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Critical Theory of Public Religion in Australia (by Geoff Boucher)


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This is the second post in a series on religion and political thought in Australia. See introduction here (http://www.politicaltheology.com/blog/religion-and-political-thought/).

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According to its popularizations in the work of its critics, the connection between the secularization hypothesis and modernization theory can be simply and economically stated: increasing prosperity means decreasing belief. The worldwide "revival of religion" seems to have falsified this perspective, leading to the articulation of theories of "post-secular society," together with reconservative arguments for the recognition of the "core culture" of the "Judeo-Christian heritage" in Western contexts. At the same time, anxieties about social cohesion, sparked by difficulties with Islamic integration, supposed moral failure, political instrumentalism and "evangelical fundamentalism," together with conservative Christian social
movement activism, are in play in the new prominence of personal religious convictions in Australian politics. It is almost as if party leaders in Australian politics are at the forefront of the local expression of a worldwide trend in post-secular public life, as Australia slowly waxes from the dream of secularism to a future articulated in neoconservative peripheries.

But these appearances are completely misleading. What is happening is not the advent of a post-secular society saturated with the return of reactionary supernaturalism, but a significant change in the underlying religiosity of Australian society towards a post-secular and extra-demonological spirituality of quest. Once anxieties catalyzed by this movement towards expressive authenticity are situated in the context of integration strains generated by neo-liberal governance, the problem of social cohesion looks less like something that might be solved by fashioning onto a specific heritage and arranging its dissemination, and more like a condition where the value horizon of Australian society risks erosion by civil privatism and neoconservative secularism.

Against neoconservative efforts to re-imagine Australian society as formed around the culturally-specific core of an ethically-integrated value consensus, and by way of criticism of liberal strategies that legally regulate a pre-political "private" ethico-cultural plurality, the critical-theoretic approach proposes a model of social integration shaped by two key factors: mutual recognition and democratic citizenship. Mutual recognition involves moral autonomy and reflexive authenticity, in a context where multiple spheres of social estrangement provide alternative forms of recognized individuation alongside legal rights and the performance principle. Democratic citizenship involves political participation in the context of an egalitarian distribution of social, political and civil rights, together with the cultivation of virtues of tolerance and openness, in a model of deliberative democracy and the rearticulation of the public sphere.

According to Habermas, "Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourse" (Habermas 1996, 107). When this is combined with the basic principle of the rule of law, that the rule of law is to restrict the ways in which legal subjects may influence the actions of others in the independent pursuit of their ends, the result is the principle of democracy: Habermas formulates the democratic principle as the statement that "only those statutes may claim legitimacy that can meet with the consent of all citizens in a discourse process of legitimation that has been legally constituted" (Habermas 1996, 110).

Following Hilp Pettit’s modernist reconstruction of political republicanism, republicanism affirms the idea that moral autonomy and political independence are grounded in non-domination, meaning both the absence of arbitrary state power and the elimination of power asymmetries between individuals (Pettit 1995). But it is highly unlikely that mutual recognition in its modern form, ethical discourse involving the participation of all affected, and democratic citizenship in the context of political participation, can happen without the affirmation of a certain kind of cultural framework. This includes the legitimacy of inclusive forms of political will-formation (especially democracy), the validity of the secular character of state institutions; the acknowledgement of human rights, including freedom of religion; the validity of the constitution of women; and, the legitimacy of the application of reason to claims to authority (Tibi 2003, 153). The "application of reason to the claims of authority" includes renunciation of the accusation of blasphemy against the procedures of the higher criticism, acknowledgement of the validity of modern theology and a commitment to the forms of argument rather than the arguments of those when the claims of different revelations, or of revelation and reason, clash.

A post-enlightenment cultural framework, propagated mainly through the education system and through civic participation, provides the framework for cultural diversity and political pluralism, acting as a medium for the propagation of political impulses into elaborate forms of democracy and moral reflection into the multiple forms of ethical life within the political (national or postnational) community. Such a framework is not a substantive culture. It represents a set of formal results originating within the principles of (moral) discourse, moral universality and political democracy (Habermas 1996, 110), one that describes how the contribution of all affected and the assent of all governed impacts on political regimes, ethical ideals, the limits of expedience and of ascertainment, who counts as a participant in ethical discourse and political debate, and whether scepticism about any doctrine or figure can be prescribed. It is not therefore a "leading culture," if what means is a set of substantive values and customary norms that religious believers, or recent immigrants, are supposed to "assimilate" to. But it does impose restrictions on public debate, providing no shelter for any supposed "right to bigotry," and it places limits on any ethico-political project that aims to erect a cultural democracy (e.g. militant or fundamentalist groups), by ensuring rights of voluntary membership (Benhabib 2002, 22) and by proscribing the passage from rejection of the surrounding culture to its interruption by violence. Such a framework is post-enlightenment because it claims to be the apologist result of generalization under the imperatives of universalizability, rather than canceling apriori universality. Although it shares with the Enlightenment the redemption of most historically-existing forms of government (especially monarchical, aristocratic, oligarchy and dictatorship) as tyrannical, it does not attempt to prescribe the best form of regime based on human nature, holding only a strong preference for (representative, participatory or (liberal)民主) democracy, rather than setting forth a concept of human flourishing together with a rational cult, such as the "religion of humanity." A post-enlightenment cultural framework represents the (admittedly, demanding) boundary condition for the forms of flourishing imagined within the political community. The boundary condition is that whatever form of self-realization individuals seek, it remain compatible with open dialogue or with principled abstention, but be incompatible with the exercise of arbitrary power over individuals and collectives.

