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A Nation Under God: Jews, Christians, and the American Public Square

Jews, Christians, and a “Nation under God”

On the morning of September 11, 2001, Supreme Court Justice Antonin Scalia found himself on foreign soil, at an international legal conference in Rome. Shocked by what had occurred, the participants at the conference gathered around a television to watch President Bush address the nation and the world. “When the speech had concluded,” Scalia recounts, “one of the European conferees— a religious man—confided in me how jealous he was that the leader of my nation could conclude his address with the words ‘God bless the United States.’” Such invocation of God, the conferee assured the Justice, was absolutely unthinkable in the conferee’s country, “with its Napoleonic tradition of extirpating religion from public life.”¹

In Scalia’s mind, the sentiment illustrated the fact that while one may instinctively group the United States with the democratic states of Western Europe, in truth, the former differs profoundly from the latter. Americans, Scalia argued, continue to remind themselves that while they live in a democracy, indeed the oldest democracy on earth, it is not, and never has been, a secular one:

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We have done that in this country (and continental Europe has not) by preserving in our public life many visible reminders that—in the words of a Supreme Court opinion from the 1940s—“we are a religious people, whose institutions presuppose a Supreme Being.” These reminders include: “In God we trust” on our coins, “one nation, under God” in our Pledge of Allegiance, the opening of sessions of our legislatures with a prayer, the opening of sessions of my Court with “God save the United States and this Honorable Court,” annual Thanksgiving proclamations issued by our President at the direction of Congress, and constant invocations of divine support in the speeches of our political leaders, which often conclude, “God bless America.”²

Should Jews join Scalia in affirming that the United States is a religious nation, whose very governmental institutions proclaim the existence of God? Should we affirm a political philosophy that insists on religious freedom but also on the importance of government-affirmed faith? And if America’s religiosity derives from a predominantly Christian population—if the United States remains, in the words of G.K. Chesterton, “a nation with the soul of a Church”³—can Jews, given our profound theological disagreements with Christians, join them in affirming that all Americans comprise a nation that is under God, a religious nation whose values, and even legislation, bespeak that religiosity?

My answer to these questions is affirmative, and my argument will be derived from two sources. I will begin by examining the writings of R. Joseph B. Soloveichik that relate to interfaith dialogue. In his discussion of this subject, the Rav addresses not only the obligation of man to improve the moral and physical welfare of the world, but also the unique role that religious Jews and Christians share in fulfilling this charge. The Rav, I will argue, provides us with a model of a society in which people can disagree profoundly about theological questions, while at the same time insisting that a basic biblical conception of God and morality ought to be acknowledged by society. I will then turn to the writings of the American Founding Fathers, wherein we find an astoundingly similar perspective. I will conclude by arguing for our responsibility, as Jews and as human beings, to maintain the way that America has historically seen itself.

“Confrontation” and “On Interfaith Relationships”

In his 1964 essay “Confrontation,” the Rav argued that Jews live a dichotomous existence. We are, in this world, simultaneously *ger ve-toshav*: “[W]e belong to the human society and, at the same time, we feel as strangers and

outsiders.”⁴ On the one hand, we are members of humanity. As such, we are obligated to fulfill God’s charge to our ancestor Adam: “The Lord God took the man and placed him in the Garden of Eden to cultivate it and to keep it.”⁵ In fulfillment of this charge, Jews are obligated to join our fellow human beings: “We are determined to participate in every civic, scientific, and political enterprise. We feel obligated to enrich society with our creative talents and to be constructive and useful citizens.”⁶

On the other hand, the Rav writes, we are unique; as Jews, we are part of a chosen nation, an individual faith community:

We Jews have been burdened with a twofold task: we have to cope with the problem of a double confrontation. We think of ourselves as human beings, sharing the destiny of Adam in his general encounter with nature, and as members of a covenantal community which has preserved its identity under most unfavorable conditions, confronted by another faith community. We believe we are the bearers of a double charismatic load, that of the dignity of man, and that of the sanctity of the covenantal community. In this difficult role, we are summoned by God, who revealed himself at both the level of universal creation and that of the private covenant, to undertake a double mission—the universal human and the exclusive covenantal confrontation.⁷

The Rav famously continues by stating that when it comes to the strictly theological issues that define us as faith, as a covenantal community, no public, communal dialogue should take place between Orthodoxy and Christianity. When, however, the issues to be discussed are those that relate to both Jews and Christians as human beings, seeking to enhance the welfare of humanity, dialogue is not only permitted but encouraged. The confrontation between Judaism and Christianity, R. Soloveitchik argued, should “occur not at a theological, but at a mundane human level.”⁸ In these matters, he wrote, “religious communities may together recommend action to be developed and may seize the initiative to be implemented later by general society.”⁹

The practical implication of these instructions is a dichotomous relationship with religious Christians. On the one hand, religious Jews resist dialogue on issues that relate only to the Jewish people as a covenantal community. On the other hand, religious Jews, together with the rest of the world, are obligated to seek what the Rav calls “the dignity of man,” and we therefore engage those outside our covenantal community in what the Rav refers to as a “universal confrontation.”

Many readers of R. Soloveitchik’s essay conclude that he banned Jewish-Christian communication that is even loosely linked to religious beliefs. Moreover, “Confrontation” is popularly understood to imply that

Orthodox Jews are to see Christians irrespective of religion, as human beings, descendants of Adam, enjoined to work together for the welfare of the world. In this universal task, it is often assumed, religious Christians have no more or less to contribute than their secular brethren, and our dialogue with religious Christians on issues relating to enhancing “human dignity” is thoroughly unrelated to religion.

