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WORDS FROM THE EDITOR ON "YOU KNOW WHAT..."

FREDERICK J. PARRELLA

Here we are in the lazy, hazy days of summer, with the dog days of August soon approaching. For some of you, it is time to enjoy the last of the Summer weekends in the Hamptons, in one of the many lakes Minnesota, in that beach house somewhere between Malibu and Monterey on the Pacific, or, I left this out last year, that summer house in the Sierras, the Rockies, or, Truth and Consequences, New Mexico

Wherever you are now, I hope you have a good novel or some poetry you have been longing to read among the academic books you have with you.

Wherever members of the North American Paul Tillich Society are this summer, they share something in common: it is time to pay dues for the calendar year of 2017. Please remit your check as soon as possible to:

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The amount is \$60 for full-time membership, \$20 for full-time graduate students. *Those members of the society who are retired may pay according to their means.*

If you have questions, please contact me by email, text, or phone.

Many thanks as always.

Please send your papers on Tillich for publication in the Bulletin of the NAPTS to:

fparrella@scu.edu

Please remember that you are helping to keep Tillich scholarship alive and adapt it to new generations of scholars.

NEW PUBLICATIONS

Anyone who has published an article or book on Tillich or related to Tillich, please send notice to the editor for announcement in the Fall Bulletin.

SHOULD THE FREEDOM OF EXPRESSION OF RELIGIOUS BELIEFS BE SUBORDINATE TO CIVIL RIGHTS LAWS?

J. KENDRICK WELLS, III

Preface

I am grateful to the North American Paul Tillich Society for the opportunity to provide this paper and to have presented a shorter oral version at the 2017 Annual Meeting. I appreciate the comments I received there and I have amended the paper to include responsive material.

This paper examines the specific issue of individual religious liberty in contemporary (as of early spring 2018) national politics but not the issues of contraception or abortion. Although presidential election campaigns have come to dominate the political sphere of culture and push our perceptions into opposite corners, the paper nevertheless attempts to provide a constructive nonpartisan theological analysis of selected contemporary national political activities. It provides constructive criticism focused on the most prevalent contemporary political phenomenon: Liberal Identity politics. Partisanship is support for one party against the other, and this paper does not support the Republican Party or President Trump. The focus necessarily includes the Democratic Party because Liberals are now its primary support group and its election campaigns and government policies naturally reflect Liberal Identity policies. Sen. Bernie Sanders and his supporters are the only major competing group in the Party. The Republican Party would be a no less interesting field for analysis, but that would be a separate effort.

Paul Tillich discussed political history with an emphasis on groups that have a centered power as its subjects. Because political groups have different degrees of centeredness, it is important to specify subjects and terminology. In US politics today related to the Democratic Party, the paper assumes that the principal actors are the Democratic Party

(including its center, the Democratic National Committee); Liberals, who support Identity Politics but lack an organized center. "Identities," which are contemporary political constructs defined by the Party. The term "Liberals" will refer broadly to those who aim to establish through government action a future society that elevates each Identity. Party policies change with the most influential supporters, so Liberal ideology is not a permanent feature. The literature refers to Liberals variously as "progressives," "Identity Liberals," "new Liberals," "left," etc. Recently the term "progressives" has been connected with followers of Sen. Sanders.

Introduction

The story of conflict between government and the expression of religious beliefs is an old one, even in modern times. The Bolsheviks won the Revolution in October 1917, and in January 1918 the government began suppressing newspapers and religious education by the churches. Government suppression of the expression of religious beliefs proved to be a hallmark of modern autocratic government.

While the United States prides itself in being a democratic republic, under Liberal leadership the Government in recent years has acted to subordinate the expression of religious beliefs to legislated rights for protected classes, such as the civil rights laws. During the administration of a Liberal Democratic White House, a Catholic charitable congregation dissented from a regulation requiring that it provide contraceptive services insurance directly to employees because compliance would have violated the congregation's religious beliefs. The Government demanded penalties that probably would have been crippling to the charity. The Supreme Court brought the parties to an agreement that satisfied the charity's objections.

In U.S. law, the conflict between free individual religious expression and civil rights laws appears as an issue of whether the Government may enforce the text of a rights law absolutely or must grant an accommodation (exemption or alternative compliance). An affected individual may assert that the laws would require violation of his or her sincerely held religious beliefs and request accommodation

with the law. The laws in question place duties on the public in favor of certain classes of people. These laws are most notably civil rights laws, and the paper will refer to all such laws as civil rights laws.

In the United States, this conflict is a matter of national politics. The Society's Call for Papers, by referring to the Bolshevik Revolution and the Reformation, correctly applies Tillich's theology to national and international political history and its organizations and processes. In *Theology of Culture*, Tillich stated, "the presupposition... is that in every cultural creation—a picture, a system, a law, a political movement (however secular it may appear)—an ultimate concern is expressed, and that it is possible to recognize the unconscious theological character of it" (Tillich 1959, 27). "The principle of the consecration of the secular" is that the secular is open to the holy (Tillich, 1963, 247).

This paper will summarize several of Tillich's themes and apply them as frames of analyses to contemporary U.S. political history. The themes will include ultimate concern, ontology (polarities and ambiguities), ultimate concern and idolatrous faith, the struggle between time and space, the "I—Thou" relationship, and creative historical development in democracy. By including a number of themes, I hope to marshal and apply a robust palate of analyses from Tillich's theology. The paper will follow Tillich's methodology by first stating a situation to be analyzed (Tillich 1951, 3–4) based on published accounts by sociologists and a historian. A major feature of contemporary national politics is Liberal Democrat Identity politics, and the paper focuses on this. In applying Tillich's themes to the situation, we will find they reveal structures and dynamics of consequence for the conflict between the freedom of religious expression and civil rights, and for national election politics, as well.

The Situation

The then-Chairman of the U.S. Commission on Civil Rights, Martin Castro, dramatically stated the conflict between civil rights and the freedom of religious expression. In a September 2016 Commission briefing report titled, "Peaceful Coexistence: Reconciling Nondiscrimination Principles with Civil Liberties" the "Chairman's Statement" contained the following:

The phrases religious liberty and religious freedom will stand for nothing except hypocrisy so as long as they remain code words for discrimination, intolerance, racism, sexism, homophobia, Islamophobia, Christian supremacy or any form of intolerance. Religious liberty was never intended to give one religion... a veto power over the civil rights and civil liberties of others. (U.S. Commission on Civil Rights 2016, 29)

In part, the chairman was protesting the Supreme Court's decisions in a 2016 case, *Little Sisters of the Poor Home for the Aged v. Burwell*, 136 S.Ct. 1557 (2016), and in a precedent case, *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751 (2014), where the freedom of religious expression and civil rights collided. The Little Sisters of the Poor Home for the Aged ("Little Sisters" in reference to the congregation) was (past tense in reporting a litigation) a Catholic congregation of nuns that served the elderly poor but was not part of the Catholic Church. The U.S. government demanded compliance with Department of Health and Human Services (HHS) regulations that required the Little Sisters to provide insurance coverage of contraception services, including abortion pills, to female employees in its mandated insurance plan. The government previously had provided exemptions from the requirements to many employers, including all businesses with "grandfathered" plans, small businesses, and many nonreligious charities. The ensuing litigation reached the Supreme Court, where the Little Sisters asserted that "as [Little Sisters] have told the Government over and over again, they do not claim that religious freedom entitles them to prevent their employees from *receiving* contraceptive coverage. They simply object to being forced to **provide...that coverage themselves through their own plan....**" (Little Sisters, Brief for Petitioners East Texas Baptist University, January 4, 2016, at 76). Nevertheless, the Government continued to demand that Little Sisters "must comply with a mandate to include contraceptive coverage in their plans....[S]et aside their sincere religious beliefs and comply with the contraceptive mandate" (*Little Sisters*, Brief for Petitioners January 4, 2016, at 1) (emphasis added).

