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THE REALITY OF MORAL IMPERATIVES IN LIBERAL RELIGION

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Abstract

This paper uses a classic one-liner attributed to Dostoyevski's Ivan Karamozov, "Without God everything is permitted," to explore some differences between what I term traditional and liberal religion. The expansive connotations and implications of Ivan's words are grounded in the historic association of wrongfulness and punishment, and in a reaction against the late modern challenge to the inexorability of that association, whether in liberal religion or in secular moral thought. The paper argues that, with its full import understood, Ivan's claim begs critical questions of the meaning and source of compulsion and choice, and of knowledge and belief regarding the specific content of religiously grounded moral norms. Liberal religion views knowledge of the "Will of God" in ways that pervasively tend to emphasize the place of human discernment of that Will, finding clarity in ambiguity and complexity, in a focus on process as well as outcome, in an openness to questioning as well as honoring tradition, and in a willingness to go beyond the propositional aspects of a text in seeking its "meaning." In all these ways, it may seem to dilute, even to dissolve, the imperative quality of moral norms. One's attraction to or wariness of a liberal approach is to a significant extent grounded in non-theological preferences, and reflexive condemnation of liberal religion because of these differences fails to engage with the question whether they are better calculated to serve the task of achieving moral knowledge.

While it would therefore aid the process of coming to grips with that question for traditional religion to resist the tendency to dismissal, caricature and polarization, adherents to liberal religion need to take on a greater responsibility for articulating their own theological position more fully. I undertake briefly to take my own advice.

THE REALITY OF MORAL IMPERATIVES IN LIBERAL RELIGION

HOWARD LESNICK*

God has made man with the instinctive love of justice in him, which gradually gets developed in the world.... I do not pretend to understand the moral universe; the arc is a long one, my eye reaches but little ways; I cannot calculate the curve and complete the figure by the experience of sight; I can divine it by conscience. And from what I see I am sure it bends towards justice.
Theodore Parker (1853)¹

A strange mystery it is that nature, omnipotent but blind, in the revolutions of her ... hurryings through the abysses of space, has brought forth at last a child, subject still to her power, but gifted with sight, with knowledge of good and evil, with the capacity of judging all the works of his unthinking mother. [G]radually, as morality grows bolder, the claim of the ideal world begins to be felt, [giving rise to the claim] that, in some hidden manner, the world of fact is really harmonious with the world of ideals. Thus man created God, all-powerful and all-good, the mystic unity of what is and what should be.
Bertrand Russell (1903)²

"Ah! Thou hast ceased to call upon God,
Wherefore repentest thou of calling upon Him?"
"The answer 'Here am I' came not."
"Did I not engage thee to call upon me?
That calling 'Allah' of thine was my 'Here am I.'
And that pain and longing of thine my messenger."
Rumi (13th Century)³

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¹II The Collected Works of Theodore Parker, ed, Francis Power Cobbe 48 (1879). Parker was a Unitarian Minister and leading abolitionist in pre-Civil War Massachusetts.

²"A Free Man's Worship," in *Mysticism and Logic and Other Essays*. Russell was a preeminent mathematician and philosopher in 20th Century England, and a peace activist during the Cold War.

³The Spiritual Couplets of Mawlana Jalalu-'D-Din Muhammad Rumi, Book III, Story I (2008). Rumi was a Persian poet, mystic, and Islamic jurist.

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I. INTRODUCTION

"Without God, everything is permitted."

This classic one-liner, a judgment famously attributed (in the novel) to Dostoevski's Ivan Karamazov,⁴ is readily endorsed by many people, in his day and ours. Many more lines are needed, however, to spell out the layers of meaning embedded in what I will call "Ivan's claim." Rather than move directly to analysis and critique, I will indulge a lawyer's habit and begin with two highly specific stories, which I believe will illuminate our understanding of the scope and bases of the claim and the questions raised by it.

The first is well-known in the American legal world, for it ended in a landmark decision of the Supreme Court of the United States.⁵ In 1963 Daniel Seeger, a recent college graduate, was convicted of unlawfully refusing to submit to induction into the Armed Forces. The federal statute recognizing conscientious objection to participation in war required that it arise from the objector's "belief in relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological or philosophical views or a purely personal moral code."⁶

In applying for exemption, Seeger asserted: "The existence of God cannot be proven or disproven, and the essence of His nature cannot be determined. I prefer to admit this, ... and leave the question open rather than answer 'yes' or 'no.'" He went on to say, however, that "skepticism or disbelief in the existence of God ... does not necessarily mean lack of faith in anything whatsoever." Professing

⁴Fyodor Dostoevski, *The Brothers Karamazov* 817 (Amber R. MacAndrews, trans. 1984) (attribution by Smerdyakov to Ivan in conversation with him).

⁵*U.S. v. Seeger*. 380 U.S. 163 (1965). The facts of the case are taken from the opinion of the Court of Appeals, 326 F.2d 846 (2d Cir. 1964).

⁶As quoted by the Court of Appeals. The words are the statutory definition of "religious training and belief," which is the requisite source of a qualifying conscientious objection.

"respect for belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed," he maintained, "I cannot participate in actions which betray the cause of freedom and humanity."

The Court of Appeals, noting that Seeger's sincerity was unquestioned, found him eligible for exemption, specifically rejecting the conclusiveness of the source of the constraint on his action:

[T]oday, a pervading commitment to a moral ideal is for many the equivalent of what was historically considered the response to divine commands. [T]he stern and moral voice of conscience occupies that hallowed place in the hearts and minds of men which was traditionally reserved for the commandments of God.

Agreeing, the Supreme Court described the critical question in these words: "Does the claimed belief occupy the same place in the life of the objector as an orthodox belief in God holds in the life of one clearly qualified for exemption?" Both courts thus viewed the critical question as the authentic existence of a state of mind in which a certain action is not "permitted," with or without God as its source.

The second story is not at all well-known, although there was a moment during the Second World War when its protagonist rose above anonymity. Martin Niemoller was a German Lutheran Pastor, imprisoned by the Third Reich for anti-Nazi activities. In 1961, now a Bishop, he spoke on the University of Pennsylvania campus, and I went to pay my respects as much as to hear him. It was a time of high "Cold War" consciousness, and the organization sponsoring Niemoller's appearance billed his topic as "Theism Versus Atheism in the Conflict of Nations." Waving a hand toward the blackboard notice of his talk, he said that to him the salient question was not, were you a theist or an atheist, but "were you a *Christian*"?

Obviously, he then had to say what made one a Christian. His response: "A Christian is a person who accepts Jesus as teacher and brother." He had been a submarine commander in the German Navy during the First World War, and he spoke of how he had subsequently become a pacifist:

I would watch through the periscope for the enemy vessel, and when the crosshairs were amidships of it, I would say, "fire." The sailor standing by would press a button, and I would watch the torpedo's wake and the hoped-for explosion. One day, years later, I asked myself, if Jesus of Nazareth had been that sailor, when I ordered, "fire," would he have pushed the button?"

Might a contemporary Ivan claim that Daniel Seeger, unwilling to postulate any God at all whose moral norms were binding on him, and Martin Niemöller, a Bishop of the Lutheran Church but describing Jesus as teacher and brother rather than Risen Lord, were not obligated, but merely chose, to abjure participation in warfare? Was the compulsion engendered by Seeger's reading and reflection while an undergraduate, simply an arguable philosophical preference? Was Niemöller's retrospective experience of Christ in the sailor, and his understanding of Jesus' message and his consequent response to it, simply an eloquent figure of speech?

These cases illustrate the challenge to Ivan's claim arising from either a secular consciousness or a religious consciousness different from his. We need to examine what is being said by Ivan in using the words, *permitted* and *God*. We need also to uncover the inherent limitations in the significance of his claim. I will suggest that such an inquiry supports this set of responses:

First, liberal religion grounds moral judgments in a different way than does traditional religion, one which attracts some people and repels others, but which cannot be called a better or worse route to knowledge of God's Will without engaging (or begging) the question how human beings discern that will. Liberal religion does have much in common with (some variants of) secular morality, but is on that account no less a variety of "religion."

Second, traditional religion's claim to be able to ground moral judgments beyond merely human argumentation is grievously exaggerated. Specifically, positing the existence of God is alone not sufficient to render unchallengeably binding any specific moral judgment whatever.

In using the terms, *traditional* and *liberal* religion, I will be generalizing across two wide spectrums of outlooks. Nonetheless, there is, I believe, some recognizable and important coherence in both the groupings and the separation between them. My descriptions of each will be not the classic attempt to articulate necessary and sufficient conditions, but rather what anthropologist Clifford Geertz has termed "inexact similarities, which are yet genuine similarities.... We are attempting to articulate a way of looking at the world, not to describe an unusual object."⁷

By "traditional religion," I mean to refer to faith traditions or individuals whose understanding of the concept of divine inspiration includes some version of two sets of beliefs: (1) the

⁷Islam Observed: Religious Development in Morocco and Indonesia 97 (1968).

Revelation at Sinai and (in Christianity) the apostolic witness to the birth, ministry, death and resurrection of Jesus, grounding the epistemic sufficiency of the relevant Scripture to give us knowledge of God and God's Will; and (2) the divinely validated authority within a specific tradition of an official body or person to answer (at least some) questions of Scriptural exegesis, faith, practice and morality.⁸ Although much recent scholarship has demonstrated that what in the last three or four centuries has become widely viewed as the "old time" religion is in fact not of antique lineage,⁹ it seems clearer for present purposes not to dispute its claim to the title.

Adherents to "liberal religion" do not avow those principles, although they typically accord the Scriptures some special sanctity.¹⁰ They may share with the traditionalists a belief in a concept of God as in some sense a "Person," who can and does intervene intentionally in human history, or may instead think of God more as a "Force," which acts upon or through humans as they seek to know and follow God. In either case, however, they believe that, in Roman Catholic Cardinal Francis George's apt description: Liberal religion "treats God as an ideal, a goal expressing all that is best in human

⁸Although I believe that there are somewhat parallel beliefs in Islam as to the first "set," and have the sense that there is also a (significantly more complex) version of the second, my knowledge of the Islamic tradition is so fragmentary that I shall not attempt to speak of it here. I am even less informed about Asian and African religions.

⁹Perhaps the most influential scholar has been Karen Armstrong; see *A History of God: The 4,000-Year Quest of Judaism, Christianity, and Islam* (1994); *The Bible: A Biography* (2008); *The Case for God* (2009).