Mostly overlooked in this discussion is a series of guidelines on interfaith dialogue authored by the Rav that groups religious Jews and Christians together and apart from the rest of world, uniting religious Jews and Christians by insisting that they communicate with each other in a basic moral language that is religious in nature, based on an ethics predicated on belief in God and in the distinctiveness, and spiritual nature, of the human being. Originally published as an open letter in the *Rabbinical Council of America Record* and printed as an addendum to “Confrontation,” the Rav’s instructions on the matter lapsed into obscurity, largely omitted in discussions, Orthodox or otherwise, of Jewish-Christian relations.¹⁰ Entitled “On Interfaith Relationships,” it has recently been republished in *Community, Covenant, and Commitment*, a collection of the Rav’s correspondence.

R. Soloveitchik begins “On Interfaith Relationships” by reiterating his insistence that communal dialogue of a strictly theological nature is not to take place: “In the area of faith, religious law, doctrine and ritual, Jews have throughout the ages been a community guided exclusively by distinctive concerns, ideals and commitments.”¹¹ Our love of and dedication to God, the Rav continued, “are personal and bespeak an intimate relationship which must not be debated with others whose relationship with God has been molded by different historical events and in different terms.”¹² Theological dialogue should be avoided, for then the Jew and Christian “will employ different categories and move within incommensurate frames of reference and evaluation.”¹³

R. Soloveitchik then adds two extraordinary paragraphs about the context in which interfaith dialogue *is* to occur, delineating exactly how such dialogue is to proceed. It is clear from this passage that the dialogue permitted by the Rav is still very much linked to religion. Every word in these two paragraphs is crucial, but I have italicized those phrases and sentences that will provide the framework for our discussion:

When, however, we move from the private world of faith to the public world of humanitarian and cultural endeavors, communication among the various faith communities is desirable and even essential. We are ready to enter into dialogue on such topics as War and Peace, Poverty, Freedom, *Man’s Moral Values, the Threat of Secularism*, Technology and

Human Values, Civil Rights, etc., which revolve about religious spiritual aspects of our civilization. Discussion with these areas will, of course, be within the framework of our religious outlooks and terminology.

Jewish rabbis and Christian clergymen cannot discuss socio-cultural ethicists in agnostic or secularist categories. *As men of God, our thoughts, feelings, perceptions and terminology bear the imprint of a religious world outlook. We define ideas in religious categories and we express our feelings in a peculiar language which quite often is incomprehensible to the secularist.* In discussion we apply the religious yardstick and the religious idiom. We evaluate man as the bearer of God's likeness. We define morality as an act of *imitato Dei*, etc. In a word, even our dialogue at a socio-humanitarian level must inevitably be grounded in universal religious categories and values. However, *these categories and values, even though religious in nature and Biblical in origin represent the universal and public*—not the individual and private—in religion. To repeat, we are ready to discuss universal religious problems. We will resist any attempt to debate our private individual commitment.¹⁴

Let us now analyze the most significant features of this important and underappreciated statement.

“Men of God”

The first extraordinary phrase in R. Soloveitchik's statement is the statement that Jews and Christians are both “men of God” who, to some extent, share a “religious outlook.” In order to understand the singularity of R. Soloveitchik's attitude to interfaith dialogue, as well as to the Christians participating in this dialogue, his approach must be contrasted with that of R. Moshe Feinstein, who saw any form of communal interfaith engagement as a violation of *hitkarvut la-avodah zarah*.¹⁵ In contrast, R. Soloveitchik clearly saw the possibility of Christians and Jews speaking about God and, *to some extent*, meaning the same thing, albeit within the context of a strictly moral discourse.

This does not mean, God forbid, that the Rav would say that Judaism and Christianity are equally true or are equally valid expressions of a larger truth. In “Confrontation,” the Rav made clear that part of his opposition to theological communal dialogue was his concern that the deep theological disagreement between faiths would become blurred. A faith, wrote the Rav, by definition insists “that its system of dogmas, doctrines, and values is best fitted for the attainment of the ultimate good,” and that “equalization of dogmatic certitudes, and waiving of eschatological claims, spell the end of the vibrant and great faith experiences of any religious community.”

Jews disagree fundamentally with Christians about many things, not least among them whether one of the people alive during the period of the second *Mikdash* also happened to be divine. Moreover, it is a given that for Jews to acknowledge a human being as God would be a violation of the prohibition of *avodah zarah*. Jews must be wary lest, in the interest of communal relations, this great theological disagreement is diluted.

That very thing occurred when, in September 2000, a Baltimore-based institute for interfaith dialogue issued a statement titled “*Dabru Emet*: A Jewish Statement on Christians and Christianity.” The statement enumerated a series of theological beliefs shared by Jews and Christians, and insisted that such a statement was essential given the dramatic change during the last four decades in Christian attitudes toward Judaism. Signed by over 170 rabbis and professors of Jewish Studies, “*Dabru Emet*” received much publicity in the media and was published as an ad in *The New York Times*. It was no doubt in large part due to the Rav’s ban on communal interfaith dialogue that most Orthodox rabbis refrained from signing this statement, and I believe that the incident proved the prescience of the Rav’s concerns.