The government pursued the enforcement even after conceding that acceptable coverage could be provided outside the employer's plan. "The Government has confirmed that the...[HHS

regulations] ‘for employers with insured plans could be modified to operate in the manner posited in the Court’s order [i.e., employees receive cost-free contraceptive coverage from the same insurance company]...’” (*Little Sisters* at 1560). Even so, the government continued to demand that the Little Sisters adopt a plan with commitments against their religious beliefs—absolute compliance with the text of the HHS regulations. The Supreme Court’s final order recounted that the parties had confirmed the required contraceptive coverage could be provided by the employers’ insurance companies without involving the employers. This satisfied Little Sisters’ objections. The order sent the cases back to the lower courts to be resolved by the parties. The Court directed the lower courts to afford opportunity to the parties to agree on an approach that “accommodates the employers’ religious exercise while” ensuring that their women employees have full contraceptive coverage (*Zubik v. Burwell*, 136 S.Ct. 1557 at 1560 [2016]).

Why did the government demand absolute compliance? It already had granted exemptions to businesses and other religious charities with significant numbers of female employees. The government’s arguments presented two central themes. The first was that “women” (a collective term, not tied to the actual employees) are at risk because contraceptive services are necessary to maintain their reproductive health, and they must pay more than men. Second, government regulations are presumed to create justice for women. Even after the government conceded that coverage could be provided outside the Little Sisters’ plan, it continued to argue that the Little Sisters’ dissent from the literal text of the regulations was a categorical harm to women (see *Zubik*, Brief for Respondents, US Supreme Court numbers 14–1418, et seq., 8-9, 54-60, 88, on January 4, 2016).

In normal national politics for both parties, administrative agencies aggressively pursue policies that complement White House positions. Liberal Identity politics were the primary election force for the Democrat White House during the government regulation at issue. Thus, attention shifts to Liberal Identity politics, which four academics have described in recent scholarly publications: Shelby Steele, a sociologist and senior fellow with the Hoover Institution at Stanford; Joshua Mitchell, professor of political theory at Georgetown

University; Mark Lilla, professor of the humanities at Columbia University; and Kim Holmes, an historian and distinguished fellow of the Heritage Foundation. This Situation is a synopsis of their observations on the topic unless my own contribution is noted.

In today’s Identity politics, Liberals define a characterological political Identity of victim for each group (e.g., the most prominent have been Blacks, Women, LGBT, and Immigrants). These identities are permanent and are defined by horrible actual victimization in the past. For instance, the Black Identity is characterized by slavery, KKK lynchings, and segregation (e.g., Rosa Parks forced to the back of the bus by white men). The incidents in this definition occurred prior to the civil rights legislation and cultural changes that began in the 1960s. The backward-looking anchor is present in the Women Identity too. I note that, for example, Oprah Winfrey’s speech at the 2018 Golden Globes illustrated the backward look when she defined Women Identity by referring to a 1944 gang rape of a black woman by white men who were never prosecuted.

Liberals define each of the Identities as 1960s victims, with the implications of evil doing and perpetrators, and disassociate from the evil. The dissociation might include advocating government action to create a society where the Identities are elevated. Examples of such government action might include affirmative action and employer-provided contraceptive services for women. The dissociation creates poetic innocence for all who support the Liberal cause and government action through the Democratic Party. In politics, poetic innocence gives Liberals authority to declare moral superiority for Identities, to shame implied oppressors, and to advocate government action. The ideology elevates Identities and morally condemns implied oppressors; Liberals are elevated in the role of dissociating evil. Lilla observes that Identity politics “transforms a political encounter into a power relation: the winner of the argument will be whoever invokes the morally superior Identity” (Lilla 2017, 90). Steele and Mitchell observe that the Liberal vision of moral elevation of the Identities through government intervention involves the redemption of a new society: it is “the stuff of religion, not normal politics” (Mitchell 2017, 85).

Steele argues that while blacks today are disadvantaged, pegging black Identity to events prior to 1960 ignores subsequent significant advances in legal rights and cultural perceptions and obscures the path to positive change. Rev. Martin Luther King, Jr.'s public activism, the series of Civil Rights Acts beginning in 1964, state and local antidiscrimination laws, and the creation of civil rights commissions that prosecute claims of discrimination have changed the cultural and legal terrain dramatically. A shift has occurred in the culture's perception of blacks. Today, people accused of racial discrimination are swiftly and harshly condemned. Steele thinks that white racism has lost so much credibility that it does not block the advancement of blacks today (Steele 2015, 17). The most effective answer implied by the situation of blacks today is quite different from the appropriate answer in 1960. Steele complains that the Identity ideology offers only poetic innocence in response to the actual issues of Identities today, rather than assistance designed to advance individuals toward objective equality in a society where financial status is the primary anxiety.

A similar shift has occurred regarding women. Civil rights and antidiscrimination legislation includes women, and a cultural shift in perspective has occurred regarding women too. I note that only days before Winfrey's Golden Globes speech, Harvey Weinstein, a powerful Hollywood celebrity executive, was publicly condemned for sexual abuse and forced to resign as CEO from his company. Soon after, a *New York Times* headline ran, "After Weinstein: 71 Men Accused of Sexual Misconduct and Their Fall from Power" (*The New York Times*, February 8, 2018).

However, Steele, who is black, points out that the Liberal ideology offers leverage for favor under government action "at the price of taking on....an identity of grievance and entitlement" (2015, 178). "It asks minorities to believe that the inferiority imposed on them [by the Identity] is their best leverage in society—even as it undermines the incentive to overcome it" (184).

To be clear, the point is to understand—and not to blame or belittle the contemporary disadvantages of—the individuals included in Identities. The question implied by the Identities today should be about solutions going forward from today. The past injustices referenced by Identities

were very serious abuses. Neither Steele nor the other authors query past events or their gravity, nor do they suggest that the individuals included in the Identities are responsible for the disadvantages they face today. Their point, rather, is that the legal and cultural situations of the individuals included in the Identities have improved remarkably since the 1960s and the appropriate secular answers to their situations today are significantly different from the answers indicated in the 1960s.

Lilla, who is a Democrat, worries about the effectiveness of mass protests as a Liberal Democratic political tactic because, in his opinion, protests do not win elections. He also thinks that the Party's focus on Identities has shifted it away from its historic content of working people and weakened it at the polls (Lilla 2017, 110-117).

I note that the Democratic National Convention in 2016 declared Secretary Hillary Rodham Clinton as its presidential nominee. She had run as champion of the Liberal Identities ideology, offering status elevation and government benefits to Identities but no specific economic improvement. She was nearly upset by Senator Bernie Sanders. Senator Sanders had run on a program of dramatic change in economic distribution through government intervention, which involved socialist ideas that undercut the concept of elevation by Identity. Donald Trump ran on a different model of economic distribution and defeated Secretary Clinton in November.

I note that the 2016 Democratic Party platform recognized at least twenty specific population groups (e.g., women, African Americans, racial minorities, LGBT, Immigrants, people of Puerto Rico, workers, seniors, American Indians, Asian American, veterans, disabled, people in poverty, college students, Muslims, and people with drug addictions) and specified for each group distinct government benefits. The platform did not promise to assist individuals to climb above these Identities. It also identified groups responsible for the lower status of favored groups and targeted them for adverse government action (e.g., Wall Street, the wealthy, and large corporations). The platform included a statement that "We support a progressive vision of religious freedom that respects pluralism and rejects the misuse of religion to discriminate" (2016 Democratic platform, 24th paragraph).