¹⁰There are of course many well-known articulations of religious belief and experience that exemplify departures (in varying ways) from those now termed traditional, some but certainly not all of which may justly be deemed "liberal." Perhaps the most profound, in my judgment, is Reinhold Niebuhr's essay (published more than 50 years ago), "As Deceivers, Yet True," in *Beyond Tragedy: Essays on the Christian Interpretation of History 2* (1955). See also Henry Wilder Foote, *The Religion of an Inquiring Mind* (1955); Stanley Hauerwas et al, eds, *Theology Without Foundations: Religious Practice and the Future of Theological Truth* (1994); Gordon D. Kaufman, *God the Problem* (1972); Sallie McFague, *The Body of God: An Ecological Theology* (1993); William Placher, *The Domestication of Transcendence 181-200* (Ch. 11, "The Image of the Invisible God") (1996); Paul Tillich, *Dynamics of Faith* (2001).

experience, while the real agents of change in the world are human persons."¹¹

Traditional and liberal religion share the belief that noted sociologist of religion Peter Berger felicitously describes as the "fundamental assumption" of all religious faith: "[T]he reality that lies beyond ordinary experience means well by us."¹² Expressing a similar thought in a different way, Clifford Geertz identifies the "heart" of a religious perspective on the world as "the conviction that the values one holds are grounded in the inherent structure of reality, that between the way one ought to live and the way things really are there is an unbreakable inner connection."¹³

The ubiquity of evil in the world complicates the eschatological vision of different traditions. At least some traditional religion has a palpable dark side, so far as human beings are concerned, while liberal religion tends to be grounded in a sunnier notion of the perfectibility of human life. Rev. Martin Luther King, Jr, often gave voice to one version of the latter outlook in his powerful claim: "The moral arc of the universe is long, but it bends toward justice."¹⁴

By a *secular* consciousness, I mean one that would avow the non-existence of that which transcends the natural order. Some (but not all) secular thinking includes a belief (however firmly or haltingly held) that moral norms or moral progress are in some sense inherent in the life of humanity on Earth, but grounds that belief

¹¹How Liberalism Fails the Church: The Cardinal Explains, *Commonweal* 24,25 (Nov. 19, 1999). Some adherents to liberal religion would disavow such an attribution as essentially secular. I address the "foggy" nature of this frontier below, pp. **XX-XX**.

¹²Questions of Faith: A Skeptical Reaffirmation of Christianity 2(2004).

¹³Op. cit, supra, at 97. Conservative Rabbi Neil Gillman describes the belief that "God cares deeply about the world, about human society, and about human history" as one of the "basic assumptions of Jewish eschatology." "Eschatology," in David L. Lieber, sr ed, *Etz Hayim [Tree of Life]: Torah and Commentary*, at 1435 (2001).

¹⁴He was paraphrasing a passage from a sermon given in 1853 by the Unitarian minister Theodore Parker, quoted in an epigraph to this article.

For a sophisticated, comprehensive, and careful development and justification of a conception of "God" in which developing (although not inevitably emerging) "moral progress" is itself a property of God, see Richard Wright, *The Evolution of God* (2010), especially the *Afterword*, "By the Way, What Is God?", pp. 444-59.

in wholly natural phenomena. Its adherents may nonetheless carry on their search for sound moral decision-making in their participation in the life of a religious community, while not sharing in all of the creedal professions of that community or most of its members.

I think it is fair to say that the idea that moral choices grounded in secular philosophies, being derived "without God," reflect only preferences, is meant with popular culture primarily in mind.¹⁵ In any event, it is obvious that serious secular thought seeks to generate moral norms that are genuinely obligatory. Critics of secular morality may assert that the search is definitionally in vain, for want of a basis in compulsion supporting a reasonably specific set of norms. I will develop below my bases for thinking that such an assertion (which is often made against liberal religion as well) often rests on a reflexive and contested concept of compulsion and the attribution to God of norms inescapably articulated or apprehended, at least in part, by human beings.

The "frontier" between secular and religious ways of understanding the world appears to me to be a porous one, with those nearby on each side having much in common. Indeed, the perception of that commonality is a significant part of the vigor with which those situated far from the frontier (in either direction) will often assert that those near it appropriately belong well on the other side of the boundary. I believe that this response is understandable but is a product of attributions that are astigmatic and inappropriately dismissive.

II. "PERMITTED" (AND NOT), IN A WORLD OF CHOICE

What do Ivan's words mean to say? In everyday thought, to call something not permitted, obligatory rather than optional, is to say that one who transgresses a valid norm will face some serious external sanction for his or her delict. Indeed, our contemporary secular world has gone far to reduce the notion of norms as moral principles, binding one's conscience, to a series of incentives and disincentives, embracing thinking famously voiced by Justice Oliver Wendell Holmes over a century ago:

The primary rights and duties [of the law] are nothing but prophecies, [not] something existing apart from and independent of the consequences of its breach, to which certain sanctions are added afterward. [A] legal duty so called is nothing but a prediction that if a man does or

¹⁵The belief that moral norms are losing their hold on society has been expressed by tradition-oriented people in this country since the early days of the Massachusetts Bay colony.

omits certain things he will be made to suffer in this or that way by judgment of the court.¹⁶

Today, legal "prohibition" is often effectively distinguished from "regulation" in terms of the relative effect of their incentives to abjure the practice involved. In this consciousness, following a legal rule and paying the cost of violating it are viewed as equally legitimate options. Beyond that, in a liberal democracy, a person's willingness to "pay the penalty" of continuing a (theoretically) prohibited act tends to make the propriety of the act in question "no one else's business." In that way, although grounded in an initial separation of law from morality, the constriction of the law's reach, whether by the limited scope of the law or the extent of under-enforcement of its terms, tends to cabin that of morality as well. The existence of a separation between law and morality thus may depend on the direction of any cause/effect interaction.

A religiously grounded idea of obligation fundamentally rejects such a starkly positivist stance, regarding the moral norm as anterior to any sanction, and independently significant. Nevertheless, it has in common with Holmes' position an axiomatic link between a disfavored act and a sanction. Over much of our history, the religious sanction was exclusion from the faith community, presumably with Divine punishment (or mercy) in a life beyond the grave. In the case of societal failures to follow God's word, the Divine punishment was temporal, whether drought or floods, plague or military defeat.¹⁷

But the religious character of the norm did not mean that the sanction was religious only. The union of Church and State was ubiquitous until the last Century, in Dostoevski's Russia, Colonial America, and elsewhere. Typically, the Divine punishment attending violations of religiously grounded moral norms was accompanied by punishment, in this life, at the hands of the civil authority. It was the Church that pronounced Joan of Arc a relapsed heretic, but the State that burned her. There stands today in Philadelphia Old St. Joseph's Roman Catholic Church, founded by the Jesuits in 1733. The desire of the citizenry to shut the church down was thwarted only by successful invocation of the Charter of Liberties given the Commonwealth in 1701 by its Proprietor, Quaker William Penn.¹⁸

¹⁶The Path of the Law, 10 Harv. L. Rev. 457, 458 (1897), republished a century later, 110 Harv. L. Rev. 991, 991-92 (1997).

¹⁷Of the many expressions of this latter thought, a foundational one is that described in Deut. 11:13-18 (preserved in Jewish liturgy as the *V'yahafta*). The meaning of these words is interpreted in liberal Judaism to reflect its understanding of the way that Divine norms influence human history.

¹⁸The first Article of the Charter declared:

Pennsylvania at the time was the *only place* in the entire English-speaking world where it was lawful to celebrate the Roman Mass in public.

These linkages between norm and consequence have contributed powerfully to the experience of what it means for a norm to be binding, for an act not to be "permitted." Today, the association of obligation with sanction, whether on Earth or Beyond, has become deeply contested. So esteemed a Christian as C.S. Lewis saw what he termed a "preoccupation" with reward and punishment as a "corruption" of religion. He spoke rather of commands that were "inexorable, but ... backed by no 'sanctions'":

God was to be obeyed simply because He was God. Long since, ... He had taught me how a thing can be revered not for what it can do to us but for what it is. If you should ask why we should obey God, in the last resort the answer is, "I am."¹⁹

Nevertheless, the equation of obligation with sanction remains widely embraced, and one sharing Ivan's stance will often tend to regard Lewis' words as little more than a charming poetic trope, icing without cake.

In today's secularized world, moreover, all religious obligations, even if compelling once undertaken, tend to be viewed as having been *assumed* voluntarily. The widespread (and widely deplored) growth and acceptance of the practice of "shopping" for a congenial faith community illustrates the normalization of this far-reaching change. My teacher and good friend, Rabbi Marcia Prager, recounts an experience of a visitor to an Orthodox religious school asking a group of students, "How many of you choose to be obligated to the *Halakha* [the extensive body of Jewish law mandatory in Orthodoxy]"? When (as he expected) every student raised his hand, he responded, "Remarkable! If I had asked a group in this school that question a hundred years ago, no one would have raised his hand."²⁰

[N]o Person or Persons ... who shall confess and acknowledge One almighty God, the Creator, Upholder and Ruler of the World; and profess him or themselves obliged to live quietly under the Civil Government, shall be in any Case molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice."

A plaque on the street corner outside the church memorializes this event.

¹⁹Surprised by Joy: The Shape of My Early Life 232-33 (1971).

²⁰The Path of Blessing: Experiencing the Energy and Abundance of the Divine 153 (1998).

They didn't *choose* to be obligated; they *were* obligated" - ever since the eighth day after their birth, when their fathers had had them circumcised in the Covenant of Abraham.

Much of the contemporary insistence in many quarters on the "old-time religion" reflects a refusal to concede the inexorability of that fundamental change. Ivan's claim is often invoked, not only against avowed secularists, but also those who earnestly profess a belief in God, but differ in their identification of the content of "God's Will" and their means of access to it. This tendency to enhance significantly the specificity of the belief that is required to supply a genuine ground of morality was classically articulated (and satirized) by Henry Fielding through his Parson Thwackum, who confidently proclaimed:

When I mention religion, I mean the Christian religion; and not only the Christian religion, but the Protestant religion; and not only the Protestant religion, but the Church of England.²¹

Satire apart, I believe that Ivan's claim often reflects a conception of religious commitment that is not satisfied with any religious belief as an adequate grounding of moral judgments. At stake, I believe, is an enduring tension among differing paradigmatic conceptions of God and of the proper place of human understandings of Divine moral norms. Now and earlier the most widely held view, treated often as simply axiomatic or definitional - and embedded, I believe, in Ivan's five words - understands God as transcendent and sovereign, the "King of the King of Kings," who spoke the world into existence and constituted morality by "His Word."²²

In this consciousness, "Divine commands" are characterized most strongly by their otherness and inexorability. The apparent paradox of these two coexistent qualities - one remote and opaque, the other compelling and clear - is resolved by the idea of Revelation. The unknowable God reveals "Himself" in Scripture and the teachings of the relevant tradition. The human response is *obedire*, to listen and submit.²³

²¹The History of Tom Jones, A Foundling 115 (1749/2005).

²²"God said, 'Let there be light'; and there was light." Gen. 1:3. The ruler of Persia was referred as the King of Kings, or the Great King. See Edwin M. Yamauchi, *Persia and the Bible* 71 (Baker Book House, 1990).

²³I do not intend my use of the word, *submit*, to carry any inherently pejorative implication. Nor do I presuppose a simplistic, or indeed any specific, interpretative stance. See, e.g., law professor Timothy D. Lytton, writing of the Orthodox Jewish tradition:

A partial departure from this paradigm challenges the analogy to the willed, perhaps willful, act of a temporal sovereign. It understands the "command" of God as (in the words of law professor Richard Stith) "the eternal law, part of the very being of God, rather than something merely willed by Him for arbitrary or contingent reasons."²⁴ On such a view, strongly reflected in the Jewish and Roman Catholic traditions, "ethical requirements bind the conscience because they are *true*."²⁵

This formulation does preserve the idea of divine law as supreme, in that sense ruling over humanity. Yet note the critical role of what I will call moral discernment as the basis for understanding moral norms. Writing of Catholic teaching, Canadian philosopher Joseph Boyle observes:

[M]oral norms are not ... arbitrary impositions by God. They are ... the demands of our own rational natures. [M]orality is [the effort] by rational creatures [to] guide their lives to what is genuinely good. Thus, the reason

The Rabbis believed that the Bible is, on the one hand, a divinely inspired text and, on the other hand, a fundamentally cryptic document.... Indeed, [this] combination ... makes the need for creative and multiple interpretations all the more urgent. "Shall Not the Judge of the Earth Deal Justly"?: Accountability, Compassion, and Judicial Authority in the Biblical Story of Sodom and Gomorrah, 18 *J.L. & Relig.* 31, 33, 55 (2002).