“*Dabru Emet*” described the first theological commonality shared by Jews and Christians in the following manner:

Jews and Christians worship the same God. Before the rise of Christianity, Jews were the only worshipers of the God of Israel. But Christians also worship the God of Abraham, Isaac, and Jacob, creator of heaven and earth. While Christian worship is not a viable religious choice for Jews, as Jewish theologians we rejoice that, through Christianity, hundreds of millions of people have entered into relationship with the God of Israel.¹⁶

No mention is made of the question of incarnation, or of the fact that Jews believe that such an event never occurred. All we are told is that “Christianity is not a viable choice for Jews.” The statement is an example of what the Rav was worried about: a blurring of theological distinctions between two faith communities.

Nevertheless, despite disagreements that fundamentally divide the Jewish and Christian communities, it is *to some extent* true that both religious communities worship the same God. David Berger’s reflection on “*Dabru Emet*” is most astute:

Let us now turn to the actual content of *Dabru Emet*. “Jews and Christians,” it asserts, “worship the same God.” This statement, I believe, is simultaneously true and false. . . . *Avodah zarah* almost always refers to the formal recognition or worship as God of an entity that is in fact not

God. For one who denies the divinity of Jesus, classical Christianity is clearly included in this definition. . . .

Even medieval Jews understood very well that Christianity is *avodah zarah* of a special type. The Tosafists assert that although a Christian pronouncing the name of Jesus in an oath would be taking the name of “another god,” it is nonetheless the case that when Christians say the word “God,” they have in mind the Creator of heaven and earth. Some later authorities took the continuation of that *Tosafot* to mean that this special type of *avodah zarah* is forbidden to Jews but permissible to gentiles, so that a non-Jew who engages in Christian worship commits no sin. . . . In the final analysis, then, virtually all Jews understood that Christian worship is distinct from pagan idolatry because of its belief in the Creator of heaven and earth who took the Jews out of Egyptian bondage, revealed the Torah at Sinai and continues to exercise his providence over the entire cosmos. Some asserted that the association (*shittuf*) of Jesus with this God is permissible for non-Jews. Virtually none regarded such association as anything other than *avodah zarah* if the worshipper was a Jew. Do Jews and Christians, then, worship the same God? The answer, I think, is yes and no.¹⁷

This is, I think, perfectly articulated. Even if one views *shittuf* as no violation of the first of the *sheva mitzvot benei Noah*, tremendous differences between Jews and Christians exist; this is a disagreement over which Jews have been willing to die. While Christians believe in God, they also assume that a human being that once lived on this earth was that God, and they worship God, as well as that human being, with that assumption in mind. At the same time, even if one assumes that *shittuf* is impermissible for *benei Noah*, certain conceptions of who God is will always be shared by Jews and Christians. In that sense, both Jews and Christians can invoke the Creator of Heaven and Earth, and, *to some extent*, mean the same thing. Both believe in an Almighty who identifies himself as the God of Abraham, Isaac and Jacob. Both believe that this God created man in His image and commanded him with a moral code. And both agree, at least to some extent, that this moral code is derived from the *Tanakh*. That they share this moral language makes both Jews and Christians “men of God,” and gives them a common way of speaking about morality.

“Incomprehensible to the Secularist”

The next phrase in “On Interfaith Relationships” that I wish to discuss is one that the Rav uses to describe this moral language that Jews and

Christians share. For the Rav, in the post-enlightenment age, Jews and Christians are united by this moral language, for, as R. Soloveitchik puts it, this language is understood by them and not by the secularist, who espouses a non-biblical worldview. R. Soloveitchik's description of our moral language as "incomprehensible" to others brings to mind the famous first chapter of Alasdair MacIntyre's book *After Virtue*, perhaps the most influential work on ethics written in the last century. MacIntyre asks us to imagine a society in which much that was once known about the sciences is forgotten:

All that they possess are fragments: a knowledge of experiments detached from any knowledge of the theoretical context which gave them significance; parts of theories unrelated either to the other bits and pieces of theory which they possess or to experiment; instruments whose use has been forgotten; half chapters from books, single pages from articles... Adults argue with each other about the respective merits of relativity theory, evolutionary theory and phlogiston theory, although they possess only a very partial knowledge of each. . . . Nobody, or almost nobody, realizes that what they are doing is not natural science at all. In such a culture men would use expressions such as 'neutrino', 'mass,' 'specific gravity', 'atomic weight' in systematic and often interrelated ways which would resemble in lesser or greater degrees the ways in which such expressions had been used in earlier times before scientific knowledge had so largely been lost."¹⁸

MacIntyre applies this allegory to the state of moral language today. "What we possess," MacIntyre writes,

. . . are the fragments of a conceptual scheme, parts which now lack those contexts from which their significance derived. We possess indeed simulacra of morality, we continue to use many of the key expressions. But we have- very largely, if not entirely- lost our comprehension, both theoretical and practical, of morality.¹⁹

In the acrimonious moral debate in America, writes MacIntyre, ethical terms are thrown around that have been shorn of their original meaning.

How did this come about? Once, human beings located morality in something other than their own personal preferences. But the nineteenth and twentieth century saw the rise of ethical theories that located ethics not in the divinely ordained nature and destiny of man, but in humanity's own pleasures and desires. Emotivism claimed that ethical claims are mere manifestations of our personal preference, and utilitarianism grounded ethics in the alleviation of suffering. Thus, ethics became divorced from everything that it had once been about.

Religious Jews and Christians, then, have a more complete picture of morality than secular society. For they understand, in the words of Stanley Hauerwas, that

[M]oral authenticity seems to require that morality be not a matter of one's own shaping, but something that shapes one. We do not create moral values, principles, virtues: rather they constitute a life for us to appropriate. The very idea that we choose what is valuable undermines our confidence in its worth.²⁰

It is for this reason that, for the Rav, Jews and Christians can engage in moral discourse with one another, but rigid secularists are, in some sense, outsiders to this conversation. For when "men of God" speak of moral obligations, they locate the authority of ethics over their lives in something wholly other than themselves.