A Theological Analysis

Tillich's theology provides themes that are effective as analytic approaches when applied to the Situation. The paper will sketch several of his themes: ultimate concern, ontology (polarities and ambiguities), ultimate concern and idolatrous faith, the struggle between time and space, the "I – Thou" relationship, and creative historical development in democracy. The paper will explore the relevance of Tillich's analyses to contemporary politics by asking some of the questions they raise that are relevant to the Situation and reveal the structural nature of the conflict.

The Ultimate Concern and Politics

A central premise of Tillich's theology is that culture and politics are expressions of ultimate concern. As a result, an inquiry regarding a theology of culture and its political sphere should begin with recognition that the state of being ultimately concerned is not one piece but rather is the key to understanding all of culture. Every centered cultural organization and every individual performs daily activities in a state of ultimate concern. Tillich noted, "The presumption... is that in every cultural creation—a picture, a system, a law, a political movement (however secular it may appear)—an ultimate concern is expressed, and that it is possible to recognize the unconscious theological character of it" (Tillich 1959, 27). "Faith is the state of being ultimately concerned" about an ultimate concern (Tillich 2001, 1). It "is not a phenomenon besides others, but the central phenomenon of man's personal life..." (146); even "secularism is never without an ultimate concern" (144).

Recognizing the ultimate concerns involved is critical to a theological analysis of politics. The ultimate concern here refers to the object of ultimate concern, not a thing but more in the sense of the receiver of the concern. Because every creation, such as a political movement, expresses an ultimate concern, we can ask what ultimate concern is implied in the Liberal ideology. What is the ultimate goal implied by the government's absolute enforcement of the HHS insurance regulation against the Little Sisters? The immediate concern was to provide contraceptive service to women. Is there a

broader goal that would have produced the immediate concern? A broader goal was government implementation of the elevated status of women as an Identity under HHS regulations. This still may be a preliminary concern, so we ask whether there is an ultimate concern, the manifestation of which requires and generates the government action. Such an ultimate concern, which is implied by the government's absolute enforcement of the HHS regulations against the Little Sisters' dissent, appears in the goal of government elevation of Identities. I think that the ultimate concern is the future society that will be created by government action that elevates Identities. This paper will refer to it as the "Pluralism Society," referring to the Democratic Party platform. The Pluralism Society as an ultimate concern would demand its manifestation through the immediate goal of government enactment of the elevated status of Women and other Identities.

What are the symbols of the Pluralism Society in the ideology? Symbols communicate in two ways, communicating the ultimate concern to people and providing for their participation in the ultimate concern. In the Liberal Identity ideology, the government will create the Pluralism Society in the future. Liberals have a strong trust in government capability to do so through laws and regulations. The idea of government communicates the vision of the elevation of Identities to Liberals, who understand that they are participants through political action—and so qualifies as a symbol. Are laws such as the Affordable Care Act, which are assumed to create the Pluralism Society, symbols? Are Identities, which communicate the injustice of suffering and the elevation of the Pluralism Society, symbols? Are top Democrat elected officials, especially the President, symbols? The paper will assume that the Federal Government, its key laws and Identities, are symbols of the Pluralism Society. Liberals act as bearers of the Pluralism Society to humanity.

Ontology: Polarities

Ontology addresses why there is being as opposed to nonbeing. The structure of being gives it the power to hold nonbeing in union with being and to overcome nonbeing. Ontology involves concepts of structure and the elements that consti-

tute it: categories, polarities, and ambiguities (Tillich 1951, 163–164). The categories of existence, such as time, space, and causality, express the unity of being and nonbeing.

Polarities are opposed elements of being that constitute structure when they are maintained in union. In finitude, under the conditions of estrangement, the poles are in tension and can separate. When an organization moves its focus toward one pole, it necessarily moves away from the other, changing the organization. Humans sense incremental loss of structure, which increases the threat of nonbeing, as the anxiety of not being what we essentially are, and of disintegration and disruption, grows (Tillich 1951, 198–199).

In general, the primary polarity is individuation and participation. As a group moves toward a focus on its individuality, it moves away from participation in the community. The polar structure is weakened to extent of the loss of unity (Tillich 1951, 177).

In politics, the most important polarity is dynamics and form, according to Tillich. Dynamics is the capacity to grow and create new forms from the old. As a group moves to increase the unity and power of its present form, the dynamics decreases. This reduces the growth of the form, and the lack of growth is destructive to the organization. In the state of estrangement, if form is separated from its dynamics, then it is imposed as external law on dynamics to which it does not belong, producing rule by law without creativity (Tillich 1951, 181; Tillich 1957, 64–65).

These polarities raise questions for Liberal politics. If the Democratic Party is committed to the form determined by Identities as content, then it is defined by moral claims tied to wrongs and their implied answers as of 1960. The claims tied to 1960 do not move forward through articulating new claims oriented toward giving individuals in the Identities the abilities and resources to improve beyond the definition given them in the Identities, or in political compromise. If so, then is the ontological structure and vitality of the Democratic Party weakened by its commitment to the Identities? Such a weakness might show in lesser ability to grow its form in relation to changes in circumstances, such as voter preferences and the dynamics of election campaigns and the needs of the included individuals.

A related question arises if we assume that the content of the Party's platform contains both Identities and traditional working people whose ultimate concern relates more to their economic security than elevation. Has the Party's move toward the Identities weakened its polling power, which depends on unity of the Identities with working people? Will the Party respond to the pressure of election campaigns by emphasizing the power of Identities even further? To the extent it did so, would this weaken potential growth in its form (e.g., not including broader sections of the population) and consequently weaken the party structure and appeal?

Secretary Clinton championed Identities and was nearly upset by Sen. Sanders' advocacy of a socialist model of total inclusion through economic distribution. The Sanders socialist model undercuts the Identity–entitlement ideology. Did Secretary Clinton's heavy emphasis on the moral claims of static Identities weaken the Party's ontological structure and thus its electoral power? If the Party continues to be more invested in the form of the static Liberal Identities, will the Party continue to experience electoral weakness because of lack of growth in its form (see Tillich 1951, 177, 181)? The answers to these questions could bear heavily in coming elections.

Has the form of Identities lost its dynamics and thus its ability to grow? Is awareness of this loss causing Liberals' attempt to apply the static Identities form on the dynamics of religious beliefs by enforcing Identity-related rights laws absolutely against religious belief-based dissent from the laws? Tillich said that in a centered organization, group support for “imposing law by conquest... is based on an experience of belonging...which unites it against other groups” (Tillich 1963, 309).

Under the stress of ongoing campaigns, a political party will seek to improve its power and campaign appeal. The Democratic Party's public election campaign strategy relies on maximizing voter turnout from individuals in the Identities and traditional working people. Did the goal of promoting voter turnout among individuals in the Women Identity motivate Liberal support for the absolute enforcement of the HHS contraception insurance mandate against the Little Sisters' religious liberty dissent? In today's society, the sense of belonging is a highly appealing quality, and the use of power

is integral to the sense of belonging to the one group as against others. The Little Sisters dissented from a law that directly empowers the Women Identity. Does Party emphasis on the belonging experience in the Identities concept, victims-entitled-against-others, encourage an orientation toward the use of power against dissent?

Lilla objects to the party's reliance on Identity-based mass protests. In addition to expressing positions, the Party likely intends the Identity protests to enhance the "experience of belonging" of individuals in Identities and unite them against Republicans. This may be effective to some extent, especially in legislative situations, but is Lilla correct in worrying about its power for elections? Is its move toward Identities sufficient to handicap growth in the form of the party through dynamics that acknowledge and respond to today's political issues through new syntheses?

The polarities analysis raises a serious question about whether the structure of the Democratic Party permits it to be both the forward-looking party creatively evolving to represent everyone's concerns in overcoming national issues *and* the party of the Identities. Suppose that the Party wanted a form that included growth to attract more voters. Could its form of Identities and working people be modified to include the contributions of religious belief nonconformance?