See also the view of Cardinal Joseph Ratzinger (as he then was) regarding the "clarity" of what he terms the "Creation Narrative": One must distinguish between the form of portrayal and the content that is portrayed. The form would have been chosen from what was understandable at the time - from the images which surrounded the people who lived them [O]nly the reality that shines through these images would be what was intended and what was truly enduring.

"God the Creator," Homily 1, in *In the Beginning . . . : A Catholic Understanding of the Story of Creation and the Fall* 1, 4-5 (trans. Boniface Ramsey) (1995).

²⁴Images, Spirituality, and Law, 10 *J.L. & Relig.* 33, 43 (1993-1994).

²⁵Matthew Berke, "A Jewish Appreciation of Catholic Social Teaching," in Kenneth L. Grasso *et al*, eds, *Catholicism, Liberalism, and Communitarianism: The Catholic Intellectual Tradition and the Moral Foundations of Democracy* 239 (1995).

which provides the basis for moral norms is a person's own reason, not something alien or imposed.²⁶

A consciousness that can speak of "the demands of our own rational natures" departs in significant ways from a command consciousness, which would have difficulty seeing a self-generated call as a demand. The difficulty reflects the view (often implicit or reflexive) that a term like "self-imposed obligation" is an oxymoron: If its source is recognized as within the self, it is not an obligation; if it is imposed on the self, it must perforce have an external source.²⁷

The departure is limited, however, by the emphasis on reason as the basis of an internally generated source of moral discernment; the strictures of reason are a set of norms common to the species, only in that sense "a person's own." In both traditional Judaism and Catholicism - and perhaps in some contemporary Protestant denominations as well - there is little room for the individualist stance momentarily proclaimed by Martin Luther at the Diet of Worms: "I can and will not retract, for it is neither safe nor wise to do anything against conscience. Here I stand. I can do no other."²⁸

²⁶"Duties to others in Roman Catholic Thought," in Courtney S. Campbell & B. Andrews Lustig, eds, *Duties to Others*, 73, 84 (1994).

²⁷ Jewish theologian Michael Wyschogrod has articulated a challenging assertion of the inherent secularity of the claim of a necessary place for human discernment in moral decision-making:

[C]ontemporary man insists on knowing why the good is good and evil, evil. And once such knowledge is obtained, ... the need for a commanding God disappears entirely. For if the commanding God forbids that which is anyhow inherently evil and commands that which is anyhow inherently good, then his forbidding and commanding adds nothing at all.... This discovery, first made by Plato in the *Euthyphro*, substitutes an autonomous moral realm for a commanding God.

Abraham's Promise: Judaism and Jewish-Christian Relations 55 (R. Kenneth Soulen, ed, 2004).

²⁸A classic articulation of this thought is by Robert Cover:

The basic word of Judaism is obligation[,] bound up in the myth of Sinai... It was a myth that created legitimacy for a radically diffuse and coordinate system of authority. But while it created room for the diffusion of authority it did not have a place for individualism.

Obligation: A Jewish Jurisprudence of the Social Order, 5 *J.L. & Relig.* 65, 66, 69 (1987).

But the seeds of a significant departure from a command consciousness of the relation between God and humanity with respect to the moral law are contained in two celebrated passages of the Hebrew Scriptures themselves. Though speaking explicitly of God's word in the language of command, Moses reassured the People of Israel in terms that went significantly beyond it:

Surely, this commandment that I am commanding you today is not too hard, nor is it too far away. It is not in heaven, that you should say, "Who will go up to heaven for us, and get it for us so that we may hear it and observe it?" Neither is it beyond the sea, that you should say, "Who will cross to the other side of the sea for us, and get it for us so that we may hear it and observe it?" No, the word is very near to you; it is in your mouth and in your heart for you to observe.²⁹

A prophecy of Jeremiah expresses the thought that "God's will" is part of our own being in even more far-reaching words:

²⁹Deuteronomy 30:11-14.

But this is the covenant that I will make with the house of Israel after those days, says the Lord: I will put my law within them, and I will write it on their hearts; and I will be their God, and they shall be my people. No longer need they teach one another, or say to each other, "Know the Lord," for they shall all know me.³⁰

While these Scriptural words can be read as viewing the "internal" aspect of the search for the will of God as limited to the use of a person's (God-given) powers of reason, they also contain expressions of a consciousness in which "obedience" becomes an active, creative practice. In submitting to the will of God, we first search for the voice to which we will submit; discernment of it requires our fullest creative participation - a process that will often require but not be limited to analytic rationality, and to obey is not simply to yield our will to a superior force (even to reason). An example is law teacher Emily Hartigan's articulation of a feminist spirituality that experiences the law of God as "a gentle draw, more than a compelling force, an invitation more than a command ... [an] 'ought' that beckons more deeply than it threatens."³¹

³⁰Jeremiah 31:33-34.

³¹The Power of Language Beyond Words: Law as Invitation, 26 Harv. Civ. Rts-Civ. Lib. L. Rev. 89 (1991).

An "invitation," a "beckoning," rather than a command, yes; but beckoning "more deeply"? - to what? To, I believe, a more active human role in completing the revelation of "God's Will." Rabbi Neil Gillman describes such an understanding of Revelation as one that "strives to balance the complementary contributions of God and the human community in shaping the content of revelation."³² Human agency is not a mere permission to interpret, but is an integral aspect of revelation itself.

Articulating the normativity of such a position in varying versions of liberal religion presents a complex question. For reasons that I will address briefly below,³³ it is difficult to make responsible attributions of specific variations in the stance of different individual or denominational adherents to liberal religion. I will therefore speak here only for myself.

I find it impossible to believe that there exists a transcendent "almighty, all-knowing, and perfectly good personal being [that] holds beliefs; has aims, plans, and intentions; and can act to accomplish these aims with a "'will'."³⁴ Nor can I affirm the existence of any transcendent reality, even one shorn of those qualities. However, I stop short of being able to make an "affirmative denial" of it. I tend to believe that the truth of that matter is beyond the limit of what humans have the capacity to know, but even if I am wrong about that, it is at present undeniable that confirmation of the truth of our perceptions, and external verification of our experiences, lie beyond our present powers, whether of intellect or technology.

I do, though, believe that the Scriptures of all three Abrahamic religions are divinely inspired, in this sense: I understand Scripture

³²Sacred Fragments: Recovering Theology for the Modern Jew 26 (1990). Gillman attributes the thought to the eminent 20th century Protestant theologian Paul Tillich. Cf. Christian theologian Peter Enns' analogous but more cautious stance, writing out of the Evangelical tradition. Inspiration and Incarnation: Evangelicals and the Problem of the Old Testament (2008).

³³P. **xxx**, infra.

³⁴Analytic philosopher Alvin Plantinga - and in this he has millions of co-believers - so describes the God that he terms "real." "Pluralism: A Defense of Religious Exclusivism," in William P. Alston and Thomas D. Senior, eds, The Rationality of Belief and the Plurality of Faith 191, 192 (1995).

In disavowing such a belief, I recognize that many theologians have a less reductionist understanding of God's interventions in human history. For a treatment that I find especially helpful, see Thomas F. Tracy, Enacting history: Ogden and Kaufman on God's Mighty Acts, 64 J. Relig. 20 (1984).

as the *recorded responses* of its human authors to their experience of a transcendent reality.³⁵ They are divinely inspired in the sense that they reflect the efforts of their authors to reach beyond themselves to put into words (precepts, narratives, images) their experience of moments of transcendence, of a flickering vision of the "rightness" and possibility of a world of peace, justice and abundance. *God* (the divine) to me is that "presence" toward which they reach, and toward which you and I reach as we seek to understand their words and our presence in the world.³⁶ We (humans) are hard-wired - "created," if you will - to reach in that way, and in our reaching we manifest the reality of that presence.

The 13th Century Islamic mystic, Rumi, in the poem quoted in the epigraph to this article, has given uniquely eloquent voice to such an understanding of God in his account of "The Man whose calling 'O Allah'

³⁵Compare the compact statement of the views of two of the 20th Century's most esteemed religious figures, Martin Buber and Paul Tillich.

Buber: "As a report about revelation, the Bible is itself a *midrash*." *God in Search of Man* 185 (1955). (*Midrash* is a narrative intended to illuminate the meaning of a biblical passage).

Tillich: "The Bible is a document both of the divine self-manifestation and of the way in which human beings have received it. [T]here is no pure revelation. Wherever the divine is manifest, it is manifest in ... a concrete, physical, and historical reality, as in the religious receptivity of the biblical writers." *Biblical Religion and the Search for Ultimate Reality* 4 (1955).

³⁶Roman Catholic theologian Elizabeth Johnson says of humans, "we experience ourselves as beings who constantly reach out beyond ourselves" *Quest for the Living God: Mapping Frontiers in the Theology of God* 34 (2007). Jewish feminist scholar Judith Plaskow has described the experience in these words:

[A]s we join with others, in a way that only human beings can, in shared engagement to a common vision, ... we find ourselves in the presence of another presence that is the final source of our hopes and intentions, and undergirds and sustains them. [I]t is through the struggle with others to act responsibly in history that we ... come to know God in a profound and significant way. *Standing Today at Sinai: Judaism from a Feminist Perspective* 157 (1991).

Academic theologian Gordon Kaufman offers an extended analytic articulation that I find congruent with these expressions. *The Theological Imagination: Constructing the Concept of God* 31-57 (1996).

was equivalent to God's answering him, 'Here I am'."³⁷ Similar examples abound.³⁸

³⁷Rumi, note 3, supra. The entire poem is set forth in the Addendum, p. **XX**.

³⁸William James describes the "divine" as "only such a primal reality as the individual feels impelled to respond to solemnly and gravely, neither by a curse nor a jest." *Varieties of Religious Experience* 42 (1994). Martin Buber famously expressed a similar thought in these words: "We hear no words, yet we feel addressed." *I and Thou* 57 (Walter Kaufman, trans, 1955/1987). Cf. Arthur Green, *Radical Judaism; Rethinking God & Tradition* 91-98 (2010); Richard Wright, op. cit. n. **XX**, supra.

My view of Scripture is grounded chiefly in my persisting experience of its epistemic power, which is qualitatively different than that of (say) *Macbeth*, *Silas Marner*, or *Anna Karenina* - indeed, of Lincoln's Second Inaugural. What seems unique about Scripture is the ancient and enduringly *communal* character of its "reaching." Pastor Brian MacLaren, a popular (and unpopular) writer, grounds his claim of the "unique and unparalleled role of the Hebrew and Greek Scriptures" in their abiding grounding and salience in specific communities, for whom they serve as a "community library" that "preserves, presents, and inspires an ongoing vigorous conversation with and about God, a living and vital civil argument into which we are all invited and through which God is revealed."³⁹ MacLaren's metaphor suggests that the post-canonical teachers of the Abrahamic traditions, by the depth of their engagement with the witness of their Scripture, have accepted the invitation, and joined with the "founding" communities across the boundaries of the ages. Thus, although the canon may long ago have closed, Revelation continues.⁴⁰

The availability of that vision, however, is *deeply constrained*, and its "record" frequently marred, by the fragility and transience of the human lives of its authors, as those lives were lived in a world characterized by the awesome physical power that nature and human social life have over them. Seeking to align their belief in the wonderfulness of the natural world with a recognition of the power and apparent caprice with which it routinely devastated human hopes, they inevitably saw the hand of an unseen Power, benign yet unpredictably vengeful, at work in their lives.⁴¹ The plain text of Scripture, like the understanding of its authors, is therefore unhappily far from inerrant.

