moral horizon defined by religious belief is a practical non-starter.”); KRAYNAK, *supra* note 3, at 244–45 (“Given these circumstances, it is obvious that some version of democracy is the only practical option in the present age for the ordering of temporal affairs. We no longer have the range of options of earlier ages.”).

92 For my assessment of this proposal, see Steven D. Smith, *The Constitution, the Leviathan, and the Common Good* (Univ. of San Diego Sch. of L., Rsch. Paper No. 22-005, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4098880 [https://perma.cc/43NZ-K93W].

93 See, e.g., STEVEN OZMENT, *THE AGE OF REFORM 1250–1550: AN INTELLECTUAL AND RELIGIOUS HISTORY OF LATE MEDIEVAL AND REFORMATION EUROPE 152–53* (1980) (describing Marsilius’s criticism of papal and clerical power in comparison to the apostolic church).

94 See, e.g., SAMUEL PUFENDORF, *OF THE NATURE AND QUALIFICATION OF RELIGION IN REFERENCE TO CIVIL SOCIETY* 59–78 (Simone Zurbuchen ed., Jodocus Crull trans., 2002).

may be tempted to look back and think that the Middle Ages were attractive *except for* the inquisitions and the persecutions of heretics and Jews. Maybe so. But it should at least be asked whether, as a practical matter, these disapproved features were severable from the general ideal of Christendom—or whether *any* regime can persist without finding ways of dealing with those who threaten and deviate from its defining ideals and commitments.

To raise this concern is not to condemn the arrangements of the Middle Ages. As noted, then as now, it is always a question of more or less under the circumstances. When Pope Leo I went out to negotiate on behalf of Rome with Attila the Hun,⁹⁵ a modern critic might object that he was improperly assuming a governmental function; but under the circumstances, who else was there with the authority to conduct such a negotiation? More generally, with the collapse of Roman authority, the Church was in some circumstances the only institution that could provide stability and order, and the Church would inevitably perform this function in accordance with the Christian criteria it believed in.⁹⁶ What else could the Church do—provide order in accordance with criteria it did *not* believe in? Moreover, from a Christian perspective, there were indeed advantages in such an order. The point is only that there were also disadvantages and compromises—the kind of compromises that inevitably come with a close entanglement in worldly affairs. But these disadvantages and compromises might lead a Christian to reject Christendom as the preferred alternative today, even if that were a realistic possibility.

From this point of view, a properly governed and genuinely liberal regime might indeed be the best that a Christian should hope for, short of the end time when (Christians believe) the true King and Prince of Peace will rule. Liberalism might be, to borrow from Winston Churchill, the worst form of government except for all the others.⁹⁷ In a genuinely liberal regime, people would be governed by ideals that at least derive from basic Christian beliefs, and by a regime that adopts as

95 Contemporary sources for the episode are sparse, but for one perhaps romanticized reconstruction, see H. DANIEL-ROPS, *THE CHURCH IN THE DARK AGES 97–100* (Audrey Butler trans., Phoenix Press 2001) (1950).

96 See, e.g., JUDITH HERRIN, *THE FORMATION OF CHRISTENDOM* 75 (1987) (“In fifth-century, Gaul, where urban ecclesiastics faced various forms of non-Roman threat, they were often deprived of even an elementary military presence by the disorganisation of “Roman” fighting forces of the time. With the flight of the praetorian prefect from Northern Gaul, civil administration became chaotic, as new governors appointed by unknown usurpers or non-Roman powers demanded taxes and grain supplies for their troops. In such circumstances people turned to their churchmen for advice; . . . and the Gallo-Roman church slowly became identified as the accepted organ of guidance in public affairs.”).

97 HC Deb (11 Nov. 1947) (444) cols. 203–321.

its central purpose protecting and promoting the ability of people (including Christians) to live and even to proselytize in accordance with their beliefs. At the same time, such a regime would not adopt the un-Christian and self-defeating tactics of using force and violence to enforce Christian beliefs that are efficacious only if sincerely and voluntarily embraced.

The novelist Walker Percy, when asked why he was a Catholic, used to answer “What else is there?”⁹⁸ Asked why he or she is a liberal, a Christian today might respond with the same question.⁹⁹

CONCLUSION

For reasons noted above, this conclusion is necessarily tentative. And it may itself be vulnerable to a fatal objection. As noted, one reason not to embrace an ideal of medieval or Christian “integralism” is that as a practical matter there is no realistic prospect that such an ideal will be adopted and realized today. But the same is true—or so someone might think—of liberalism itself: there may be little chance that a healthy liberalism (as opposed to an aggressively intolerant and suffocating “progressivism”) is recoverable under current circumstances. A host of critics now argue that liberal democracy has become decadent, perhaps beyond possibility of revival.¹⁰⁰ Others reject this dependency: but in a spirited defense of liberalism (in its “classical” not “neoliberal” form), Francis Fukuyama observes in passing that “for a modern liberal democracy to work properly, there has to be a high level of trust in government.”¹⁰¹ He seems not to notice that this casual observation may itself signal the impossibility of his own project.¹⁰²

98 WALKER PERCY, *SIGNPOSTS IN A STRANGE LAND* 307 (Patrick Samway ed., 1991). Percy explained that “I justify this smart-mouthed answer when I sense that the question is, as it usually is, a smart-mouthed question.” *Id.*

99 Thus, after a lengthy and learned critique of liberal democracy from a Christian perspective, Robert Kraynak nonetheless concludes:

The wisest course is therefore to accept a practical or prudent alliance with the present democratic regimes as second-best choices . . . while trying to improve the present order as much as possible without deluding one’s self about an inner affinity between Christianity and modern liberal democracy.

KRAYNAK, *supra* note 3, at 272.

100 Some of these critics and criticisms are summarized and discussed in Steven D. Smith, *The Church in the Twilight* 10–21 (Liberty & L. Ctr., Rsch. Paper No. 22-02, 2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4119686 [https://perma.cc/G2SA-3GGA].

101 FUKUYAMA, *supra* note 2, at 146.

102 See, e.g., Madeline Halpert, *Trust in U.S. Institutions Hits Record Low, Poll Finds*, FORBES (July 5, 2022, 1:28 PM), <https://www.forbes.com/sites/madelinehalpert/2022/07/05/trust-in-us-institutions-hits-record-low-poll-finds/?sh=4b941b4cddb5> [https://perma.cc/8KTR-ZNRZ].

More generally, we have noticed the argument that liberalism is an incoherent and unsustainable project inherently dependent on deception and self-deception. In the Augustinian perspective recommended here, that argument might be correct and yet not decisive. It might be that *every* human regime will be at some level incoherent and deceptive: but the question, once again, would be whether a regime promotes or consists of incoherencies that are capable of upholding a workable *modus vivendi* or peace. Still, it might be that liberalism's inconsistencies and deceptions are at this stage of our history beyond concealment or containment. And the conclusion might be that liberalism had a good run—it managed to prevail for a considerable period despite its internal contradictions and vulnerabilities, and even brought with it a measure of civil peace, not to mention prosperity—but that (like all earthly constructions) it is not and never was sustainable over the long haul.¹⁰³

If one were to draw this conclusion, and if the imaginable alternatives all seem repellent or unrealizable or both, what is a Christian (or anyone else) to do? Pray, perhaps?¹⁰⁴

103 Cf. KRAYNAK, *supra* note 3, at 166 (“We need to consider the possibility that modern democracy may be nothing more than a transient phase in the rise and fall of the earthly city . . .”).

104 But see Smith, *supra* note 100, at 4.