Ontology: Ambiguities

What explains Chairman Castro's accusation that individuals who claim religious freedom to dissent from obedience to civil rights laws are guilty of conduct that is immoral? His claim is not alone. I note that it parallels Hillary Clinton's "basket of deplorables" acceptance speech at the 2016 Democratic Convention.

Both accusations may be rooted in ambiguity. Life is always ambiguous, according to Tillich (Tillich 1963, 107). The ambiguity of life is that every assertion always includes a mix of positive and negative, as well as essential and existential elements that cannot be separated. Every aspect of life is ambiguous. Humans are aware of the ambiguities and respond by a quest for an unambiguous life (107).

The growth of a group toward justice exhibits the ambiguities of justice, including those of com-

petition and of equality. Political process is essentially about application and "Every concrete application is ambiguous" (Tillich 1963, 81). "The ambiguities of competition.... work continuously for inequality...[and] stratification" (81). If the ruling leaders attempt to impose principle of equality, then the result can be destructive to justice, such as by "removing one source of unjust inequality only to produce another.... A state of unambiguous justice is a figment of the utopian imagination" (81).

Chairman Castro's statement may have expressed the ambiguity of divine and demonic. In religion and in politics, which is also religion in the broader sense of being ultimately concerned (Tillich 1959, 8), the ambiguity of self-transcendence is experienced as the ambiguity of divine and demonic. Mitchell pointed out that an aspect of the Liberal ideology is redemption by a new society, a usually religious promise. The demonic identifies a particular bearer of holiness with the holy itself. "The quest for unambiguous life is therefore most radically directed against the ambiguity of holy and demonic in the religious realm" (Tillich 1963, 102).

Ambiguity and ultimate concern are evident in Chairman Castro's statement, which appears to assert that people who dissent from civil rights laws on the basis of the freedom of religious expression are demonic. His view may have been that they are demonic because they claim loyalty to an ultimate concern that is higher than the holy that is the basis of the civil rights laws, namely, the Pluralism Society. His allegations target those who dissent from laws that are symbols of the Pluralism Society and intend to benefit the Identities, which are themselves holy as symbols of the Pluralism Society. His position would be that the dissenters claim a holiness that is preliminary; therefore, their claim of holiness is demonic. Does Chairman Castro's implied assumption that dissidents are demonic explain his allegations of immorality against those who assert freedom of religious expression against enforcement of the civil rights laws?

All applications of the Pluralism Society, such as through civil rights laws, will be ambiguous. Thus, the HHS contraception insurance regulations in *Little Sisters* are holy *and* demonic. In the quest for unambiguous life, one (or a centered political organization) might attempt to resolve the ambiguity by eliminating the demonic from conscious awareness through repression reinforced by

projection. Projection is a defense mechanism that supports repression by attributing the unwanted characteristics of the demonic in the application of the Pluralism Society. Was Chairman Castro's accusation an attempt to end the ambiguity of divine and demonic by repressing the demonic that is inseparably present in the Pluralism Society as the estrangement of relative status? Was he attempting to project demonic estrangement, present in civil rights law, onto those who dissent from the ultimacy of the Pluralism Society and its Identities?

Of more concern to Liberals and Democrat campaigns is the Pluralism Society itself ambiguous? Status improvement of the Identities is central to the Pluralism Society. The ambiguity of status improvement is objectively improved competitive performance and improvement in social perceptions of others. In a "state of unambiguity," the Pluralism Society could be both at once. However, as applied in the 2016 Democratic Party Platform, it promised collective status improvement to each Identity as an improvement in status as against other Identities. It did not directly promise improvement in actual economic circumstances or the development of economic competitive ability for individuals that would support their development beyond reliance on Identities. Did Sen. Sanders's campaign promise of a new model of economic distribution exploit this ambiguity in the Pluralism Society?

Concentration on relative status improvement and silence about actual change in economic circumstances cannot break the ambiguity of status improvement, in part because ambiguities can be repressed but not eliminated and in part because status improvement is also ambiguous. A ready illustration of this ambiguity is the continuing disputes over differential college admissions quotas and preferences for different racial and ethnic populations. Determined best efforts have produced continuing high-profile litigation over quotas at popular colleges without solution.

Admissions quotas also illustrate a particular ambiguity of the status improvement in the Pluralism Society. Steele points to an ambiguity relevant to admissions preferences favoring an Identity: "liberalism asks minorities to believe that the inferiority imposed on them is their best leverage in society...even as it undermines the incentive to overcome it" (Steele 2015, 184). An example of the

ambiguity is the opportunity to attend as an Identity a high-ranking college not otherwise available and the acceptance of limits on achievement there imposed by accepting an Identity of inferiority.

Idolatrous Faith

Faith is ultimate concern; if the object of concern is conditioned, then the faith is idolatrous and drives coercion. Faith can be concern about the unconditional, the true ultimate, or about a conditioned, finite matter elevated to ultimacy. "When finite realities (a nation or success) are elevated to the role of unconditional concern, the faith is idolatrous" (Tillich 2001, 10–11, 13). An idolatrous faith "makes unconditional what is conditioned (a future historical situation) and at the same time disregards the always present existential estrangement and the ambiguities of life and history" (Tillich 1963, 355). "And idolatrous faith is by necessity fanatical. It must repress the doubts which characterize the elevation of something preliminary to ultimacy" (Tillich 2001, 133).

Idolatrous faith generates compulsion as Tillich says:

An idolatrous faith which gives ultimacy to a preliminary concern stands against all other preliminary concerns and excludes love relations between the representatives of contrasting claims.... Idolatrous faith is by necessity fanatical. It must repress the doubts which characterize the elevation of something preliminary to ultimacy (133).

Unfortunately, repression cannot eliminate the source of doubt. It remains and continues to produce doubt and drive action toward eliminating the source of doubt through the will to power over others.

Is the ultimate concern of the Liberal myth conditioned? Could the Pluralism Society, which appears to be Liberals' ultimate concern, be realized if the Democratic Party does not have control of the government? Is the government, as it has performed in the history of government programs, capable of creating and administering a program with the scope and total character of the Pluralism Society? Is the government capable of creating an unambiguous society? Is the government itself ambiguous?

In *Little Sisters*, the government argued that “women” as an Identity needed employer-provided contraception services insurance to control their reproductive health—provided literally as specified in the HHS regulations. Thus, the regulations must be enforced against religious belief-based dissent. Demand for absolute compliance shows the law as a symbol for the Pluralism Society, which makes absolute claims. The Pluralism Society is conditioned in ways described earlier. It is idolatrous when elevated to ultimate concern. Did the Little Sisters’ demand for an accommodation against enforcement of the HHS mandate raise a doubt about the ultimacy of the Pluralism Society by the Little Sisters’ assertion of a truly ultimate concern? Fanatical action enacts one’s claim against the other regardless of the impact. Was the government’s absolute enforcement such a response in attempting to legally eliminate the Little Sisters challenge to the ultimacy of the Pluralism Society?

An unbroken myth also is likely to motivate compulsion against outsiders. A myth is unbroken when those who are concerned with it believe it literally. In Christianity, the symbol of the Christ crucified denies ultimacy to any finite element. In contrast, political groups whose supporting myth is unbroken resist breaking it by understanding it as a symbol and their resistance is sometimes fanatical (Tillich 2001, 58–59). Could Liberals believe the Pluralism Society myth literally and therefore interpret requests for accommodation for religious beliefs as threats to break the myth? Could this perception lead to a fanatical result in enforcement intended to eliminate threats to break the myth of the Pluralism Society?