Drawing upon the positions elaborated by Segal Benhabib, the political republicanism of Critical Theory’s contextuality is sensitively rather than formally infected. I now want to briefly outline critical-theoretic political republicanism (CTR) by means of some test cases, based on debates in Europe and America as well as Australia:

1. Should the expression of religious convictions in public debate be permissible?
2. May legislation based on religious convictions be proposed and enacted?

CTR belongs to the republican tradition in that its basic principle of justice is liberty, specified to the learning crisis of the global economy.

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as non-domination (Hettich 1999, 2) and interpreted in light of proposals for discourse ethics and deliberative democracy as involving epistemic restriction and civic participation. Following the proposals in Cécile Laborde’s Habermas-influenced version of ‘Critical republicanism,’ the relevant basic principles of justice for meeting religious questions are those of the ‘basic right to religious freedom’ (religious freedom) and ‘elimination of status quo entrenchments that pose exorbitant demands on religious minorities’ (abolishing exorbitant demands) (Laborde 2008, 112). In agreement with Section 116 of the Australian Constitution, the state should abstain from supporting religion, unless supporting religion prevents domination in some particular instance. Accordingly, CPRM advocates secularism, meaning, the institutional separation of church-state institutions from the democratic state, as the best framework for the non-domination of individuals seeking to exercise their basic right to religious freedom, but it is critical of existing status quo arrangements as non-neutral (i.e., potentially forms of domination). CPRM begins from the assumption that public institutions should promote secular policies, except when those policies result in domination, non-domination is achieved by adhering to the religious freedom and abolition of exorbitant demands principles of application. The principle of religious freedom is that religious citizens are unreasonably discriminated against only when current arrangements render juridically or factually impossible, or prohibitively difficult, participation in worship and action consistent with faith, provided that these practices do not infringe the rights or prevent the religious freedom of others. The principle of abolishing exorbitant demands states that secular demands on religious freedom must be interpreted not in terms of abstentionist neutrality (i.e., refusing to dismantle the historically institutionalised entitlements of majority religions) but in terms of non-domination impartiality (the state seeks to ensure basic equality of opportunity for all faiths, although it is not committed to equality of outcomes).

The debate between liberals and communalists on religious expression and public reason is a good example of why CPRM is a strong alternative political philosophy. For John Rawls and Robert Audi, based on liberal assumptions that religion is private and that socialisation is an extension of the household, the public expression of faith commitments in debates on matters of general import should be restricted or eliminated, because it is unreasonable for democratic citizens to seek to compel others to accept controversial conceptions of the good life that are best left as questions of private conviction (Rawls 1993, Audi 1989). By contrast, communists like Kent Greenwoald and Paul Weithman propose, on the basis of strong ethical materialism of communal identity formation in a process of socialization based on the household, that the split between democratic citizens and private individual is an impossible procedural formalism that, by removing conceptions of the good, inde agents of any motivation to act politically or to conform legally (Greenwoald 1988, Weithman 2000).

Habermas correctly accepts that liberal restrictions on public expression would infringe religious freedom because arguments from conviction involves persuasion, rather than compulsion (Habermas 2008, 114-117). Against the Rawlsian proposal to restrict metaphorical worldviews and comprehensive doctrines from public debate, subjecting positions from the principle to the requirement of ‘translation’ into publically accessible terms, Habermas objects that it is unfair to impose an asymmetrical requirement on religious believers engaged in public debate. This is because participation in ethical discourse and democratic persuasion on the basis of the reframing of personal convictions in ways consistent with the general interest is something that all may engage in, not something that everybody must do. But Habermas then attempts to erect a barricade against the entry of religiously-motivated positions into democratically-enacted legislation, arguing that such positions (e.g., anti-abortion laws, or bans on gay marriage) would have legitmately crossed an “institutional threshold” from valid self-expression into invalid efforts to coercively impose (through legal enforcement) something that is explicitly posed as being incompatible with the general interest. What Habermas means by the “institutional threshold” is that “in parliament, for example, the rules of procedure must empower the house leader to strike religious positions or justifications from the official transcript” (Habermas 2008, 131). The risk associated with illegitimately crossing the institutional threshold is that “by opening parliaments to conflicts over religious certainties, governmental authority can become the agent of a religious majority that imposes its will in violation of the democratic procedure.” Habermas maintains that the Voltairean principle in question is that “of the neutrality of the exercise of political power,” something which entails that “all coercively enforceable political decisions must be formulated so as to be justifiable in a language equally intelligible to all citizens” (Habermas 2008, 134).