It is this common moral language of Jews and Christians that, R. Soloveitchik informs us in "On Interfaith Relationships," is "religious in nature and biblical in origin." As examples of shared biblical moral terms, the Rav refers to the fact that Jews and Christians "evaluate man as the bearer of God's likeness," and "define morality as an act of *imitatio Dei*." Jewish and Christian ethicists, the Rav tells us, cannot speak without referencing religious, biblical categories such as these. In contrast, the secularist often approaches ethical questions with entirely different categories, dictating an entirely different approach to ethical questions. In order to examine this further, let us examine two moral issues to which great attention has recently been given in political discourse.

Let us begin with the concept of the sanctity of human life. Jewish and Christian ethics, the Rav notes, affirms as a given that man is created *be-zelem Elokim*. It is because of this axiom that we assume human beings to be inviolable, no matter their state of health or ability. This viewpoint can be contrasted with that of perhaps the most influential philosopher of ethics today, Peter Singer, professor of bioethics at Princeton. Singer locates human inviolability in one's ability to be aware of one's surroundings. As a corollary, newborn children who are born handicapped can be terminated, while sheep or pigs live lives equally precious as that of humans. "The day had to come, just as the day had to come when Copernicus proved that the earth is not at the center of the universe," Singer told the *New Yorker*. "It is ridiculous to pretend that the old ethics still make sense when plainly they do not." In Singer's opinion, "The notion that human life is sacred just because it's human life is medieval."²¹

Singer is not alone; there are prominent bioethicists who think as he

does, and who therefore advocate treating coma patients as organ banks, advise the legalization of assisted suicide, and argue for the morality of euthanasia. The prominence of such an approach in academia today illustrates a point about ethics stressed by both R. Soloveitchik and by Alasdair MacIntyre. We have reached a point where both religious and secularist ethicists speak of “human dignity” but are not remotely referring to the same thing. As Robert George, a prominent American Catholic philosopher, put it,

[S]ecularism rejects the proposition central to the Judeo-Christian tradition of thought about issues of life and death: that human life is intrinsically, and not merely instrumentally, good and therefore morally inviolable. It rejects traditional morality’s condemnation of abortion, suicide, infanticide of so-called defective children, and certain other life-taking acts.²²

A similar phenomenon can be found regarding the religious and secularist conceptions of marriage. When the Torah tells us that marriage results in a state of *ve-hayu le-basar ehad*, it refers both to the physical union of heterosexual marriage and, as Rashi suggests, to the procreative aspect of the marital act. Christians and Jews, writes Robert George, believe in marriage as the union between a man and a woman, “ordered to the generating, nurturing, and educating of children, marked by exclusivity and permanence, and consummated and actualized by acts that are reproductive in type, even if not, in every case, in fact.” In contrast, writes George, marriage, for secularists,

is a legal convention whose goal is to support a merely emotional union—which may or may not, depending upon the subjective preferences of the partners, be marked by commitments of exclusivity and permanence, which may or may not be open to children depending on whether partners want children, and in which sexual acts of any type mutually agreeable to the partners are perfectly acceptable.²³

It is for this reason, George continues, that for the secularist, “same-sex ‘marriages’ are no less truly marriages than those between partners of opposite sexes who happen to be infertile.”²⁴ In today’s society, a battle rages in the body politic as to whether homosexuals should be allowed to marry each other. For many (including myself), the notion is nonsensical; marriage *by definition* refers to something wholly different than a relationship involving two men. For the secularist, “marriage” is shorn of its original meaning and now means something fundamentally different from what it means to a religious person.

Interestingly, Peter Singer has now begun to argue that the denial of man having been created in God’s image has important implications

not only for medical ethics but for sexuality as well. If animals are our moral equals, then bestiality ought to be embraced as well. The following article from the *Daily Princetonian* is worth reading:

Peter Singer has a nasty way of pushing everything to the extreme. His arguments on abortion try to induce the reader to believe that unless you think all contraception is immoral, you should support abortion up to the time of birth and then infanticide for 30 days afterwards, just for good measure. . . . But Princeton's favorite ethicist has gotten tired of defending killing disabled babies and has now started defending something completely different: bestiality. . . . Singer says that although the Judeo-Christian tradition maintains a gulf between men and animals, this may be just a Western construction. "We copulate, as they do," Singer insists. The vehemence with which people react to bestiality "suggests that there is another powerful force at work: our desire to differentiate ourselves, erotically and in every other way, from animals." Anyone who has read Peter Singer's other works knows that once the debate is framed this way, the die has been cast. In Singer's world, we're not that different from animals: animal experiments are only okay if we'd also do them on disabled humans. And dogs and pigs are more sentient, and therefore more valuable, than infants or the demented old.²⁵

Such are the views of this molder of young minds, one of the most influential bioethicists in the world. It is not an illogical argument as long as the premise of the concept of *zelem Elokim* is discarded. And it is an argument that we ought to expect to hear from many quarters in the years to come, at least across Europe, as the public recognition of any sexual relationship deemed "meaningful" by the participating partners leads to public celebration of polyamory, and, perhaps ultimately, bestiality.