The Struggle between Time and Space: Continuing Government Coercion against the Expression of Religious Belief

Tillich says conflict between church and state is inherent in existence under the time and space categories of being. A particular power of space results from the desire of a group in politics for a place that provides the presence of being and the power of living. The contents of a space have the character of beside-each-otherness. Time pulls space toward the new, but space can reign in time and move it towards a loss of direction and a cycle

of repetition. The character of beside-each-otherness becomes an against-each-otherness; the gods of space are imperialistic, each making unlimited claims. Those claims unavoidably clash with the unlimited claims of every other spatial god, thus each space must compete against other spaces. The unlimited claims of every space ultimate concern destroy “the universalism implicit in the idea of justice” (Tillich 1959, 38). “The God of time is the God of history” (37), who acts in history to create “something new” (37), “in time and through time, uniting the separated spaces of his universe in love” (38). “The people of time in Synagogue and Church cannot avoid being attacked because their very existence breaks the claims of the gods of space, who express themselves in will to power, imperialism, injustice, demonic enthusiasm, and tragic self-destruction” (38–39).

The Bolshevik strategy was to control the threat posed by time to undermine the circumstances that brought them to power. Their tactic of silencing the media and the expression of religious beliefs has appeared in other modern time and space conflicts. In their landmark study of totalitarianism, Carl Friedrich and Zbigniew Brzezinski (1961) found that

The Christian churches have shown themselves to be a real bulwark against the claim to absolute power of the totalitarian dictatorship.... For Christianity claims the whole man and the last word with regard to man’s values and man’s destiny. This claim the totalitarians cannot accept.... There is an interesting recent confirmation of this clash. When Peron showed signs of turning into a totalitarian dictator, he quite typically and logically began to attack the Catholic Church (262).

The question meant by “Christianity claims the whole man” points toward our analysis. Tillich’s discussion of time and space leads us to recognize spaces, their gods—ultimate concerns—and the claims they make, their means of competition, what change in relationships time produces, and how the God of time might be involved.

Under Tillich’s exposition, the Women Identity appears to act as a space and to slow time. The Identity provides a presence of being and power of living that are evidenced, for example, in the frequent all female mass protests for Women’s rights, such as the annual Women’s March. The Identity

asserts that the status of women in society is permanently that of women as victims with a grievance as of 1960. Steele says the grievance identities are “a place in the past” (Steele 2015, 107). Lilla observed that the Liberal Identity strategy of resistance to Trump, which includes protests by representatives of the Women Identity among others, “is by nature reactive... not forward-looking” (Lilla 2017, 101).

What is the god—the ultimate concern—of the space and what is its claim? The Women Identity is a symbol for the Pluralism Society, a future society in which the status of women is elevated. As the Pluralism Society is expressed in finitude, elevation of status must be relative. Women as the Identity are elevated over other identities that women might have, such as nuns in the Little Sisters congregation. The claim of the Pluralism Society to elevate status is exclusive. The Identity by definition includes all women; thus, its claim is universal and its means of competing is likely to be imperialistic.

The Little Sisters asserted that their ultimate concern was the true ultimate concern—they would say, the Christian God. The true ultimate concern is not connected to a space, although a church may elevate specific fragments of space, such as elevating something finite to ultimacy, such as church doctrine. However, the Little Sisters were a group of individuals, not a church, and did not claim that their dissent was based on doctrine. As represented by the Little Sisters, the claim of the true ultimate concern was exclusivity of vertical self-transcendence for individual believers (Tillich 1963, 248).

In the conflict over contraceptive services insurance, the Little Sisters’ conduct manifested some glimpses of the God of time who works with the movement of the spaces toward new reconciliation. Little Sisters changed their expected position of no contraceptive-abortive services to their acceptance of such services for their employees, provided only that the congregation did not directly provide and pay for them through its insurance plan. Under the pressure of the Supreme Court to resolve the issue, their proviso turned out to be workable for the government. As a result, some aspects of reconciliation appeared between the government and the Little Sisters. While the Court exercised legal power to make the effective demand for agreement, and in that regard served the God

of time, the dissent and offer to compromise by the Little Sisters in the face of threatened enforcement was the necessary step to move the situation toward the point of possible reconciliation.

The Little Sisters’ dissent was an example of the observation of Friedrich and Brzezinski, above, that “Christianity claims the whole man.” During Pinochet’s totalitarian regime in Chile, the state moved to silence the Catholic Church by obtaining its agreement to divide a public political sphere of life from a social sphere. For the Church, the objective was peace between Church and state. While the Church could be active in the social sphere, the state could, and did, control individuals in the public sphere. However, after some years the Church concluded that humans do not have a public and a social sphere of life. It is one life; state control of the public sphere washed away the presence of the Church. The Church then began to engage at risk in public protests of Pinochet’s abusive activities and this played a role in eventually breaking his regime. In his study of the era, William Cavanaugh, professor of Catholic Studies at DePaul University, observes that the claim of the God of time in existence can be manifest only through public witness over and against the silencing forces of the state (Cavanaugh 1998, see for example 58, 197).

Does Tillich’s statement that the very existence of the people of Synagogue and Church breaks the claims of the gods of space mean that their presence and worship inside the sanctuaries is enough? Is public witness, including religious belief-based dissent at risk from laws that attempt to control public behavior, also necessary to break those claims? Can the people of the God of time simultaneously break the hold of the gods of space and acquiesce in government control over public activity, such as by agreeing that civil rights laws are a separate sphere of life and, therefore, do not conflict with religious belief—a position of some parties to *Little Sisters*?

Could the conflict between the government, led by whatever ideology, and the people of church and synagogue be resolved if those people agreed with the claims of the Identities?

Is there another way to see the conflict? While the conflict can be described as between the government and the people of church and synagogue, and between the concepts of civil rights and freedom of religious expression, it also is a conflict of

claims. This conflict is between the claims of gods of space and of the God of time, assuming that God is at least fragmentally represented in religious participants in the dispute, working in time to move the spaces toward reconciliation.

Limits on Compulsion: the “I–Thou” Relation and Justice

The “I–Thou” analysis addresses the question of when political compulsion manifests concern that is truly ultimate. Tillich adopted Martin Buber’s concept of the “I–Thou” relationship. Buber was a Biblical scholar and professor of philosophy at Hebrew University in Jerusalem. Tillich said “there is no other way of becoming an ‘I’ than by meeting and accepting a ‘Thou’ as such,” which means meeting and accepting the “eternal ‘Thou’” in the finite “Thou” (Tillich 1959, 189). “Even the state has potentialities for an ‘I–Thou’ relationship” (199). However, in rationally organized society, morals support an “I–It” relationship. Morals—and rights—manipulate the “Thou” and deprive it of being “free and not determined” (189). “Whenever the ‘eternal Thou’ can be manipulated, whether by rational or irrational methods, whether by morals or dogmas.... the divine ‘Thou’ has become an ‘It’ and lost its divinity” (192).

Who bears the loss of the divine? Certainly, the I-made-it would bear loss, and probably the loss of the divine would affect the relationship and the community to which it belongs—in the Little Sisters case, perhaps the government as the “I”/Regulator–Enforcer encountered the Little Sisters. Possibly the divine “Thou” resided in them as humans and was expressed through their public assertion of concern for the divine “Thou” as the reason for their dissent from the demand of the government. Did the government action put the Little Sisters in the role of an “It”? Did the final accommodation permit the “Thou” to be present in the relationship of the Little Sisters and the government?

Chairman Castro’s statement asserts the immorality (e.g., “racism”) of those who claim religious belief exceptions to the civil rights laws as his justification for absolute enforcement of the laws against them. Does his position assert the ultimacy of the Pluralism Society and its elevation of certain Identities, while ignoring the necessary existential

result that some Identities will be necessarily inferior? This assumption is an element of the justification for authoritarian government. In their classic book, *Western Political Heritage*, Elliott and McDonald (1961) found that:

The authoritarian doctrines which had also been developed alongside and in opposition to.... notions of democracy and constitutional morality... stemmed at the outset from Plato’s low estimate of the wisdom of the people and his elitist conception of the role of the ruling class (768–769).