³⁹Op. cit., supra, at 27.

⁴⁰To similar effect are two expositors of the Jewish tradition: Whatever the most recent rabbi is destined to discover through proper exegesis of the tradition is as much a part of the way revealed to Moses as is a sentence of Scripture itself. It therefore is possible to participate even in the giving of the law by appropriate, logical inquiry into the law. Rabbi Jacob Neusner, *The Way of Torah: An Introduction to Judaism* 3 (1974).

Rabbi Donna Kirshbaum asserts that the "preoccupation with the interpretation of received texts creates community across time." Comment, in David A. Teutsch, *A Guide to Jewish Practice* 241 (2011).

⁴¹"Pathetic and very terrible is the long history of cruelty and torture, of degradation and human sacrifice, endured in the hope of placating the jealous gods." Bertrand Russell, op. cit., supra n. 1.

I hope it is clear that, although I deem immaterial the factual historicity of Scriptural accounts, I do not dismiss them as forgery, fiction, or *simply* the result of a political agenda by the powerful. The actual words of Scriptural narratives were first recounted orally and came to be redacted, from one generation to another over centuries, as our remote and nearer ancestors sought to make sense of the world as they experienced it.

It may be true that the religious consciousness that I have described here is in actuality essentially secular - not in any pejorative sense, but purely descriptively - since I cannot responsibly avow (although I do not disavow) the presence or the absence of any transcendent reality at all, and what I have said I experience may be wholly a projection "out there" of perceptions of my own devising. Neither I nor one who thinks so can know the truth of the matter. I have come to think it is not, but I do not claim that I have proven myself right in my belief or given anyone else a compelling reason to share it. I neither disclaim nor proclaim it.⁴²

One who has a consciousness like that expressed by Ivan might well believe that one who does not will lack any basis for denying the "permissibility" of any act. Ivan's *fear* is widely shared, and not to be sneered at. However, many who reject Ivan's metaphysics honestly hold, and can respectably defend, a belief in the existence and discernment of moral truths that transcend personal or cultural boundaries. More fundamentally, they almost never deem everything "permitted," albeit they are using the word in a sense that does not posit a wholly external source of constraint.

One may contend that, "without God," *all* moral deliberation is a facade, rationalization justifying willfulness, but rationalization is an ever-present temptation, and belief in God hardly inoculates one against its hazards. What to a committed traditionalist is simply a series of soft euphemisms - masking a free-ranging legitimation of willfulness, rationalization or (at best) self-delusion - is to the objects of such derision a more responsible and more accurate articulation of the experience of one's encounter with Truth. Although we cannot come to agreement on this question, we can, I believe, come to understand, not only why we each find the other's avowals problematic, but also why the other might responsibly hold it. To insist that only an external source of discernment of the Will of God can be "real," and deserves respect, not only begs the question, it

⁴²For an illuminating discussion of the meaning of the assertion that "God is real," see Schubert Ogden, *The Reality of God and Other Essays* 37-39, 55-59 (1963).

constitutes an imposition on those who honestly and thoughtfully see it otherwise. This was the great insight of the *Seeger* judges.⁴³

III. INHERENTLY MUNDANE WITNESSES TO TRANSCENDENT TRUTH

A second basis of objection to Ivan's claim challenges not its overbreadth but its asserted *significance*. The late Yale law professor Arthur Leff famously articulated a thesis that, although reminiscent of Ivan's claims, tends to undermine its salience. Writing about the search for a grounding of moral judgments, he famously asserted:

[Any] normative propositions in the form "one ought to do X," ... once found, must [themselves] be immune from further criticism.... If the evaluation is to be beyond question, then the evaluator ... must be the unjudged judge, the unrulled legislator, the premise maker who rests on no premises, the uncreated creator of values No person, no combination of people, no document however hallowed by time, no process, no premise, nothing is equivalent to an actual God in this central function as the unexaminable examiner of good and evil.⁴⁴

Whatever echo of Ivan seems heard in these thoughts, I believe that in fact Leff's assertions prove less than they may be taken - rightly or wrongly - to suggest. Specifically, to say, "*I know that [a certain act] is wrong because, and only because, God says so,*" is necessarily saying more than that *God is*, and is the author of morality. It also makes a claim about what it is that God "says." An act *is* permitted if a person or group *erroneously* asserts that God has said otherwise.

But identifying the moral judgments of God is always a human action and therefore remains subject to human challenge. Whether that challenge is to the existence of any such concept as "God," or to the claim of knowledge of God's Will in any instance, the ensuing disagreement will necessarily be internal to human history, and therefore not unchallengeable.

⁴³They were plainly influenced by the constitutional infirmities of a statute protecting some but not all religious grounds of conscientious objection. Indeed, in a subsequent case, Justice Harlan recanted his willingness in *Seeger* to accept the surgery that the Court performed on the statutory language, but went on to conclude that the statute was unconstitutional. *Welsh v. U.S.*, 398 U.S. 333, 344 (1970).

⁴⁴*Unspeakable Ethics, Unnatural Law*, 1979 *Duke L.J.* 1229, 1230-32.

To choose two foundational examples, however one comes to believe that: (1) in whatever form it was done, at Sinai God indeed "spoke all these words"⁴⁵ (what we call the Ten Commandments); or (2) the Angel Gabriel indeed spoke as recounted by Luke to Mary of Nazareth at the Annunciation,⁴⁶ those beliefs are claims to the truth of prior human testimony to that effect, whether of the Biblical witnesses themselves, historic or contemporary members of one's faith community, or (indeed) one's own parents.

Although the Hebrew Scriptures richly describe a God of attributes and intentions galore, they contain one fascinating passage that carries a very different message. *Exodus* teaches that Moses was told by God to go to Pharaoh "to bring my people, the Israelites, out of Egypt." Moses asked God what he should say to the people if, when he tells them that "the God of your ancestors has sent me to you, they ask me, 'What is his name?'"⁴⁷ The meaning of God's answer has been debated for centuries. In Hebrew (transliterated), it is *Ehyeh Asher Ehyeh*; there are few Scriptural passages more cryptic. One rendering in English is, "I Am That I Am." Jerome Segal, a contemporary writer, gives it this interpretation:

God's mode of existence is fundamentally incommensurate with human existence. And thus no predicate affirmed of a human being can ever properly be asserted or denied of God. All one can say of God ... is that He Is. Being beyond language, he can, in truth, tell us nothing of himself except that his name is "I Am."⁴⁸

The claim - whether voiced by Ivan Karamzov, Fyodor Dostoevsky, or Arthur Leff - that only a Reality we call "God" can indubitably ground moral judgments is therefore true only definitionally; it is what one means by saying "God."⁴⁹ But any specific understanding of God as the

⁴⁵Exodus 20:1.

⁴⁶Luke 1:26-38.

⁴⁷Exodus 2:7-14.

⁴⁸Joseph's Bones: Understanding the Struggle Between God and Mankind in the Bible 108 (2008). "I shall be what I shall be" is a common alternative. Martin Buber, through his long-time translator, Maurice Friedman, beautifully (and profoundly) renders the phrase as "I shall be there." Eclipse of God 62 (1988).

⁴⁹I believe that Arthur Leff plainly recognized as much, although there is no short quotation that accredits my understanding him so.

unchallengeable source of the moral order is wholly formal; no specific content can be attributed to it without costing it that quality.⁵⁰

Of course, Scripture is the ground of the belief that God has revealed "Himself," crossing the boundary of Transcendence. But even thoroughly traditional believers seldom claim to have had a direct personal revelation, instead basing their faith (including in some cases their belief in the divine authority of their community of faith) on a centuries-old tradition, and their own history. There is nothing disreputable about this source of faith, but it is as "merely human" as it is to believe the words of the Quaker maxim (originating, I believe, with St. Teresa of Avila), "God has no hands but our hands, no eyes but our eyes, no voice but our voice."⁵¹ One who is convinced of having had a direct personal revelation of divinity is as "merely human" as the rest of us. One may be acting responsibly in affirming or denying the epistemic reliability of a specific Witness, including oneself, but we are all at risk of error.

If "knowledge" denotes truth, its existence cannot be verified. Legal philosopher Jeremy Waldron, although writing about justice, makes a point that is more broadly apt:

No matter how often or emphatically we deploy words like "objective," a claim that what justice objectively requires never appears except as someone's view Although there may be an objective truth about justice, it inevitably comes to us as one contestant view among others.⁵²

I may *know*, but do I know (or only believe) that I know; if I do (know), do I know (or only believe) that I know that I know; et seq. But it can be believed with greater and greater justification. The assertion that one "knows" is a *functional* claim, deeming the extent of persisting uncertainty of no existential or decisional significance. Conceptually, it may be faulted as analogous to taking a last step to disregard or overpower (rather than respect or transcend) Zeno's Paradox: If, having begun in Philadelphia, I successively travel one-half of the distance

⁵⁰Roman Catholic theologian Chester Gillis's observation is aptly put: "We cannot hope to render the Transcendent transparent. Indeed, if we were able to do so, that which is described [would be] no longer transcendent." *Pluralism: A New Paradigm for Theology* 179 (1993).

⁵¹Compare the slightly different rendition attributed to St. Teresa by Andrew Harvey, *The Essential Mystics: The Soul's Journey into Truth* 206 (1996).

⁵²Jeremy Waldron, *The Circumstances of Integrity*, 3 *Legal Theory* 1,13 (1997). Chester Gillis is to like effect: "[W]e do not know the Transcendent in itself., we only know our perception of the Transcendent." *Op. cit. supra*, note **XX**, at 179-80.

to Ann Arbor 50 times, it is "true" that I have not yet crossed the city boundary, but I may nonetheless have compelling reason to act as if I have reached it, and no reason to act as if I have not. Indeed, in most circumstances to say that I am not yet there would simply be a bit of pedantry, even though neither inductively nor deductively can the gap remaining be bridged by further repetition.

The millions of people who would join Job in insisting, "I know that my Redeemer liveth,"⁵³ have taken that "last step" as their first, by reason of religious faith. Faith may ground certainty, as may love (and *perhaps* even hope), but reason cannot.⁵⁴ Martha Nussbaum, writing of "Love's Knowledge," terms that condition "cataleptic": The cataleptic impression is said to have the power, "just through its own felt quality, to drag us to assent, to convince us that things could not be otherwise."⁵⁵ One may then be speaking loosely of "certainty," yet have warrant for the avowal. Nevertheless, certainty is necessarily a condition that describes the stance toward Reality of the person-believing (or -knowing). It cannot be a statement *about* the world external to the speaker, for no one has unmediated access to Reality or unmediated access to the basis of anyone else's assertion of such access. Belief in a transcendent source cannot displace the Earth-bound character of an essential link in its coming into awareness.

This orienting insight is attested by esteemed religious teachers, ranging from the First Century Sage Rabbi Yohanan ben Zakkai - "There is no Truth unless first there is a Faith on which it rests"⁵⁶ - to the Twentieth Century Jewish existentialist philosopher, Martin Buber, whose understanding of Revelation is described by a contemporary Conservative rabbi in these words:

⁵³Job 19:25.

⁵⁴ Arthur Leff again remains persuasive:
[A] fully considered moral position, the product of deep and thorough intellectual activity, one that fits together into a fairly consistent whole, [may] deserve more respect than shallow, expletive, internally inconsistent ethical decisions [but] labor and logic have no *necessary* connection to ethical truth.