We are now able to understand R. Soloveitchik's description of the moral language that Jews and Christians share as being often "incomprehensible to the secularist." Our moral perspectives are rooted in religion, in categories that are "biblical in origin;" the secularist, on the other hand, approaches concepts such as "human dignity" and "marriage" in a fundamentally different way, and applies them in a way that no traditional Jew or Christian could ever contemplate.

"The Threat of Secularism" and the Public Square

We have seen thus far that the moral language of the religious Jew is fundamentally "religious in nature," and not secular. We also know that entering the public square, seeking to enhance the moral and spiritual

welfare of the world, is something obligatory upon the Jew, a fulfillment of humanity's commanded stewardship of creation. What role should a Jew's religious beliefs play in this endeavor?

The last time the Orthodox Forum discussed this issue was in 1994, with the conference's papers published in *Tikkun Olam: Social Responsibility in Jewish Thought and Law*. In his comprehensive essay, Marc Stern delineated the various approaches of American intellectuals to the separation of church and state. For example, he writes, Richard John Neuhaus, a Catholic theologian, "vigorously condemns the differentiation of government and religious culture" and insists that "the Court has erred in treating the Establishment Clause as demanding a secular society." Stern makes clear that he believes this position is in error. He then writes that for most other scholars, what is required is "a sort of schizophrenia for the deeply religious person, a putting aside of who one is in order to participate in public life." Stern then adds, in parentheses, the following:

It should be noted, however, that Rabbi Soloveitchik, in much of his work contemplates these two distinct and clashing pulls, the secular and the religious, the particular and the universal. Far from regretting or condemning the clash, he regards it as a natural part of man's lot.²⁶

The truth, in fact, is that R. Soloveitchik, in distinguishing between particular and universal, does not distinguish between religious and secular in the same way; he in no way means that a Jew can sever himself from basic biblical principles, or even adopt a moral-political language that is fundamentally secular. Jewish advocacy relating to fundamental moral issues cannot be divorced from basic religious conceptions of human nature, destiny, and obligation, from our own beliefs that are "religious" and "biblical in origin." Religious Jews and Christians, the Rav makes clear in "On Interfaith Relationships," cannot discuss issues such as life, death, sexuality, and procreation from a purely secular perspective; on the contrary, any discussion of these questions at "a socio-humanitarian level must inevitably be grounded in universal religious categories and values." When the Rav adds that even our engagement on the "socio-humanitarian level is inherently religious," he means that the religious Jew, as well as the religious Christian, advocates for moral policies while at the same time utilizing the Bible as the ultimate frame of reference. In so doing, they invoke values that, for R. Soloveitchik, are "religious in nature" but at the same time "universal and public"; they are biblical values that belong in the public square, necessary, from the Jewish perspective, for the moral welfare of society.

Now the Rav's reference to the "threat of secularism" can be understood. The Rav referred to the attempt to strip moral discourse of its religious nature and render our ethical language into a tongue wholly foreign to Christians and Jews. Combating the "threat of secularism" is, for the Rav, part and parcel of man's moral stewardship of the world; it is an endeavor in which religious Jews and Christians are natural allies.

Yet even as the Rav argues for the universality of basic biblical beliefs, and insists that this universality can unite faiths in their public engagement, he also insists, both in "Confrontation" and in "On Interfaith Relationships," that each faith's unique covenantal commitments are a private affair, incommunicable to others and on which no other faith dare intrude. In so doing, the Rav makes the case simultaneously not only for a public religious morality but for the free exercise of religion within society. This vision—of the public and private in religion—is quite similar to an ethos articulated by many of the men who were crucial to the creation of the United States.

The Founding Fathers and Public and Private Religion

In his extraordinary book on the American Founding Fathers, titled *On Two Wings: Humble Faith and Common Sense at the American Founding*, the philosopher Michael Novak notes that if the religious conception of morality was essential for any civilization, the Founders felt that it was all the more crucial for the system of government that they themselves pioneered. If the power of the state was to be vested in the will of the people, then nothing prevented the populace from running morally amok except their own self-restraint. To put it another way: if *ein melekh ba-America*, then only religion can prevent a society in which *ish kol ha-yashar be-einav ya'aseh*.

Religion, as John Adams saw it, was integral to the success of democracy:

We have not government armed with power of contending with human passions unbridled by morality and religion. Avarice, ambition, reverence, or gallantry, would break the strongest cords of our Constitution as a whale goes through a net. Our Constitution is made only for a moral and religious people. It is wholly inadequate to the government of any other.²⁷

In a land in which the people write the laws, they are all too apt to begin to assume that they are themselves the source of the moral law, that morality is founded upon their will. Such a society can forget that

democracy itself is predicated on the fact that human beings are created in the image of God and therefore endowed with rights. When the people are the authors of the legislative law, then only fear of God can prevent them from violating God's law. Jefferson, one of the least religious of the Founders, singled out fear of God as essential for the preservation of the democratic system, and noted that, without a religious conception of human dignity, democratic rights could be easily discarded. "And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God? That they are not violated but with his wrath?"²⁸ Jefferson wrote these words regarding slavery, but in the age of Peter Singer, they remain as relevant as they once were.

It bears stressing that the Founders were well aware that reason was a method by which moral rules could be intuited and lived by for rare individuals; but they insisted that an ethics secular in nature provided no foundation, on a larger level, for a moral society, and ought not be endorsed by the government. As one example, we need only read George Washington's Farewell Address:

Let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle. Of all the dispositions necessary for the prosperity of a polity, religion and morality are indispensable supports.²⁹

In other words, for Washington it is conceivable that one can, by use of reason, live a moral life; but such cases are rare, and a secular morality cannot be the material from which the moral fabric of society is woven. For Washington, and other Founders, the religiosity of the American polity is not in any way contradictory with democracy—it is the very foundation of it.