Perhaps because it considered people who dissent as immoral, there is no indication that the government considered the impact of the regulations on the Little Sisters before deciding to demand absolute enforcement. The government’s only substantial reasons for it were, in essence, that the text of the HHS regulations is intended to elevate the Women Identity and is holy, and that the Little Sisters’ dissent was *per se* an insult to the Women Identity. The Little Sisters’ agreement to have the same benefits provided separate from its plan did not end the government’s absolute enforcement attempt. The Government did not consider whether forcing the Little Sisters to provide contraceptive services directly to female employees in violation of their sincerely held religious beliefs would be an insult to Little Sisters. Would compliance with the HHS insurance regulation have turned Little Sisters into an “It”? Did the Supreme Court result restore them to a “Thou”? Did their dissent preserve them as a “Thou?”

In addition to I–Thou, justice embodies limits to coercion. The limits are important because compulsion is part of the life of the political organization. How do we judge it in light of justice? Perhaps the first question is whether justice requires compulsion for the purpose of achieving a government-identified end. It depends. Tillich says it is the “strange work” of justice to compel the removal of obstacles to reunion, for “Creative justice is the form of reuniting love” (Tillich 1954, 49–50, 66).

Does Liberal ideology’s answer to the question implied by the relative elevation of the Identities move toward reunion or toward estrangement? The ideology proposes to elevate each Identity, assuming the individuals included are in the circumstances defined as of the 1960s, in the Pluralism

Society that the government will create. In myth there may be no issue; however, the government must create the Pluralism Society in existence, under the conditions of estrangement, where status is relative. When the status of one Identity is elevated under conditions of estrangement, then the status of another group, an implied oppressor group or another Identity, is necessarily lowered in relation. In existence under the conditions of estrangement, existential relative status is a separating, and not a reconciling, force. The government also argued that the Little Sisters' refusal to comply with its regulations *per se* harmed their women employees. Enforcement, which is separation, was needed to remove the harm. If the situation were approached through love relations, could the Little Sisters and their employees have resolved the issue of funding for contraception services between themselves, such as through compensation adjustments? Did the government's absolute enforcement put the Little Sisters and their employees, and Little Sisters and the government into positions of hostile parties, thereby excluding love relations and reunion?

Subject-object is the basic polarity of existence. Reunion occurs only beyond the subject-object split. Does the absolute enforcement of civil rights laws move beyond or rather emphasize subject-object division by declaring that the parties subject to the laws are hostile? Only grace, or unconditional acceptance, moves beyond the subject-object division and toward reunion (Tillich 1959, 142–143). Is granting accommodation to individuals who dissent from civil rights laws because of religious beliefs an application of grace? Might accommodation move the parties beyond subject-object?

Does compulsion conflict with justice? It depends. Compulsion "conflicts with love when it prevents the aim of love, namely the reunion of the separated" (Tillich 1954, 50). Compulsion that destroys its objects rather than works for mutual fulfillment disregards the intrinsic claim of a being to be acknowledged as what it is in the context of all beings (67). The Kingdom of God in history struggles against the compulsion that transforms individuals into objects (Tillich 1963, 385). Can compulsion be just? Compulsion is not necessarily unjust, but this raises again the question of the intention of the compulsion and the ambiguity of status improvement.

Recent arguments in support of the enforcement of civil rights laws against individuals' assertions of religious beliefs claim that dissent injures the "dignity" of the protected Identity. This position advocates that the purpose of the civil rights laws is to create a new society that gives "dignity" to the Identities as a final value. One question raised is whether people can be forced to give a defined dignity. In fact, Tillich said, "The unconscious motives of personal decision are not transformed by commandments" (Tillich 1963, 49). "Changes in the structure of society would not produce change in the human existential condition of estrangement" (Tillich 1957, 74). Even if the creation of new social norms might eventually be successful, in Tillich's theology dignity is the demand of every person to be treated as a person (Tillich 1963, 89). The argument that dissent deprives the Identity of dignity calls for, rather than avoids, an "I-Thou" analysis and acknowledgement of the impact of regulations on people.

U.S. Democracy: Compulsion and Justice

The primary Christian symbol of the divine Thou working in history is the Kingdom of God. It also judges history, especially in that "the Kingdom of God gives eternal meaning to the individual person" (Tillich 1963, 358). Individual justice allows the government to move with time in "I-Thou" relationships.

Democracy answers the question of the struggle between time and space by providing public participation in a process that assumes time is at work pulling spaces toward the new. Democracy is the most likely form of government to resist treating people like objects because the ruled participate in governing. It offers creative freedom in which spaces can move forward toward the new, influenced by the true ultimate—the God of time, borne by participants in democracy. In such a situation, it is possible that the spaces might move forward in a way that fragmentarily manifests the Kingdom of God.

Tillich described democracy as an axiom between the absolute principle of love and the ever-changing concrete situation (Tillich 1959, 167). Democracy performs as axiom in the sense that:

It is the best way discovered so far to guarantee the creative freedom of determining the historical process to everyone within a centered historical group. The predominance of politics includes the dependence of all other functions in which creative freedom is presupposed upon the political organization. For verification of this, it is sufficient to look at the dictatorial systems and their attempts to subject all forms of cultural creativity, including ethics and religion, to the central political power. The result is the deprivation not only of freedom of political creativity but also the freedom of creativity of any kind except where the central authorities desire it (Tillich 1963, 347).

The function of democracy that Tillich described assumes that the democratic principle and the prophetic principle will be evidenced in practice. The democratic principle is the shared subjectivity of rule between the ruler and the ruled (Tillich 1963, 264). It puts all powers under the demand of justice “in such a way that all groups are given the possibility of asserting their own demand for justice” (Tillich 1977, 142). Democracy includes justice or treating “every person as a person.” Justice is always violated if men are treated as though they were things, for “democracy should provide justice to each person” (Tillich 1954, 60). Democracy, under the democratic principle, unites the truth of both sides, the old and the new, revolution and tradition (Tillich 1963, 389).

The democratic principle also generates corrective criticism and responsive political adjustment. This provides opportunity for the realization of Tillich’s rule for politics regarding religion; namely, that the secular world must give religion the opportunity and the right to turn toward the ultimate in all of its expressions (Tillich 1967, 141). The prophetic principle—that no group, not even the poor or the proletariat or the bottom of the ladder in society, may be glorified (Tillich 1977, 106, 142)—clears the way for the voicing and acceptance of criticism and adjustment. When this occurs, the creative freedom of determining the historic process can make democracy a secular procedural answer to the struggle between space and time.

Free public liberty of communication is assumed in Tillich’s creatively determined historical

process and in the democratic and prophetic principles. Free communication, including dissent and nonconformity, is essential to religion’s contribution of the true ultimate to a creative movement toward the new. The risk that religious communications pose to all symbols of the finite made ultimate is the reason the Bolsheviks closed newspapers and religious instruction so quickly. One of the six basic common features of totalitarian dictatorships is a communications monopoly to prevent citizens from receiving information that would support independent judgment (Frederick 1950, 9, 107–108).

The Little Sisters situation raises the question whether government by administrative agency regulations is consistent with democracy. Regardless of altruistic intent, the agencies are not democracies. The democratic and prophetic principles are not intrinsically present in agency rulemaking and enforcement. Opportunity for public comment and evidence-taking investigation may be offered, but the agency proceedings are not subject to democratic norms and tend to select material from the record that supports their preferred result rather than share subjectivity. By law, court review is limited.

Is administrative rulemaking and enforcement an ambiguity of democracy? Tillich pointed to the ambiguity of democracy that occurs when one party takes an absolutist position in the lawmaking process. The Little Sisters event points to the ambiguity that, while the United States enacts laws through a (reasonably) democratically constituted and operated Congress, the number of detailed issues facing a large democratic nation is too large for legislation. Thus, Congress must delegate decision-making power to administrative agencies.