From the perspective of CPRM, the justifications advocated by Habermas for these positions are problematic. His distinction between public persuasion and legislative compulsion is reasonable, as his conclusion that the state should not enforce religiously-grounded policies. But his opposition to the “translation proviso,” yet advocacy of an “institutional threshold” is inconsistent. If it is unfair burden to expert religious citizens to explain their positions in generally-accessible terms, then it is an unfair burden to strike their legislative proposals from the parliamentary record. The problem here is the assumption that non-religious citizens by default frame their proposals in generally-accessible terms. But this is not the case. Belief in the non-existence of God (i.e., non-belief in the existence of God) is also a controversial position, one held, by a tiny minority (i.e., for all practical purposes, there are no “secular citizens”). A secular state is not the state corresponding to metaphysical humanism or to an atheistic ontology. It is historically and morally the form of the state most likely to encourage religious freedom, in light of the factual existence of multiple faiths and denominations and the normative rightness of individuals’ religious self-realization on the basis of their conscience, by preventing the establishment of any particular religiously-grounded conception of the good life. In relation to the limits to the legitimate coercion of the citizenry, the translation proviso, “which is equivalent to rather than different from the “institutional threshold,” is a consequence of religious pluralism, not a result of secularist advocacy.

Furthermore, in contraduction to the communitarian position, it is not futharly correct to suppose that the household and commune are the only loci of subculturization in modern societies. Relevant dimensions of moral and political identity are also (perhaps predominantly) formed in the education system and civic participation. The empirically based hypotheses of developmental psychology indicate that identity is not monolithic and that core-believing transcend forms of reasoning are available to all adults, albeit in different degrees (Habermas 1990). Claims about the psychological impossibility of the “translation proviso” are therefore best interpreted as protests about its ethical undesirability, on grounds of teleological or consequentialist reasoning to perfectionist political conclusions.

Generally speaking, the claim here is that liberal democracy is itself a form of the good life, so
that the practice of brokering conceptual counterpoints of the good and reason in the
general interest, promoted by both political liberalism and Critical Theory's discourse
ethics, conceals a substantive, teleological value beneath its false veneer of neutrality or universality.
The "translation paradox," in other words, prevents legislative debate on the desirability of
possessive individualism, ascetical atomisation and the primacy of the right over the good. It
therefore prevents a perhaps religiously-grounded vision of community that might advance a
progressive or a neoconservative agenda, depending on who is propounding the construction
position. Those arguments have already been demolished, so far as most perfectionist
positions advocate self-determination on the basis of moral autonomy, and therefore must
have recourse to some auxiliary instrumental or consequential ground (such as social
cohesion, or the greatest good) in order to avoid the obvious objection that such agendas
depend on the contradiction of enabling the self-determination of many at the expense of the
self-determination of some, seldom detours their advocates.

Despite their problematic conceptual architecture, community critiques of liberalism
capture the important intuition that the strict separation of the good from the good deploys
individuals of the motivational grounds for taking political action.

CTPR responds to this intuition by developing a conceptual corridor between the right and the
good, in the form of the acceptability of the interests of each of the proposals developed in the
name of all, since the discourse ethical principle of universality differs from the deontological
Kantian universalisability test by including a "consequentialist" moment. According to this
principle, (T): A norm is valid if and only if the foreseeable consequences and side-effects of its
generalised observance for the interests and value-orientation of each individual could be
freely and jointly accepted by all affected (Habermas 1998: 42). Application of the "translation
principle" in line with discourse ethics would involve particular religious frameworks
reformulating their conceptions of the good life in terms of the generalisable interests and
basic needs met by their value orientation, while even those who abhor from making
proposals can, as affected parties, seek to exercise a kind of right of veto built in to the
demanding terms of the universality principle.

Furthermore, in line with Habermas's criticism of Habermas, the clarification of values and
interests involved in moral reflection must include the moment of the self-expression of
individual narrative life histories, so that each can hold that all grasp the whole of their
motivation for accepting or rejecting a proposal, although this part of the motivation is not
itself the grounds for the decision (Benhabib 1992).

But it is crucial to note that political legislation pre-empts moral consensus: legislators are not
asked to wait for the conclusion of the public debate. Legislative proposals are, in effect,
largely side-effects on moral discourse that have not yet passed the test of the assent of
all. Generalized non-domination does not mean universal consensus. Together with the
existing religious diversity and societal multiculturalism of Australian life, this calls for the
articulation of a political philosophy "beyond liberalism and communitarianism," one that
negates markets, renews democratic participation and promotes positive forms of freedom,
grounded in a post-enlightenment cultural framework of dialogical openness and egalitarian
respectivity.

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