Furthermore, the Founders saw agreement on the importance of religious values as something that could unite people of diverse theological beliefs. Michael Novak writes the following about the Founders' fascination with the *Tanakh*, what they would call Hebrew Scripture:

Practically all American Christians erected their main arguments about political life from materials in the Jewish Testament. . . . [I]n national debates, lest their speech be taken as partisan, Christian leaders usually avoided the idioms of rival denominations—Puritan, Quaker, Congregationalist, Episcopal, Unitarian, Methodist, and Universalist. The idiom of Abraham, Isaac and Jacob was a religious lingua franca for the founding

generation. . . . [T]he language of Judaism came to be the central language of the American metaphysic—the unspoken background to a special American vision of nature, history and the destiny of the human race.³⁰

How is one to foster unity amidst religious diversity in America? The Founders' solution was to seek the same balance struck by the Rav: not to seek homogeneity among faiths, not to blur distinctions or ignore disagreements, but rather to find a language at once religious and universal through which they could all communicate, values that could be jointly utilized to work for the betterment of society. The language of the *Tanakh* provides a basic moral-religious language through which the citizens of the United States can remain loyal to their respective faiths while at the same time work together for moral goals that are, in the Rav's words, universal in nature but "biblical in origin." The United States from its very outset insisted that all human beings are created equal, entitled to equal rights; yet at the same time it also insisted that the notion of human equality can only be truly protected when the government itself insists that these rights are "endowed by our Creator," and that they remain the "gift of God."

Religious America, Secular Europe

In order to appreciate the Founders' insistence that the preservation of human rights rests with linking the democratic idea to religion, let us, in the manner of Scalia, compare the United States to Europe. The difference between American religiosity and European secularism is not of recent vintage. "In France," wrote Alexis de Tocqueville almost two centuries ago, "I had seen the spirits of religion and freedom almost always marching in opposite directions. In America I found them intimately linked together in joint reign over the same land."³¹ Both Europe and America were enormously impacted by the Enlightenment, but they responded differently. Europe saw faith as the cause of religious wars, and therefore the enemy of tolerance and freedom. But the United States insisted that religion and reason were not irreconcilable, that they complemented each other, and that freedom without faith would be disastrous. "Regarding religion," Michael Novak has noted, "Europe and America took different paths. As the nineteenth century dawned, Europe put its trust in reason alone, America in both faith and common sense."³²

This difference is made manifest in the way Europe and America have applied the two categories that we discussed earlier: marriage and human dignity. Homosexual marriage, or at least something close to it,

is now legal in many European countries. In the United States, on the other hand, no state's governor has signed same-sex marriage into law, and over two-thirds of the state legislatures have voted to define marriage as being exclusively between a man and a woman.

But the most striking difference between the United States and Europe can be seen in the way the concept of human dignity is applied on the respective continents. Peter Singer's views have, in the United States, been considered acceptable only in the halls of academia; but the Europeans have come much farther in embracing his views governmentally. Euthanasia is now legal in several European countries, and Holland is on the verge of legalizing the euthanizing of infants. In England, doctors have now asked a court to allow them to end the life of a child against the direct demands of a child's parents:

Doctors yesterday asked the high court for permission to turn off the ventilator keeping a 17-month-old boy alive, even though there is evidence that he has some awareness of his surroundings. The boy, who the court has ordered must not be identified, is not in a persistent vegetative state. He can follow a teddy bear moved in front of his face with his eyes. His parents argue that he responds to them and has a quality of life, but his doctors say it is impossible to know what he is suffering.³³

A democracy claims to grant a right of life and liberty to all, but how these rights are applied depends on where a government locates the source of these rights. Can the liberties of a nation be secure when we have removed the conviction that these liberties are the gift of God? Jefferson's question has been answered in our day and age.

America: Secular or Religious?

Stern, in his essay in *Tikkun Olam*, quotes approvingly Justice Sandra Day O'Connor's contention that whenever government acts "it should do so without endorsing a particular religious belief or practice that all citizens do not share."³⁴ Any law, for O'Connor, must have a "secular purpose." This is because the United States is, for Marc Stern as well as for O'Connor, a secular democracy. He then adds that Orthodox groups who have recently argued, like Neuhaus, that the United States is not fundamentally secular, are in error:

American Jews—and Orthodox Jews—have done astoundingly well under secular democracy, far better in most ways than they did under the not-so-secular regimes of Eastern Europe. Western culture is not by any means an unmitigated good, nor is it possible to ignore the challenge it

poses. But the secular nature of the political structure should not be a problem for Orthodoxy. On the contrary, it is the very secular nature of the government that is responsible for the ability of Orthodox Jews to participate on equal terms with our fellow citizens and to do so free of any serious threat of religious persecution.³⁵

In fact, however, America is *not* a secular democracy, but rather one that, from its very beginning, has acknowledged what the Rav called “the universal and public” in religion, a term with which most of the Founding Fathers would have had no disagreement. It is nothing like the “not-so-secular regimes of Eastern Europe,” but nor is it anything akin to the currently very secular democracies of Western Europe within whose boundaries even the governmental invocation of God’s name is considered out of place. If Jews truly seek a society suffused with secularism, such a country exists: it is called France. But it is not, nor has it ever been, the United States of America.