Arthur Leff, note **XX** *supra*, at 1238 (emphasis in original).

⁵⁵ Martha C. Nussbaum, "Love's Knowledge," in *Love's Knowledge: Essays in Philosophy and Literature* 261, 265 (1990).

⁵⁶See, among many secondary sources, Milton Steinberg, *As a Driven Leaf* 13 (1996). Rabbi Yohanan led the re-fashioning of what came to be called Rabbinic Judaism in the wake of the destruction of the Second Temple and the expulsion from Jerusalem.

[R]evelation at Sinai was not a matter of words; it was a revelation of God Himself. All of the words of the Torah are simply a record of how the people who in the revelation at Sinai (and many people thereafter) understood its nature and implications.⁵⁷

To like effect - allowing for differences in modes of expression - are the writings of major 17th Century Protestant sources⁵⁸ and contemporary secular thinkers.⁵⁹

Yet, to the "certain" believer - whether the source of certainty is faith, love, reason or experience - it will not appear so, and for him or her to speak as if nothing has been said about "reality" is to

⁵⁷Elliot Dorff, "Medieval and Modern Theories of Revelation," in *Etz Hayim* [Tree of Life] Torah and Commentary, David L. Lieber, senior ed, 1401 (2001).

⁵⁸John Selden described the opposition of British Protestants to any exposition of Scripture that "went beyond the text [as], of necessity, a human invention, which a discreet Man may do well; but 'tis his Scripture, not the Holy Ghost['s]." As quoted by H. Jefferson Powell, *The Original Understanding of Original Intent*, 98 Harv. L. Rev. 885, 889-90 (1985) (italics in original omitted).

One of the most famous teachings of George Fox, founder of the Religious Society of Friends (Quakers) (1652), goes a significant way further. He challenged those whose "knowledge" of God was not based on direct personal experience but on the witness of others, even if grounded in Scripture and attributed to ones who Fox regarded as History's highest witnesses to Truth):

[T]he Scriptures were the prophets' words, and Christ's and the apostles' words, and what, as they spoke, they enjoyed and possessed, and had it from the Lord; [W]hat had any to do with the Scriptures, but as they came to the Spirit that gave them forth?

Margaret [Fell] Fox, "The Testimony of Margaret Fox," in *I The Works of George Fox* 50 (1975) (italics in original omitted).

⁵⁹"There is no truth that truths itself," Robert Bellah, *At Home and Not At Home: Religious Pluralism and Religious Truth*, *Christian Century*, April 19, 1995, p. 425.

"Nothing can count as a reason for holding a belief other than another belief." Donald Davidson, "A Coherence Theory of Truth and Knowledge," in *Subjective, Intersubjective, Objective* 137, 141 (2001).

"To rely on [revelation] is to have faith in the prophets who communicate the revelation." David Luban, *A Theological Argument Against Theopolitics*, 16 *Institute for Philosophy and Public Policy*, Report 13 (1996).

believe that certainty. It cannot be inherently improper to refuse to do so.

At the same time, there is a boundary, the crossing of which is not justified by certainty of belief. I will use the term, *triumphalism*, to describe that which lies across that boundary. To me, the essence of triumphalism is the movement beyond holding a set of beliefs as "known," as to be true and certain, to maintaining that such certainty suffices to delegitimize (rather than merely to dispute) any claim that the contrary belief of another may be true. What to the believer is obvious, to the skeptic is simple question-begging. What the one sees in the other as obduracy (or worse), the other sees in the one as triumphalism (or worse). The willingness to entertain the possibility that one's fundamental avowals are in error is to one a fateful step on a dark and icy road to apostasy; the unwillingness to take that step is to the other a mark of subjection (nascent or full-blown) to "tyranny over the mind."⁶⁰

Analytic philosopher Alvin Plantinga, defending the ethical permissibility of believing that his religion is true and that other beliefs, when contrary to it, are false, observes:

I must concede that there are a variety of ways in which I can be and have been intellectually arrogant and egotistic But am I really arrogant and egotistic just by virtue of believing what I know others don't believe, where I can't show them that I am right?⁶¹

The problem, however, is deeper than the presence or absence of such ethically dubious personality traits as arrogance or egotism. For many believers, the matter is not one of conscious will, for they do not regard their assent as a voluntary decision. Theologian Paul Griffiths has described the experience of such people this way:

[T]here is a long (and usually complicated) story to be told about why I find myself involuntarily moved to assent to these claims at a particular time. Usually, the story will involve reference to habits, skills, and knowledge I've gained in the past, but in all cases the upshot is the same: I find myself irresistibly moved to assent. . . . I cannot

⁶⁰On the wall of the Jefferson Memorial in Washington, D.C., is inscribed: "I have sworn eternal hostility to every form of tyranny over the mind of man."

⁶¹Alvin Plantinga, "Pluralism: A Defense of Religious Exclusivism," in Thomas D. Senor, ed, *The Rationality of Belief and the Plurality of Faith* 191, 200 (1995) (emphasis supplied).

deliberate and then decide whether to believe it or not. ...
It is simply given to me.⁶²

Non-religious people should therefore be cautious about dismissing as triumphalist or impositional the reluctance or unwillingness of (again) some religious believers to find legitimacy or (in some sense) validity in other religions, to acknowledge that others may have justification for holding their understanding of the Truth, or to engage in "dialogue" about matters of belief (or morality grounded in belief) with those who disagree. A set of beliefs may include or give rise to an obligation to be exceedingly wary of attempts to be persuaded to violate or seriously question one or more of the norms of their faith. For some (not all) such people, more is at stake than the outcome of a disagreement, more or less friendly, about a matter of metaphysics, ethics or public policy. In the friendly disputant's expressions may be heard the voice of Satan. Of course, holding the belief that the beliefs of another person are the work of the Devil is a moral hazard, and might lead the believer into seriously wrongful speech or conduct.⁶³

Wariness may therefore be an appropriate response, but a preemptive dismissal is not. All other things being equal, openness to dialogue across difference is a good, but it is not inherently a universal moral imperative, and all else is not always equal.⁶⁴ The matter turns on the specifics of the individual actor's motivation, intention and - especially - actions. Imposition is a serious wrong; a triumphalist attitude alone may best be thought of as simply a source of interpersonal incompatibility.

However, triumphalist attitudes tend to leach into actions. Indeed, the confident expression of an "attitude" is itself an action, in the practical sense that it can "pinch" those who do not share its wellsprings. This, I believe, is the core of the problem of the

⁶²Problems of Religious Diversity 26 (2001).

⁶³ The one so believing will assert the defense of truth as a justification, which the other will regard as compounding the felony. That this leads to an indefinite regress is a problem, but that observation is not a solution to the problem.

⁶⁴For the classic statement of the traditional Jewish wariness toward "dialogue" with Christians, see Joseph B. Soloveitchik, *Confrontation*, 6 *Tradition: A Journal of Orthodox Thought* 5 (1964). Rabbi Soloveitchik wrote just as momentous changes would begin to appear in the Christian world. See Eugene B. Borowitz, *A Nearness in Difference: Jewish-Christian Dialogue since Vatican II*, *Commonweal*, Jan. 13, 2006.

appropriateness of certain forms of "public prayer": What to the devout may be simply a legitimate desire to express deep-seated feelings of gratitude or dependency toward "the One from whom all blessings flow," when joined by a large percentage of the like-minded cannot help but constrain the freedom of those who differ.⁶⁵

My words so far have had two objectives, to demonstrate that warrant is lacking for the dismissiveness with which Ivan's claim has viewed the reality of moral norms not grounded in traditional religion, and to uncover the serious limitations of his unspoken corollary assertion, "With God, we can know what is not permitted." I want now to look more directly at several important ways in which liberal religion nevertheless does tend to differ in its approach to moral imperatives, ways that I believe are connected to the pejorative cast of Ivan's claim. Although I will suggest that the differences are real, and may justly lead one to prefer one view or the other, they should not be exaggerated through caricature, and do not warrant deeming the traditional view self-evidently superior. I will also seek to demonstrate that the bases of disagreement are only partially theological.

IV. NON-THEOLOGICAL SOURCES OF DIVERGENT THEOLOGIES

It is important to recognize that practitioners of both traditional and liberal religion often understand their faith as an *experience* and not only as a set of factual avowals. One is more likely to emphasize the creedal aspect of a faith tradition when looking at it from outside, or speaking to one outside it. Rabbi Neil Gillman attributes to his teacher, Rabbi Mordecai Kaplan (the founder of Reconstructionist Judaism), the insight that "there are three possible ways of identifying with a religious community: by behaving, by believing, or by belonging":⁶⁶ that is, to say --

(1) by regarding as normative a set of practices (whether of ethics or ritual),

⁶⁵Cf. Marvin E. Frankel, *Religion in Public Life - Reasons for Minimal Access*, 60 *Geo. Wash. L. Rev.* 633, 639 (1992): "Why ... the proliferation of committees and public officials insisting that creches be placed ... on the public squares?," and answers: "The reason ... is exactly to show others who's boss. This is Christian country. If you don't like it, as you presumably don't, you know what you can do."

⁶⁶*Op. cit supra*, n. **XX** at xvii.

(2) by deeming as true a set of descriptions of some aspects of the existence and nature of transcendent reality and specific moments in human history,

(3) and by viewing as essential the living-out of a (more or less specific) set of norms - which may include certain practices or beliefs - as part of a community of (sufficiently) like-minded companions.

The multiple variations in the content and relative strength of each of these inputs, and in their interactions with one another, counsel caution in generalization.

(1) "Behavior" might focus primarily on observance of rituals or of ethical norms;

(2) "Believing," although perhaps most often denoting acceptance of the truth of certain propositional statements,⁶⁷ may rather have a "conative significance, an existential commitment of trust or loyalty."⁶⁸ As such it is often expressed as "belief-in" rather than "belief-that."

(3) "Belonging" may be thought of as imposed by ancestry at birth, as freely chosen, or as achieved by being earned (and that through behavior or beliefs). Moreover, participation in a faith community may be regarded by a person as a requisite of being able to maintain behavior or belief, or simply as desirable.

As a result, belonging and behavior may each be both support for the other and supported by it, while each may also interact in like manner with belief.⁶⁹ There remains, despite this complexity, some coherence

⁶⁷Indeed, some rituals might be deemed, more or less centrally, to embody an understanding of "belief" as a set of propositional avowals. Recital of the Christian Creeds is perhaps the most prominent example. That they are not invariably so understood, however, is illustrated by Benedictine Sister Joan Chittister. In *Search of Belief* (1999) (see especially pp. 1-3).

⁶⁸Kurt Bendall & Frederick Ferre, *Exploring the Logic of Faith: A Dialogue on the Relation of Modern Philosophy to Christian Faith* 52 (1962).

⁶⁹Clifford Geertz refers to "the collection of notions a people has of how reality is at base put together as their world view, [and] the way they do things and like to see things done [as] their ethos." Religious rituals serve as symbols that "link these in such a way that they mutually confirm one another. [They] render the world view believable and the ethos justifiable, ... by invoking each in support of the other." He goes on:

The world view is believable because the ethos, which grows out of it, is felt to be authoritative; the ethos is justifiable because the world view, upon which it rests, is held to be true. Seen from outside the religious perspective, this sort of

of certain amalgams into recognizable affinities, of which the descriptive terms I am using, traditional and liberal religion, are important examples. Liberal religion tends to view "belonging" as available at a person's initiative, and not a matter of birth, of merit, or (perhaps) of God's grace. It tends to favor a less highly structured, more evolving approach to the ritual aspect of behavior and a less tightly specified approach to the delineation of the ethical imperative. It tends to welcome a metaphoric construal of religious avowals, making of them more a matter of insight or practice (behavior and belonging) than belief.