Tillich says the courts are an additional axiom of democracy. Once Congress and the president enact a law, the law is ambiguous in enactment and in application. The ambiguity of the law is in the inability of even freely formed legislation to express all individual views, and in its enactment, which combines the spirit of justice with the spirit of the ruling class (Tillich 1963, 264–265). Enforcement is ambiguous because of “the very nature of the law—its abstraction and inability to fit precisely any concrete case in which it is applied” (Tillich 1959, 167). The courts are an answer, be-

cause the wisdom of the judge lies between the abstract law and the concrete situation, or how the demand of the particular case is perceived and obeyed. The law in its abstract majesty does not override individual differences, nor does it deprive itself of its general validity in acknowledging differences (Tillich 1963, 265).

The Content of Religious Liberty in U.S. Democracy: Accommodation

In the United States, the Declaration of Independence asserts that humans have liberty as an endowment of their Creator. The First Amendment to the U.S. Constitution establishes that Congress shall make no law “prohibiting the free exercise” of religion. Tillich’s concept that the judge acknowledges individual differences in applying the law to concrete situations, while honoring the majesty of the law, is evident in U.S. law regarding the freedom of religious expression.

When legislatures pass laws that are generally applicable and neutral, making no mention of, or exception for, religion, the constitutional guarantee of free exercise of religion applies as an individual’s demand for an accommodation (an exemption or a substitute compliance). Conflict occurred early in U.S. history between the requirement that citizens take oaths in civil and judicial transactions and individual religious beliefs (frequently Quakers). Sentiment went against absolute government enforcement of oath requirements because penalties were viewed as unnecessarily harsh to the dissenters. By 1789, all colonies had enacted exemptions (McConnell, Berg, and Lund 2016, 83–84).

The Constitution’s freedom of religious expression clause applies in conflicts between laws and individual expressions of religious belief. Today’s cases, such as *Little Sisters*, are not about whether legal rights such as civil rights should dominate the free exercise of religion. Rather, individuals subject to a burden on their religious beliefs under laws such as civil rights laws request an accommodation. Accommodation is not available when it would endanger public peace or safety. An accommodation granted relieves the individual from the requirements of the law but may stipulate alternate compliance and, in any event, leaves the law and the social principle that it establishes fully

intact. This satisfies Tillich’s concept that acknowledged differences in the enforcement of a law do not deprive the law of its general validity. The normative force of the law to influence society remains intact. In *Little Sisters*, the accommodation that resolved the case provided benefits to employees equivalent to the HHS mandate of employee contraception coverage, while at the same time exempting the Little Sisters from the textual requirement that would have forced them to violate their religious beliefs. The HHS regulations and their principle remain generally intact.

Which Religious Beliefs?

Which particular claims of religious belief are adequate to justify an exception to a neutral civil rights law? The courts decide whether to grant exemptions for sincerely held religious beliefs and may question the sincerity and validity of an asserted belief. Courts sometimes do examine the sincerity of beliefs, but they have been reluctant to find a lack of sincerity. After all, those who dissent from laws on the basis of religious belief often are risking serious penalties. Courts inquire more closely where the person asserting a religious belief exemption also has a secular motive, such as profit.

The courts have not tested the sincerity or validity of belief by religious affiliation. Members of minority religions—for example, Islam and Native American religions—have been exempted more frequently than those of the large denominations, such as Baptists and Catholics. In the United States today, one finds organizations that self-identify as churches but have a wide range of beliefs, including some that seem irreligious. Can all of them bear the God of time?

One aspect of an attempted answer is that accommodation is available for the free expression of religious belief generally, not limited to Christian belief. Another aspect is Tillich’s description of church. Tillich says a group that is “consciously based on the appearance of the new being in Jesus as the Christ” is a church (Tillich 1963, 162). The courts do not make inquiry that might distinguish a self-proclaimed church that did not experience the New Being or carry the God of time. Courts have, on a few occasions, looked at the internal validity of an asserted religious belief, but this is rare. The normal inquiry is limited to the relevance of

the individual's asserted belief to the legal requirement (see McConnell et al. 2016, 77–257).

Liberals currently argue, usually unsuccessfully, that accommodations should not be granted because “anyone” can claim exemption from the civil rights laws on the basis of religious belief. This apparently means disingenuously, to avoid obligations towards people they do not like. This is echoed in the Democratic Party Platform's objection to the misuse of religion to discriminate, which refers to the request for accommodation. Often an accompanying argument is that so many people will claim a religious belief exemption that the civil rights stated in the law will be vitiated. The courts usually have not been persuaded by these arguments.

The large majority of free exercise defenses to law enforcement have failed in U.S. courts. The courts have demonstrated the capacity to deal effectively with numerous claims of exemptions; for example, in the conscientious objector exemptions from the draft laws, which were as contentious as any social issue today. Finally, the argument that “anybody” can claim an exemption from civil rights laws on the basis of the free exercise of religion may be either an attempt to reject a perceived demonic dissent, or, as the Supreme Court has responded to the argument, a challenge of the availability of the free exercise accommodation.

Conclusion

Tillich's theology presents several analytic frames that raise questions immediately appropriate for the examination of contemporary national politics and the conflict between civil rights and free expression of religious beliefs. Together, they illustrate the starting point that Tillich's theology opens up the realm of national (likely, international, as well) politics and its participating organizations, as well as religious issues of individuals and churches. Effort to recognize ultimate concerns and symbols of political organizations sheds light on their claims and direction. The ontological approach leads to consideration of the relation between the strength of the Democratic Party's union of the polarity of dynamics and form, the Party's static Identity content, its move to enforce and refuse accommodation to civil rights laws for religious belief dissent, and its appeal in elections.

Ambiguity in the final goal of Liberal Identity politics might divide the Party and lead to an absolute enforcement of a women's rights law against accommodation for religious beliefs. The Liberal Identity ideology has aspects of religion in its myth of elevating victims. If the Little Sisters' dissent caused doubt about the myth, then the doubt may have caused a fanatical response in seeking absolute enforcement against the request for accommodation. The analysis of the conflict between freedom of religious expression and the Liberal Identities under the categories of time and space discloses that the recognition of the ultimate concerns of the Identities and their claims is the key to understanding the nature and courses of the conflict. The “I–Thou” analysis and justice draws limits to the use of compulsion to enforce the civil rights laws.

Democracy is effective because of the democratic principle, which is that the ruling group shares its subjectivity in ruling with all citizens, and through that shared power all interests can contribute their views of justice to the process of guiding the course of creative historical development. Judges are important to the workings of this process because laws are ambiguous in enactment and ambiguous in application. A judge can accommodate the law to the demands of the specific situation and maintain the normative majesty of the law.

This judge's function is what the Little Sisters hoped for by asking the court to order an accommodation to the HHS requirement that employers provide contraceptive services insurance for employees. Compliance would have violated their sincerely held religious beliefs. The court did not make a dramatic ruling but rather led the government, and the several groups who opposed compliance, to reach agreement, a conclusion that at least was some evidence of fragments of reconciliation.

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RAIMON PANIKKAR AND PAUL TILlich: VARIATIONS OF DIFFERENCE

FRED DALLMAYR

I want to do here mainly two things: First, I want to defend Raimon Panikkar against the charge that his theology violates the democratic or liberal separation of church and state. In his defense, I appeal to the *Advaita* character of his thought. Next, I want to compare his *Advaita* thought with the "dialectical theology" of Paul Tillich where the comparison turns on variations of "difference."

