

**Michael J. Perry**

*The Political Morality of Liberal Democracy.*

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Debate about the ‘proper’ relationship between religion—and, more broadly, morality—and law has been a prominent feature of political and intellectual life in the United States (US) since its founding, and it serves as the focus for this extremely interesting and provocative book. Though religion may now play a reduced role in peoples’ lives in general, as Perry notes, the majority of American citizens continue to identify themselves as ‘religious believers’. In turn, it is to be expected that many individuals will wish to establish laws that reflect their personal views about the ‘good’, or ‘proper’ life. However, unsurprisingly, American religiosity is diverse in character and that fact, coupled with individuals’ belief in the ‘truth’ of their views, can generate significant tension between public law and religion, a tension that is only exacerbated by the democratic character of US government.

Indeed, as Perry observes, there are those who insist that the demands of liberal democracy cannot be reconciled with the requirements of deep religious faith (27). Perry, however, argues that, religious faith, even when deeply held, is not incompatible or, worse, antithetical to liberal democracy; rather, for many, their religious beliefs actually provide the basis for their support for a liberal-democratic form of political association. Yet, such a fact does not eliminate either the tension and potential conflict between religious beliefs and the law or the need to protect citizens against interference with their religious freedom.

As a *liberal democracy*, the US is (presumptively) committed to the belief that *all* humans possess an ‘inherent dignity’ and are ‘inviolable’—what Perry labels ‘the human right to moral equality’ (62)—and that commitment generates a requirement that certain ‘fundamental’ *human rights* be protected and respected, or so argues Perry. A right need not be universal in scope in order to be understood as a *human right*; rather, a *human right*, Perry maintains, is any right that takes seriously the inherent dignity and inviolability of humans and seeks to protect all *or* some humans ‘from being violated or otherwise subjected to unwarranted suffering’ (26).

According to Perry, among the most fundamental of human rights is the right to religious freedom. Legally denying religious freedom prevents individuals from living their lives ‘in harmony’ with their most important ‘convictions and commitments’ (71). Nevertheless, Perry argues that ‘the right to religious freedom is not unconditional (absolute)’ (74). The critical consideration is whether those for whom religious freedom is denied are subject to unwarranted human suffering (69). Denying religious freedom is acceptable if the government can demonstrate that said denial ‘serves a governmental interest that is both legitimate and sufficiently weighty (important) to be proportionate to the weight

of the burden imposed by the ban on those subject to the ban' (71). Such interests include protecting 'the lives, health, safety, liberty, property, or socio-economic well-being of the citizenry' (75).

Perry considers whether the 'nonestablishment' norm embodied in the US Constitution—the prohibition against government either precluding the free exercise of religion or establishing an official state religion—'ban[s] religion as a basis of lawmaking' (101). He concludes that the nonestablishment norm should 'be understood to ban [only those] laws (and other policies) for which the only discernible rationale (other than an implausible secular rationale) is religious' (114). Interestingly, he also declares that 'there are *some* religious premises whose affirmation by government does not violate the central meaning of the norm' (105), such as having the phrase 'under God' in the American pledge of allegiance, or 'In God We Trust' (109) as the national motto—such things do not violate anyone's human rights, according to Perry, though, it would also be incorrect to assume that such statements are acceptable because they are 'religiously empty' (113).

For Perry, the same logic and arguments apply to the idea of moral freedom. He asserts that 'the right to moral freedom is a compelling extension of the right to religious freedom' (96), and both must be protected if one is to respect adequately the inherent dignity and inviolability of all humans. However, Perry contends that a democratic (i.e. equal) right to moral freedom does not necessitate that all citizens *always* be treated identically. For example, restricting the legal right to drive to citizens who are 16 years of age or older is perfectly compatible with the idea of moral equality (62). Our concern, according to Perry, should be with ensuring that lawmakers and other government officials treat all citizens as possessing inherent dignity and inviolability. The rights Perry identifies as essential are rights against government (10, 62), and government violates such rights when it treats some individuals as inferior to others (62). In turn, such rights—including religious and moral equality and freedom—are adequately respected and protected insofar as the legal system recognizes them as *fundamental* legal rights of all citizens (61).

Perry uses two perennially 'hot button' policy issues to help concretize his arguments: namely, abortion and same-sex unions—what he labels 'the principal subtexts of the American debate...about the proper role of religion in the politics and law of a liberal democracy' (123). He asserts that banning abortion *need not* constitute an unacceptable infringement of citizens' moral freedom (136-7). Conversely, he is emphatic that denying the right to same-sex unions is an unquestionable and indefensible violation of citizens' legitimate moral freedom. In the final analysis, Perry's argument suggests that the appropriate boundary separating religion, morality and law will be determined by what is required to protect and respect the human rights that are generated by a commitment to a liberal-democratic system of political association.

Perhaps the most substantive criticism that can be leveled against *The Political Morality of Liberal Democracy* is that some of the prose seems unnecessarily 'technical' or

laborious. For example, statements such as ‘liberal democracy is, as such, as *liberal* democracy—committed, first, to the proposition ...’ (61) appear regularly throughout the text. Arguably, the intent of such a presentation could have been relayed equally as well in a more succinct manner.

That shortcoming, however, is easily overwhelmed by the many attractive features of Perry’s study. *The Political Morality of Liberal Democracy* offers a thoughtful analysis that productively balances normative theorizing and concrete considerations and, in so doing, produces a very engaging and useful contribution to the existing scholarship.

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