Metaphorical avowals provide liberal religion with a refuge from having to choose between giving up practices that have genuine significance and professing things it cannot believe. Its practitioners tend to regard "clarification" of their meaning as reductionist and distorting, a tendency that leads its adherents to turn to what I think of as an *experience of resonance* as sufficient warrant for shared beliefs and practices. The result is that liberal religion is not quick to clarify exactly what it is that it does avow, often being content to rest with rejecting meanings of those avowals that it cannot accept.⁷⁰ There is also in liberal religion a greater acceptance of the influence of culture on the demarcation of moral and wrongful actions, and an accompanying receptivity to complexity and tentativeness in moral judgments.

We need to recognize that the shelter of ambiguity and tentativeness inevitably enhances the tendency of both traditionalists and secularists to take liberal religion less seriously. At the same time, it remains true that the critical question is whether liberal religion's wariness of "clarity" should be deemed dispositive - whether the greater danger is too strong a desire for clarity or too strong a caution against its vigorous pursuit. What follows in the remainder of this section is intended to accredit my belief that this question lies at the heart of the divergences between the traditions. Toward that end, I will examine four factors that coalesce to distinguish liberal and traditional religion.

hanging a picture from a nail driven into its frame appears as a kind of sleight of hand. Seen from inside, it appears as a simple fact.

Op. cit, supra at 97.

⁷⁰"Unfortunately, most liberal theologians have been better at naming and theorizing the problem than at articulating [a] constructive alternative" Wesley J. Wildman, *The Ambiguous Heritage and Perpetual Promise of Liberal Theology*, 32 *Am. J. Theo. & Phil.* 43, 50 (2011)

1. The first, and perhaps the most fundamental, factor is the choice between hiddenness and revelation as the most salient aspect of God's nature and will. Cardinal Avery Dulles, a highly respected Jesuit theologian of the last century, dismissed as "widely prevalent" and "sophisticated relativism" the view that "religious truth consists in an ineffable encounter with the transcendent, [which] cannot be communicated by propositional language, since it utterly surpasses the reach of human concepts." Terming such a view "mystical empiricism," he claimed (quoting Pope John Paul II) that "divine revelation can be formulated, at least in part, in irrevocably and universally true creedal and dogmatic propositions."⁷¹ My quarrel here is not with this claim, but with the use of casual side comments to suggest that all that is involved is a choice between popularity and integrity.

Indeed, the stance that Cardinal Dulles criticizes was given eloquent voice nearly 75 years ago by so celebrated an expositor of Christian faith as C.S. Lewis, who begins the poem, "Footnote to All Prayers," with these lines:

He whom I bow to
only knows to whom I bow
when I attempt the ineffable Name,
murmuring Thou,
and embrace in heart
symbols which cannot be the thing Thou art.
Thus always, taken at their word, all prayers blaspheme⁷²

The beauty of Lewis's poetry should no more compel assent to his message than the dismissive tone of Dulles' language suffices to rebut it. Traditional religion tends to respond negatively to an emphasis on the "hiddenness" of God, being more affected (as I suggested earlier) by a consciousness of the extent to which God is revealed in some amalgam of Scripture and the relevant Tradition.⁷³

What is manifested here, I believe, are fundamentally different understandings of the accessibility of Divinity to humans. Consider the stance toward revelation expressed by Evangelical pastor John MacArthur:

All truth sets itself against error. Where Scripture speaks,
it speaks with authority. It speaks definitively. It speaks
decisively. It calls for absolute conviction Discernment

⁷¹The Challenge of the Catechism, First Things, Jan 1995, p. 46.

⁷²Footnote to All Prayers," Poems 131 (1965/2007). I have reformatted Lewis' lines (in the cause of greater clarity of meaning!).

⁷³Recall the wryly critical observation: "The only trouble with seekers is that they rarely find anything."

demands that where Scripture speaks with clarity, a hard line must be drawn.⁷⁴

Contrast MacArthur's words with the *cri de coeur* of the noted sociologist of religion Peter Berger, introducing (in the words of his book's subtitle) "A Skeptical Reaffirmation of Christianity": "I confront God's silence, I am determined to bear that silence I refuse to deny either God's silence or my hunger for the silence to be broken."⁷⁵

If, in Lewis' words, "taken at their word, all prayers blaspheme," the work of discerning God's will is inherently elusive, and strong reliance on the language of Scripture or the teaching of a tradition is a serious epistemic hazard. Indeed, contemporary scholar William Egginton quotes St. Isadore, the seventh-century Bishop of Seville, as using just the word Dulles rejects to describe the nature of God. "The mystical name of God is called 'ineffable' not because it cannot be spoken but because in no way can it be bounded by human sense and intellect."⁷⁶ Whether such a belief is a blindness to the clarity with which God's will has been revealed to us, or is the source of a more promising search for it, is the question. Noting the difference opens that question but does not resolve it.

Moreover, differences in theological outlook tends to co-exist in a mutually reinforcing way with the difference between comfort with clarity and comfort with ambiguity. As a result, it is difficult to say which is the source, which the consequence. Beyond that, one's choice in each arena typically presents itself as simply an experience of a *fact* (whether about oneself or the world) and not a mere "preference." These factors will often make elusive any attempt at productive engagement with differing theological views.

2. This suggestion is reinforced by considering the different understandings we may have of the meaning of "meaning" itself. This is a complex question, going far beyond intra-religious disputation. Respected teacher of law, classics and poetry, James Boyd White, notes the tendency "naturally to accept the view that [meaning] is propositional in character," and suggests that "some texts are rather experiential and performative, [offering] an experience, not a message,

⁷⁴Reckless Faith: When the Church Loses Its Will to Discern 50 (1998).

⁷⁵Questions of Faith: A Skeptical Reaffirmation of Christianity 10 (2004) (emphases in the original).

⁷⁶In Defense of Religious Moderation 67 (2011). Quoting Dante Alighieri, Isidore concludes that God "can only be spoken of by metaphor or analogy, for we can know only his traces." Ibid.

and an experience that will not merely add to one's stock of information but change one's way of seeing and being, of talking and acting."⁷⁷

Dominican priest Carlos Mesters illustrates this sort of realization, I believe, in telling us the "meaning" of the story of the Fall:⁷⁸ "The biblical author," he maintains, "was not thinking primarily of what had taken place in the distant past; he was thinking of what was going on around him, and perhaps even within himself He wants everyone to wake up to their personal responsibilities, to tackle the roots of evil in themselves."⁷⁹ Asked whether the story was "true," one appreciating this understanding might say it was, without thereby attesting to its constituting the primal and enduringly significant event in human history.

Some confirmed traditionalists will immediately object to the suggestion that the "biblical author" was some anonymous post-Edenic human or the distillation of a long line of story-tellers' art, rather than God Himself, acting through Moses. To me the *salience* of such an objection is manifest: It is unlikely that one who believes the historicity of the Genesis account would use the words that Fr. Mesters chose, which seem to "reduce" the account to a parable. Putting to one side, however, the question of the *validity* of an objection based on the theological question of authorship, a person's stance on that question will often reflect a viewpoint that is not theological in origin: the proper response to the view that the words of a story ordinarily "mean" what the semantics and syntax of its words suggests, that they are self-evidently (in James White's word) propositional.

I am here skating close to the edge of the utility of the categories - liberal and traditional - that I am using. Cardinal Dulles has described as grounded in Catholic theology the claim that, although "revelation is not in the first instance propositional[,] it is unacceptable to say that revelation does not contain any factual information."⁸⁰ Yet, by Cardinal Ratzinger's approach to understanding the Creation story,⁸¹ Fr. Mesters' use of the story of the Fall seems wholly unobjectionable. I believe the complexity is attributable to the difference between a tradition of *how* Scripture is to be read and one

⁷⁷"What Can a Lawyer Learn from Literature?," in *From Expectations to Experience: Essays on Law and Legal Education* 216-18 (2000).

⁷⁸Gen. 3.

⁷⁹God, Where Are You? *Rediscovering the Bible* 14 (2003).

⁸⁰The Orthodox Imperative, *First Things* 31, 33 (Aug/Sept 2006).

⁸¹See n. **XX**, *supra*.

of *who* may establish a Tradition that is co-equal to Scripture in authoritativeness. The traditions of both Catholicism and traditional Judaism are hospitable to substantial interpretive creativity, but believe that, respectively, the Roman Magisterium or the Rabbinic lineage has Divine authority to "teach" in ways that constrain the interpretative license of members of their faith communities.

Rejection of a propositional understanding of the word, *meaning*, will incline one to be hospitable to an understanding of it as referring to a text's *significance*, its import, which is often conveyed indirectly, even obscurely. From this consciousness, a deeper fidelity to the "Word of God" may be found through listening for it in ways that are not so tightly bound to explaining the *words* of God alone. In so doing, on this view we may better serve God by turning to and relying on our human power to search and discern.⁸²

Plainly, doing so will lead to both a lessened emphasis on the question of historicity and a perception and acceptance of an enhanced potential for ambiguity and uncertainty in specifying just what the content of a specific witness is. While to some that is a grievous failing, a source of serious discomfort and an invitation to lassitude, to others these fears are to be taken seriously but are not dispositive, for surmounting them removes a major barrier to embracing a truer route to discernment of God's will. The merits of such a stance cannot readily be judged by a preexisting preference for either view of what "means" means, nor by a theologically grounded acceptance or rejection of the propositional or historical truth of Scripture, for cause and consequence resist disentanglement. Yet each of those preferences will affect the other.

3. A third, intertwined, source of difference arises from the fact that, in approaching the task of discerning God's Will, liberal religion is hospitable to avowed limits on the normative force of tradition. This question too goes beyond the religious sphere. Justice Holmes famously growled:

It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past.⁸³

⁸²For a penetrating, lucid development of this thought, with respect to the task of understanding the Parables of Jesus, see David Bartlett, *The Shape of Scriptural Authority* 65-78 (1983).

⁸³*The Path of the Law*, n. XX *supra*, at 469, and reprinted, *id.*, at 1001.

Of course, with respect to religion, the lawyerly qualifications implicit in the Justice's second sentence simply swallow up the implications of the first: In traditional religion, except for changes that are themselves of transformational religious significance - the Coming of Christ in Christianity, the Destruction of the Second Temple and the expulsion from Jerusalem in Judaism - "grounds" endure, and "imitation" is fidelity, not blindness.

The bitterest intra-religious disputes are over the challenges to the sanctity of tradition that have characterized the 19th and 20th Centuries (and seem to have continued unabated in the 21st). Hungarian Rabbi Moshe Sofer (known as the *Hatam Sofer*) confidently proclaimed: "Innovation is forbidden by the Torah."⁸⁴ A century later, Rabbi Mordecai Kaplan expressed a starkly competing norm with like assurance: "The past has a vote not a veto."⁸⁵ A far more widely known difference has existed within the Roman Catholic Church since the Second Vatican Council a half-century ago. There is a vast body of learning and disputation over the efforts of the Popes who have succeeded John XXIII to rein in the extent to which the Council should be understood as legitimating far-reaching changes in many aspects of Catholic faith and practice - including the question of the propriety of that very disputation.⁸⁶

It is difficult for traditionalists to see the legitimation of reexamination, adaptation, and revision of norms and practices as anything other than an invitation to rampant subjectivity. What is at work, in my judgment, is (again) one's comfort for felt certainty on the one hand, or for acknowledged ambiguity on the other, and theological avowals are often the consequence rather than the source of differences in one's stance on this issue.