The best illustration that America is not a “secular democracy” is that noted by Scalia at the beginning of this essay: the fact that the United States government, as well as the state governments, engage in legally mandated invocations of the Divine. This is one example of governmental activity that *has no secular purpose*; that it has been done for centuries is the ultimate illustration that O’Connor is incorrect. In order to illustrate this point, one need only consider a well-publicized Supreme Court case from last year. Michael Newdow, a California atheist, argued that the Pledge of Allegiance, recited in his daughter’s public school, was unconstitutional, as it described this country as being “a nation under God.” The Bush Administration, of course, argued for the constitutionality of the Pledge, but its solicitor general, Theodore Olson, took somewhat of a disingenuous approach in its presentation before the court. Olson argued that the Pledge’s reference to God is in no way an endorsement of religion, but rather is “descriptive” of the Founders’ state of mind. “The Pledge’s reference to ‘a Nation under God,’” Olson argued, “is a statement about the Nation’s historical origins, its enduring political philosophy centered on the sovereignty of the individual.”³⁶ The Pledge’s mention of God, Olson told the Court, has a secular purpose; it is one of many “civic and ceremonial acknowledgments of the indisputable historical fact that caused the framers of our Constitution and the signers of the Declaration of Independence to say that they had the right to revolt and start a new country.”³⁷ Olson also argued that the Pledge’s reference to God serves “the secular values of promoting national unity, patriotism, and an appreciation of the values that defined the Nation.”³⁸

Of course, there is no question that Olson, a conservative, believes that the Pledge is constitutional even if it has an obviously religious nature. But the Solicitor General was forced to engage in such constitutional contortions because he knew that if he wanted to save the Pledge as is, he had to convince an O'Connor-controlled court that had long insisted that Government can never endorse religion. The justices themselves were well aware that the country would be outraged if the Court removed God's name from the Pledge, and therefore found themselves trapped in a cul-de-sac of their own jurisprudential creation. Not wanting to abolish the Pledge as is, but also unwilling to admit that America has long endorsed religion in its civic life, the justices attempted to buttress Olson's position. Justice Stephen Breyer suggested to Michael Newdow that the reference to "God" could include some sort of generic goodness that even Newdow could acknowledge. "So do you think," Breyer asked, "that God is so generic in this context that it could be that inclusive, and if it is, then does your objection disappear?"³⁹ Newdow responded, essentially, that Breyer was being disingenuous: "I don't think that I can include 'under God' to mean 'no God,' which is exactly what I think. I deny the existence of God."⁴⁰ It was quite a spectacle—the most prominent jurists in the country being dissected by an obscure atheist with the plain meaning of the English language on his side.

Leon Wieseltier, writing in *The New Republic*, noted that Newdow's insistence that the Pledge is religious in nature was compelling. The two words comprising the phrase "under God," Wieseltier noted, "make a statement about the universe, they paint a picture of what exists. This statement and this picture is either true or false. Either there is a God and we are under Him—the spatial metaphor, the image of a vertical reality, is one of the most ancient devices of religion—or there is not a God and we are not under Him."⁴¹ Since 1954, when the words "under God" were added in order to distinguish the United States from the atheistic communists, "the Pledge of Allegiance has conveyed metaphysical information, and therefore it has broached metaphysical questions. I do not see how its language can be read differently."⁴²

Nor can I see it any other way. The Pledge is undeniably religious, and so is the prayer before the opening of the Supreme Court, and so is the public prayer delivered every day by the House and Senate chaplains before the government begins its business. And the fact that similar invocations have been taking place from the founding of this nation indicates that America, while free, is in no way secular. That God is mentioned in the Pledge indicates that there are some laws that have no purely secular

purpose. After all, one cannot make a non-God-related case for a governmental invocation of God. I find myself, for once, in complete agreement with Justice David Souter: “I will assume that if you read the Pledge carefully, the reference to ‘under God’ means something more than a mere description of how somebody else once thought,” he said to *Newdow*. Rather, Souter continued, the Pledge is nothing other than an argument that citizens ought to see this country in a religious way: “The republic is then described as being under God, and I think a fair reading of that would be: I think that’s the way the republic ought to be conceived, as under God. So I think there’s some affirmation there. I will grant you that.”⁴³ Of course, it is quite likely that the fact that Souter believes the Pledge to be religious in nature is a reason for that justice to vote to strike down the Pledge, in defiance of the history and traditions of this country.

And what of the American Jewish advocacy groups? The Anti-Defamation League bit the bullet and supported God’s expulsion from the Pledge, as they seek His expulsion from the rest of the public square. The Associated Press described the approach of other Jewish groups:

In the biggest surprise, the American Jewish Congress, one of the most militant separationist groups, joined conservative religious organizations in asking the Court to retain the God reference. Marc Stern calls this the “most uncomfortable” decision the American Jewish Congress has faced during his 27 years as a lawyer there, but political realities left no choice. Victory for “under God” is inevitable, Stern figured, so his group should offer a path to approval on narrow grounds. Further, he feared that if “under God” is banned, public fury might cause a “train wreck”— a constitutional amendment undermining the Supreme Court’s separation rulings since 1947. Seven Orthodox Jewish organizations, meanwhile, made an openly religious appeal for the pledge. “Jewish tradition teaches that human recognition of God is the hallmark of civilization,” they said. The pledge expresses peoples’ universal acknowledgment that “man’s destiny is shaped by a Supreme Being” but doesn’t endorse any one religion.⁴⁴

The Orthodox groups have it exactly right, and with O’Connor no longer a Justice, perhaps the court will return to a more authentically American approach to religion’s place in this constitutional order.