The enduring conflict over the degree of sanctity to be given the Bible is, in part, an aspect of this phenomenon. George Steiner, American literary critic, philosopher, essayist and novelist, writing an

⁸⁴As quoted (among many other places) in Raphael Patai, *The Jews of Hungary: History, Culture, Psychology* 294 (1996).

⁸⁵See Rebecca Alpert & Jacob Staub, *Exploring Judaism: A Reconstructionist Approach* 29 (1985), which uses this line, attributed to Kaplan, as a chapter title.

⁸⁶Fr. Richard John Neuhaus eloquently articulated the principle that "the Catholic believes that ... the bishop of Rome is Peter among us, that the words of Jesus, 'He who hears you, hears me', have abiding historical applicability until the end of time." *The Persistence of the Catholic Moment*, 52 *Cath. U.L. Rev.* 269, 278 (2003). Of course, many who claim to be authentically Roman Catholic believe something less univocal about the primacy of the Pope.

"Introduction to the Hebrew Bible," has ably expressed what I believe is the premise of the view often too quickly dismissed as fundamentalist:

Prise loose a single brick, and the edifice will collapse. Compromise, discard a single affirmation as to creation in Genesis, as to sumptuary and dietary prescriptions in the Torah, as to Elijah's ascent into heaven, and you will, irreparably, bring the sanctuary of God's nearness to man tumbling down.⁸⁷

This invocation of the "slippery slope" is not merely facile rhetoric; the slope is slippery indeed. It is no mean challenge to reject inerrancy or literalism yet avoid a polarized conception of the Scriptures as just another important book, some of it well worth taking to heart, "up there" with Plato, J.S. Mill, and whom-you-choose. Nonetheless, adherents of liberal religion, while rejecting any whiff of "fundamentalism," tend to remain committed to the specialness of Scripture, but seem to regard it as a sufficient response to polar challenges from traditionalists and secularists to attempt to live out a "middle position" without articulating its coherence or specifying its boundaries.⁸⁸

It is not surprising that liberal religion often rests content with a certain reticence about articulating just what it does avow, whether with specific respect to Scripture or more broadly. Having arisen out of a critical engagement with important aspects of traditional Christianity or Judaism, it will naturally begin the process of forging a new tradition with emphasizing what in the other it rejects.⁸⁹ Beyond that, it is wholly appropriate that it will go slowly in creating an "orthodoxy" of its own. Just as the proliferation of differing versions of early Christianity was part of the background to the heightened

⁸⁷"A Preface to the Hebrew Bible," in *No Passion Spent: Essays 1978-1995* 85 (1996).

⁸⁸Brian McLaren's suggestion, in *A New Kind of Christianity*, Ch, 8, that we think of the Scriptures as a "Community Library" rather than a "Legal Constitution," is an imaginative and thought-productive counter-example, putting forth a conception of Scripture that meaningfully guides one's approach to its epistemic value. I have briefly described above, p. **XX**, my own effort to articulate a stable-enough point of rest that slides only part-way down the slippery slope.

⁸⁹I do not mean thereby to ignore or dismiss the substantial body of scholarship seeking to demonstrate that an even older tradition in fact supports the approach of present-day liberal religion, especially with respect to the interpretation of Scripture. See, e.g., the work of Karen Armstrong, op. cit. supra note **XXX**.

emphasis on hierarchy and doctrinal purity of the early centuries of the Christian Era,⁹⁰ so too, the converse: Liberal religion may resist specification - especially communal specification - of beliefs because it may foretell the reintroduction of those qualities.

Whether these concerns justify, or only explain, this reticence in the 21st Century, it eases the way for one of a traditional consciousness to dismiss liberal religion as thinly disguised secularism. At the same time, those who are militantly secular in their outlook on the world will tend to see in the "non-combatant" stance of liberal religion little more than an attempt to paper over the grievous sins of religions past and present with a thin layer of rationality and a bland display of good will. In that way, each "pole" tends to consign liberal religion to a spot closer to the other.

⁹⁰See Ch. 4 ("Boundaries Defined") of Diarmaid MacCulloch, *Christianity: The First Three Thousand Years* 112-54 (2010). He notes:
The advantage of creedal statements was that almost anyone was capable of learning them quickly to standardize belief and put up barriers about speculation or what was likely to be a boundless set of disagreements about what the Christian scriptures actually meant. (p. 129).

There is a similar story to be told about the Orthodox Jewish response to the rise of Reform Judaism in 19th Century Central Europe.

Such responses often appear in exaggerated and dismissive form, but the problem to which they respond is a genuine one, built in by the very nature of liberal religion.⁹¹ Even though it may not be possible to ameliorate significantly the criticisms of traditional religion and militant secularism, it is both possible and desirable for individuals (if not for liberal faith communities) who find themselves between those poles to essay articulations of their beliefs, if only as an acknowledgment, and hopefully a safeguard, of epistemic responsibility.

4. Finally, liberal religion is not strongly focused on the specific "permitted-or-prohibited" answer to many questions of morality. Leading Protestant theologian James Gustafson termed the traditional approach of Roman Catholic teaching a "juridical" model: "[An] action is right or wrong, depending on whether it conforms or is contrary to a rule, a law, and the outcome of moral argument."⁹² It is widely applicable as well to much religious and secular moral thought. The approach he prefers is one that he terms developing a "responsible relationship" between a person considering a morally freighted course of action and his or her physician, family member, or moral counselor (whom Gustafson calls a "moralist"). In that interaction, each party *assumes* responsibility rather than having one decide whether to *ascribe* it to the other.

This approach is difficult to describe briefly. Here is a segment that may suggest its flavor:

[The moralist] will recognize that his judgement, and that of others who have informed him, while learned, mature, and hopefully sound, remains the judgment of a finite being with all the limitations of his perspective. He will, in a situation like this, acknowledge the liberty of [the other's] conscience, and will not immediately offer an authoritative answer to her questions. As a moralist he is to help her to objectify her situation, to see it from other perspectives than the one she comes with.... He is to help her to understand her past, not as a way of excusing anything in the present, but as a way of gaining some objectivity toward the present.⁹³

⁹¹Rabbi Dana Evan Kaplan, writing of "The Theological Roots of Reform Judaism's Woes," makes a related warning: "In the absence of a strong theological basis for making religious demands, the members [of a religious community] lose interest and wander off." <<http://www.forward.com/articles/135476>>, p.2 (3/1/2011).

⁹²"A Protestant Ethical Approach," in John T. Noonan, Jr, ed, *The Morality of Abortion: Legal and Historical Perspectives* 103 (1970).

⁹³Id, at 109.

While the result may seem optional, striking a complex elusive balance that could go either way, the *process* is not, and is more demanding in some ways than a simple yes-or-no, extending (in Gustafson's words) beyond the "focal point of a particular act," to the "well-being of the person involved "over a long range of time."⁹⁴

It would be an error to equate hospitability to such a response with mere subjectivism. Gustafson speaks of gaining "some objectivity," which is a dual espousal: Objectivity is elusive yet not wholly unattainable. The belief that a moral judgment should be nuanced, qualified, or context-specific makes its truth more difficult to discern and articulate, and multiplies points of potential disagreement, but it doesn't introduce a subjectivity that was not otherwise warranted.

A famous example involves Immanuel Kant's claim that the obligation to tell the truth should govern one's response to a question from a would-be murderer about the whereabouts of his or her intended victim.⁹⁵ One may say that Kant was right in asserting a broad deontological justification for the immorality of lying, and nonetheless dispute his application of it to that instance. Insistence on drawing the line at would-be murderers may be warranted or not, but it applies and complicates but does not eliminate an asserted distinction between right and wrong.

Yet, the existence of circumstances in which the factors that bear on a moral question are complex or subtle, and the evaluator's necessarily limited access to knowledge of some of those factors, will make uncertainty in application wholly predictable and wholly appropriate. I believe that epistemic modesty in judging the moral universe of others is often morally appropriate, and that its absence is a morally hazardous trait, but one who wants to know whether an act "is permitted" will often find this approach laden with ambiguity, complexity, and the dangers of rationalization, and the possibility of meeting and grappling with those pitfalls not worth the candle. To others, the dangers need to be seen as real, and as dangers, but not as outweighing the dangers avoided. Again, it is such differences that will often be the source of one's reaction to a process-oriented as against an outcome-oriented normativity.

To summarize, there is a significant parallelism in the several aspects of the real differences that I believe exist regarding the effect of choosing between what I have loosely termed a traditional and a liberal approach to religious questions. I have invited you to consider:

⁹⁴Ibid.

⁹⁵On a Supposed Right to Lie Because of Philanthropic Concerns, published with Grounding for the Metaphysics of Morals 63-66, trans, J.N. Ellington (1785/3d ed, 1993).

- the hiddenness versus the revelation of God;
- the propositional versus the "significance" aspect of a reference to the "meaning" of a text;
- the value and feasibility of articulating with some specificity a stance toward Scripture and Tradition that rejects both orthodoxy and a wholly naturalist approach; and
- the preference between result and process in moral decision-making, between ascribing responsibility and assuming it.

Each arena implicates a similar choice between clarity and ambiguity as the more reliable path to moral discernment. The bases for one set of choices or the other are of singular importance, but making (or defending) either choice responsibly is not aided by simply rejecting the other as tantamount to relativist secularism or a manifestation or enabler of fundamentalism.

V. CONCLUSION

That God does not exist, I cannot deny.

That my whole being cries out for God, I cannot forget.

Jean-Paul Sartre⁹⁶

Words like those of Rabbi Yohanan ben Zakkai - "There is no Truth unless first there is a Faith on which it rests"⁹⁷ - apply to *all* assertions regarding matters transcendent, whether they express vigorous faith or thorough-going skepticism. All are undergirded by a "leap," for rational thinking can only proceed from a *given* of some kind. Each of us should therefore be slow to judge another's ground for that leap, however much we might be living out a different one.

If "certain" believers (or militant skeptics) come to realize that their certainty, like the belief to which it relates, is "theirs," not only in the sense that it may be an aspect of their identity, but that it cannot escape its boundary in the self and that its truth is not verifiable, they may be able to acknowledge that the justification that others may have for their conflicting beliefs need not draw their own belief in question.⁹⁸ Although *P* and *not-P* cannot both be true, belief

⁹⁶<Google Books.com> has several entries that attribute these lines to Sartre, but without citation of a source.

⁹⁷See p. **XXX**, *supra*.

⁹⁸The best brief treatment of this question that I am aware of is by Ronald F. Thiemann, "Beyond Exclusivism and Absolutism: A Trinitarian Theology of the Cross," in Miroslav Volf & Michael Welker, eds, *God's Life in Trinity*, Ch. 10 (2006). Fuller development of his approach appears in two earlier books, *Revelation and*

in the truth of each can be justified, and may justifiably ground action.⁹⁹ A widening awareness that conflicting beliefs can justifiably, albeit uncomfortably, coexist can measurably ameliorate defensiveness and caricature.

At the same time, individuals or faith communities in the liberal tradition, and (again) militant skeptics, need to keep in mind the distinction between disbelieving a religious community's (or individual's) avowal of the certain truth of a belief or practice - which is a statement about the one making the avowal - and dismissing any such claim as fundamentalism, triumphalism, or superstition.¹⁰⁰ In our polarized society, it is easy for any of us to experience our beliefs and practices as under attack by dominant "others," while viewing their claim to a like underdog status as either paranoid or manipulative. As individuals, we all might believe that we know who is the dominant and who the besieged. We may all be wrong about that, but we cannot all be right.

A complicating factor exists, in my judgment, from within each view of the matter. For many liberal or secular folks, it is the fallout from the tragic complicity of traditional religion in the oppressiveness of social life throughout recorded history. Attempts to suppress an endless variety of "heresies" have co-existed with many other manifestations of serious constraints on liberty.¹⁰¹ Beyond that, religion allied with temporal power remains an ever-present serious threat to liberty in many arenas. Nonetheless, in democratic countries today there is a narrow (although by no means trivial) spectrum of questions of morality or ritual as to which there is serious mobilization seeking to continue or impose sanctions on those holding disfavored views. The ricocheting

Theology: The Gospel As Narrated Promise, especially 72-82 (1985); Religion in American Life: A Dilemma for Democracy (1996).

⁹⁹The moral status of any resulting action is a separate question. Since action may impinge on the lives of others, more than what would suffice to justify belief is required to justify an action based on it.

¹⁰⁰Interestingly, the dismissive term, *hocus pocus*, may have originated with an English cleric as a parody of the holiest moment in the Roman Catholic Mass, when the celebrant lifts the Host and recites the (Latinized) words of Jesus, *hoc est corpus meum* ("this is my body").

¹⁰¹See, among many witnesses to this phenomenon from within the religious tradition, Merold Westphal, *Suspicion and Faith: The Religious Uses of Modern Atheism* (1992). I have summarized the effect on my own outlook in *Listening for God*, *supra*, at 14-16, 43-46.

escalation of rhetoric in the "culture wars" magnifies (and may to some significant extent justify) the perception of what is at stake.

Within the traditionalist arena, much of the rancor and hyperbole that exists is attributable, I believe, to a fear that the outlook and values of those who challenge long-held premises and priorities will increasingly infect their own faith communities, especially their families - and most especially their children. Such a fear is hardly groundless (if at times exaggerated), and efforts to preserve traditional values within one's subculture may seem futile without measures that impose on the liberty and equality interests of the supposed sources of those fears.¹⁰² Unhappily, the simple maxim, "Your right to swing your fist stops at my jaw" is no more adequate to separate the combatants in the clash of cultures than its cousin, "you started it," is capable of assigning the roles of aggressor and besieged.¹⁰³

The boundary between liberal religion and a modest secularity¹⁰⁴ has a porous quality. Crossing the boundary in one direction or the other

¹⁰²Recall the efforts of Catholics and Jews - initially Quakers as well, more recently Evangelical "home-schoolers" - to maintain separate schools for their communicants. With the rise of State-supported education, the question of eligibility for governmental support gradually transformed an effort that simply sought to insulate one's children from mainstream influences into one of the more enduringly divisive public question, with each side claiming the status of being taken advantage of.

¹⁰³In his dissenting opinion in *Lawrence v. Texas*, 539 U.S. 558, **xxx** (2003), Justice Scalia perceived one-half of the problem quite clearly, but (characteristically) the other not at all. He sympathetically described those committed to the preservation of legal constraints on gay equality as "protecting themselves and their families from a lifestyle that they believe to be immoral and destructive," *id.*, at 586, but he contended that the fact of such a concern justified the imposition of sanctions (indeed, in the case at hand, criminal sanctions) on those whose personal lives may be thought to be contributing to accelerating changes in social norms. (Of course, he found warrant for this selectivity of concern in his understanding of the meaning of the Fourteenth Amendment).

For my brief reflections on the difficulty of finding a neutral way of deciding "who started" the gay-equality disputes, see *Religion in Legal Thought and Practice* 349 (2010).

¹⁰⁴By this latter term, I mean to refer to those who simply find themselves unable to accept any non-naturalist understanding of the world, but do not actively regard religion as *per se* a malign force in the world. For recent examples of carefully articulated positions approaching near to the boundary, see Bruce Ledewitz, *The New New Secularism and the End of the Law of the Separation of Church and*

is less a matter of weighing the relative persuasiveness of two sides of a close quasi-empirical question than it is choosing between acceptance and wariness as a response to the sense of awe and wonder that often accompanies intimations of a vast unknown. If I may quote my own description of this difference:

A religious consciousness deems it important to ground our stance toward the world in a palpable sense of wonder. A secular morality tends to place more store by rationality as a guide to the truth, and tends to view a significant dose of "radical amazement" as getting in the way of clear thinking. The secularist abides not in wonder but in doubt Mystery tends to be regarded as a problem to be overcome if possible, and the conclusion that it is not possible as a confession of weakness or defeat.¹⁰⁵

When neither reaction is held too tenaciously, those on either side of the frontier have no need, nor indeed any real capability, to defend their stance vigorously as against the other. Neil Gillman puts it wisely: "Religious commitments are probably the most existential issues we face. We have to be prepared to jump in and live with a tradition before we can appreciate its strength and weaknesses. The convinced skeptic may be unwilling to take this step."¹⁰⁶

State, 28 Buff. Pub. Intl. L.J. 1, 19-26 (2009-2010); Scott Aikin & Robert B. Talisse, *Reasonable Atheism: A Moral Case for Respectful Disbelief* (2011). See also David Burrell's development of the distinction between agnosticism "as we know it in modern times" and "unknowing." "Convictions and Operative Warrant," in Hauerwas, *op. cit.*, n. **XX** *supra*, 43, 46-47.

¹⁰⁵The Religious Lawyer In a Pluralist Society, 66 Ford. L. Rev. 1469, 1500 (1998).

¹⁰⁶*Op. cit.*, *supra*, at 34.

I do experience myself as being responsible for policing the boundaries of what I am willing to say I believe (even to myself). But this responsibility is less a matter of ethics than of intellectual integrity in holding or expressing beliefs or participating in rituals of a faith community. They are "actions" only in a very limited sense. Wearing a prayer shawl in synagogue, taking Holy Communion with fellow congregants, fasting and eating at certain times and in certain ways rarely implicate questions of responsibility to others.¹⁰⁷ Intellectual integrity calls on one to be genuinely willing to reflect on finding oneself drawn to, resonating with, "spoken-to" by, religious narratives or practices.¹⁰⁸ While genuine reflection connotes more than simply acknowledging and then clinging to one's subjectivity, neither is it a matter of aggregating and weighing elements of a proof or of philosophical articulation of a general criterion of justification.¹⁰⁹

¹⁰⁷The moral responsibility not to impose on others requires more in the way of justification than a quasi-ethical, quasi-intellectual responsibility to have warrant for what one says or does. Evangelizing "all nations" (Matt. 28:19) or "rebuking" one's neighbor for moral failings (Lev. 19:17) present major examples of the beginnings of something more. For a perceptive brief engagement with the contemporary intractability (yet diminishing salience) of the question of Christians evangelizing Jews, see Edward A. Synan, *The Popes and the Jews* 160-61 (1965) (quoted in *Religion and Legal Thought and Practice* 570). For a recent example of that intractability, see *id* at **XXX-XX**.

I owe to Professor R. George Wright (in personal communication) the realization that "it may promote scandal in ways implicating one's responsibility to fellow congregants" for a Roman Catholic to present oneself for Communion in circumstances when many others present would believe he or she was not eligible for it. Whether one has sufficient warrant to do so if acting out of a conscientious belief that Church teaching on the matters in question is seriously wrong, is not a matter about which I feel qualified to ruminate.

¹⁰⁸William James emphasizes the special salience of individual reflection, out of which the "total drift of thinking continues to confirm" a hypothesis. *The Will to Believe, and Other Essays in Popular Philosophy* 12-17 (1956). Ronald Thiemann makes a similar point, in *Revelation and Theology* 111 n. 11 (1985): "Christians ought to seek what John Rawls calls 'reflective equilibrium'."

¹⁰⁹For a complex, penetrating analysis by a New Zealander philosophy professor, see John Bishop, *The Philosophy of Religion: A Programmatic Overview*, 1/5 *Phil. Compass* 506 (2006).

In the epigraphs to this article, an antebellum New England Unitarian minister avows that "God has made man with the instinctive love of justice in him, which gradually gets developed in the world," while a 20th-Century mathematician, philosopher, political activist, and self-professed atheist asserts, "man created God, all-powerful and all-good, the mystic unity of what is and what should be." A clear face-off between a "yes" and a "no"? Perhaps, but consider Bertrand Russell's eloquent prefix to his deliberately provocative *bon mot*:

A strange mystery it is that nature, omnipotent but blind, in the revolutions of her ... hurryings through the abysses of space, has brought forth at last a child, subject still to her power, but gifted with sight, with knowledge of good and evil [G]radually, as morality grows bolder, the claim of the ideal world begins to be felt....

It is a tribute to Russell's integrity that, uttering words so resonant, so compatible, with Parker's, he nonetheless would neither postulate nor acknowledge the reality of a transcendent Other. I find unity-within-divergence, as there also is divergence-within-unity, in the fervent words of these witnesses.

My own experience is resonant with this observation of Australian philosopher Professor Raimond Gaita:

If we are not religious, we may say that all human beings are inestimably precious, that they are ends in themselves, that they are owed unconditional respect, that they possess inalienable rights, and, of course, that they possess inalienable dignity. In my judgment these are ways of trying to say what we feel a need to say when we are estranged from the conceptual resources we need to say it. Be that as it may: Not one of them has the simple power of the religious ways of speaking.¹¹⁰

Yet, the limits of our conceptual resources are themselves simply an aspect of our "creation," and I cannot help but wonder whether the philosopher any less than the preacher would have appreciated the deeper implications of the Islamic sage's offer of these words to the world a half-millennium earlier:

"Did I not engage thee to call upon me?
That calling 'Allah' of thine was my 'Here am I.'
And that pain and longing of thine my messenger."¹¹¹

¹¹⁰A Common Humanity: Thinking About Love and Truth and Justice 23 (2000).

¹¹¹The poem is set out in full in the Addendum, immediately following.

Addendum

THE SPIRITUAL COUPLETS OF MAWLANA JALALU-'D-DIN MUHAMMAD RUMI¹¹²

*The man whose calling "O Allah" was equivalent
to God's answering him, "Here am I."*

That person one night was crying, "O Allah!"
That his mouth might be sweetened thereby,
And Satan said to him, "Be quiet, O austere one!
How long wilt thou babble, O man of many words?
No answer comes to thee from nigh the throne,
How long wilt thou cry 'Allah' with harsh face?"

¹¹²The Travelers Who Ate the Young Elephant III:1 (2008).

That person was sad at heart and hung his head,
And then beheld Khizr¹¹³ present before him in a vision,
Who said to him,
"Ah! thou hast ceased to call on God,
Wherefore repentest thou of calling upon Him?"
The man said, "The answer 'Here am I' came not,
Wherefore I fear that I am repulsed from the door."

Khizr replied to him, "God has given me this command;
Go to him and say, 'O much-tried one,
Did not I engage thee to do my service?
Did not I engage thee to call upon me?
That calling 'Allah' of thine was my 'Here am I,'
And that pain and longing and ardour of thine my messenger;
Thy struggles and strivings for assistance
Were my attractions, and originated thy prayer.
Thy fear and thy love are the covert [*sic*] of my mercy,
Each 'O Lord!' of thine contains many 'Here am I's'.

¹¹³a legendary Prophet, associated with the Biblical Elijah.