In the essay cited earlier, Wieseltier went on to scorn the desire of American religious groups to be governmentally acknowledged. “The need of so many American believers to have government endorse their belief is thoroughly abject” wrote Wieseltier. “How strong, and how wise, is a faith that needs to see God’s name wherever it looks?”⁴⁵ In response, Richard John Neuhaus noted that the public invocation of

God's name is meant as a reminder that fear of God is essential to our national success:

Perhaps some Americans do feel a need to have their faith stamped with a seal of government approval, which is abject. I expect most Americans, however, think we should publicly acknowledge that this is a nation under God not for the sake of their faith but for the sake of the nation. Ours, they believe, is a nation under God, as in "under judgment," and we ignore or deny that truth at great peril. In sum, they agree with Mr. Wieseltier, and with Mr. Newdow for that matter, that a reference to God is a reference to God, the government's brief notwithstanding.⁴⁶

The Jewish people, as God's representatives here on earth, are uniquely obligated to ensure that society continues to define itself as one that is under God; but the truth is that the Rav's writings indicate that this is also a universal obligation, incumbent upon all "men of God." How diverse religions can remain true to their faiths while at the same time working together to engage and impact the world with our shared religious values is precisely the subject about which the Rav wanted us to engage the Christian community. Orthodox Jews have long adhered to the Rav's restrictions in engaging in interfaith dialogue of a theological nature, but little dialogue has taken place between religious Jews and Christians on the distinctly biblical morality that we share. Perhaps the publication of "On Interfaith Relationships" will encourage Orthodoxy to respond to this charge.

Notes

This essay was presented at the eighteenth annual Orthodox Forum in March 2006 and is scheduled to appear as well in the corresponding volume of the Orthodox Forum series. I thank the organizers of the Forum and in particular the chair, Marc Stern, for inviting the paper, and am grateful to the Forum participants for their valuable comments.

1. Antonin Scalia, "God's Justice and Ours," *First Things* (May, 2002), 20.
2. *Ibid.*
3. *The Collected Works of G.K. Chesterton*, vol. 21 (San Francisco, 1990), 41-45.
4. Rabbi Joseph B. Soloveitchik, "Confrontation," *Tradition* 6, 2 (1964): 26 (Section 1:4).
5. Genesis 2:15.
6. "Confrontation," 28 (Section 1:4).
7. *Ibid.*, 17 (Section 2:1).

8. Ibid., 24 (Section 2:3).
9. Ibid.
10. I am most grateful to my teacher, R. Shalom Carmy, for showing me “On Interfaith Relationships” many years ago, and thereby greatly impacting the way that I view interfaith dialogue.
11. Rabbi Joseph B. Soloveitchik, *Community, Covenant and Commitment: Selected Letters and Communications*, ed. Nathaniel Helfgot (New York, 2005), 259.
12. Ibid., 260.
13. Ibid.
14. Ibid., 261.
15. See *Iggerot Moshe, Yoreh De’ah* 3:43.
16. “Dabru Emet” can be accessed at <http://www.firstthings.com/ftissues/ft0011/articles/documentation.html>.
17. David Berger, “Dabru Emet: Some Reservations about a Jewish Statement on Christians and Christianity.” The paper is available online at <http://www.firstthings.com/ftissues/ft0011/articles/documentation.html>.
18. Alasdair MacIntyre, *After Virtue* (Notre Dame, 1981), 1.
19. Ibid., 2.
20. Stanley Hauerwas, *The Peaceable Kingdom*, (Notre Dame, 1986), 3.
21. Quoted by Michael Specter, “The Dangerous Philosopher,” *New Yorker* (September 6, 1999), available online at http://www.michaelspecter.com/ny/1999/1999_09_06_philosopher.html.
22. Robert George, “A Clash of Orthodoxies,” *First Things* (Feb., 1999): 33.
23. Ibid.
24. Ibid.
25. The article is available online at <http://www.dailyprincetonian.com/archives/2001/03/08/opinion/2591.shtml>.
26. Marc D. Stern, “Jews and Public Morality,” in *Tikkun Olam: Social Responsibility in Jewish Thought and Law*, ed. David Shatz, Chaim I. Waxman and Nathan Diament (Northvale, NJ, 1997), 188.
27. Quoted in Michael Novak, *On Two Wings: Humble Faith and Common Sense at the American Founding* (San Francisco, 2002), 71.
28. Cited by Novak, 33.
29. Ibid., 30.
30. Ibid., 7.
31. Alexis De Tocqueville, *Democracy in America*, trans. George Lawrence, ed. J.P. Mayer (New York, 1969), 292-93.
32. Novak, *On Two Wings*, 39.
33. “High Court Asked to Decide Fate of Baby on Respirator,” *The Guardian* (March 7, 2006), <http://www.guardian.co.uk/medicine/story/0,,1725055,00.html>.
34. Cited by Stern, “Jews and Public Morality,” 199. The quotation is from *Wallace v. Jaffree* 472 U.S. 38(1985).
35. Ibid., 200.
36. Quoted in Leon Wieseltier, “Under God and Over,” *The New Republic* (April 5, 2004), 22.
37. Ibid.
38. Ibid.
39. Ibid., 24.
40. Ibid.

41. Ibid., 24.
42. Ibid.
43. Ibid.
44. "Does it Matter if 'Under God' Remains in the Pledge," Associated Press, available online at <http://www.firstamendmentcenter.org/analysis.aspx?id=12856>.
45. Ibid.
46. Richard John Neuhaus, "The Public Square," *First Things* (June/July, 2004): 83.