Recently, I have been taken to task by Ronald Beiner, a political thinker based in Toronto, for espousing a non-secular or not fully secular, and hence non-liberal, conception of democratic politics. This was "guilt by association," namely, due to my closeness to Raimon Panikkar. As a good liberal, Beiner considers the separation of church and state, and hence of faith and democratic politics, as the guiding normative principle of democracy—a principle which is violated by the endorsement of a quasi-religious worldview, such as Panikkar's "cosmotheandric vision" or "sacred secularity." Following to some extent John Rawls's Kantianism, Beiner draws a strict division between pure rational philosophy as the "pursuit of truth" and non-philosophical worldviews, and he is alarmed when pure truth (*epistémè*) is "trumped" by holistic visions or opinions (*doxa*). As he writes: "It does not seem excessively Rawlsian to point out that it is hard to see how a specific doctrine of the 'unity of God, nature, and humanity,' can supply a shared charter of citizenship for a multi-religious society populated by both believers and agnostics."

To be sure, even a non-liberal or non-Rawlsian can appreciate the dangers posed by the "politicization" of religious views, that is, the indiscriminate mingling of religion and politics. In Beiner's

words: “A reciprocity of religion and politics would be fine, provided that we could be assured that the agents of a religiously animated politics will be souls as generous, as peace-loving, justice-long and benevolent as Dallmayr himself. [But] no such assurances are available.” The fact is that “the tough realities of inter-religious conflict and inter-religious intolerance” have rendered secularism—not a sacred secularity—“imperative” in our time. As he elaborates further: “One can see that the Rawlsian version of liberalism is animated by a concern running throughout the liberal tradition right from the very beginning, namely, a legitimate anxiety about the politicization of religion and its potential for undermining shared citizenship among members of the polity.” In light of the contemporary malaise of religious extremism, jihadism and the evangelical hankering for Armageddon, who can be entirely free of such anxiety?

For a Panikkarian—or simply a religiously sensitive person—there are several possible responses to Beiner’s arguments. First of all, one can question the radical separation of faith and reason, and especially of faith and a purely rational philosophy, including a political philosophy. I have always held such a rigid separation of faith and reason, and especially of faith and a purely rational philosophy (again, including a political philosophy) untenable, in light of the many non-rational or non-apodictic premises of the search for truth. I am *not* saying that there is no truth, only that it cannot be reached via a simple algorithm. To this extent I have always been drawn to the Erasmian formula of “*faith and erudition*” (or “*fides et intellectus*”).³ I believe that Panikkar would also have embraced this motto. To this extent, he could not have been, even if he wanted to, a pure Kantian or Rawlsian philosopher (I will return to this issue later).

The more manageable issue is the charge that Panikkar stipulates a “doctrine of the unity of God, nature, and humanity.” This charge is curious as applied to any Christian thinker, for it suggests the simple collapse of the transcendence/immanence distinction, which no Christian thinker can plausibly maintain. Panikkar does not maintain it, and here one needs to pay close attention to the “*Advaita*” character of his thought. As he repeatedly points out, in the Indian tradition, “*Advaita*” means “non-dualism” (of God and world), but also—and emphatically—“non-monism.” As he

writes beautifully in *The Rhythm of Being*: “The experience of rhythm is the experience of the neither-identity-nor-difference of the real. This is precisely the *advaitic* experience: neither monism or identity nor dualism or difference.” As he adds later: “*Advaita* amounts to the overcoming of dualistic dialectics by means of introducing love at the ultimate level of reality.”⁴ To be sure, Panikkar is quite aware of the difficulty of this conception. Yet, whatever the nature of the difficulty may be, it is clear that his conception of *Advaita* is not monistic and, to this extent, does not reflect a comprehensive doctrine of the “unity of God, nature, humanity,” a unity said to be incompatible with liberal democracy.

Still, maybe Beiner’s charge is not completely dislodged. Does the assumption of non-dualism (*Advaita*) not at least presuppose a certain convergence or harmonious synergy of God and the world, of the divine and the mundane? And does this convergence not bypass the distinction between a “pre-lapsarian” and a “lapsarian” world, that is, a world before and after the fall? And must we not admit that the secular world—especially in our time of world wars, ethnic cleansing and possible nuclear holocaust—is very much “fallen”? In the experience of most people today, our secular world is a synonym for corruption, devastation and sinfulness—that is, a world devoid of any possible sacredness. So, could Panikkar simply have mis-spoken, in the sense that his “sacred secularity” reflects an unfortunate misprint? Maybe what Panikkar really wanted to say was something like “scarred secularity” or “scared secularity”? Surely our world bears many deep “scars” and most people are deeply “scared” of looming mayhem and disaster. Theologian Paul Knitter, the Paul Tillich Professor at Union Theological Seminary, once challenged Panikkar for taking too lightly the deep wounds or scars afflicting our world. In his critical challenge, Knitter referred specifically to the “preferential option for the poor,” that is, the need to be attentive to the “suffering portion of humanity.” In light of this need, he criticized Panikkar’s holistic pluralism as being perhaps too gentle and irenic, thus courting the danger of ideological obfuscation. For Knitter, what needs to be acknowledged more fully is the reigning wasteland of our age: on the human-social level, “the specter of poverty, starvation, malnutrition caused not by ‘natural

forces' but by human choices ensconced in political-economic systems"; on the global level, "the horror of wars that can devastate and have devastated vast portions of civilian populations and that, if launched with the ever-expanding nuclear arsenal, can destroy the world as we know it"; on the ecological level, "a world *already* destroyed and sacrificed on the altar of consumerism." As a means to face up to these dismal realities, Knitter advocated a "liberative *praxis*": a practical engagement for the suffering multitudes, a "preferential option" for the poor.⁵

In his argument, Knitter could find ample support in the work of Paul Tillich himself who, in strong terms, has denounced the "wasteland" of our secular world. To be sure, Tillich did not reject the secular world entirely in favor of a transcendent sacrality, a rejection found in some versions of Barthian theology. Bypassing the lure of a sacred-secular dichotomy, Tillich maintained a close relation between the two realms; this is the gist of his "dialectical theology," where the sacred and the secular, the transcendent and the mundane, are placed into a tensional relationship such that both sides challenge and correct each other. To this extent, Tillich was clearly not a "monist." In accord with the "dialectical" legacy derived from Hegel, both sides of the equation have their own integrity and distinct roles to play. Moreover, to obviate any unitary convergence or synthesis, Tillich granted the secular realm a special non-sacred force which he called the "demonic" (a force powerfully exemplified for him in the figures of Napoleon and Hitler, and perhaps also Stalin). As he writes in his *Systematic Theology*, differentiating clearly between sacred "ekstasy" and demonic possession: "While demonic possession destroys the rational structure of the mind, divine ecstasy preserves and elevates it, although transcending it. Demonic possession destroys the ethical and logical principles of reason; divine ecstasy affirms them." Differently put: the demonic "blinds, it does not reveal." In the state of demonic possession, the mind is not really "beside itself," but rather it is "in the power of elements of itself which aspire to be the whole mind which grasp the center of the rational self and destroy... While divine ecstasy does not violate the wholeness of the rational mind, demonic possession weakens or destroys it."⁶

Thus, as one can see, Tillich was clearly not a "monist," not an advocate of the "unity of God and secular world"—and thus not an advocate of a holistic "sacred secularity." But was he perhaps an *Advaitin*, a defender of a modified "non-dualism" in Panikkar's senses? As it seems to me, there are certain affinities between *Advaita* and "dialectical theology." However, there is also a crucial distinction. Although subscribing to a dialectical relation, Tillich is more a "dualist" than a "non-dualist" or *Advaitin*. The reason is that he sees himself as a religious "rationalist," standing squarely in the tradition of Kantian and Hegelian rationality and logic. Listen how he describes his own position in his *Systematic Theology*: "The first principle determining the rational character of systematic theology is... *semantic rationality*" (the rationality of semantic meanings)... The second principle... is logic rationality... Theology is as dependent on formal logic as any other science." These two principles also apply to dialectics and dialectical theology. As he says: "In dialectics, yes and no, affirmation and negation, demand each other. But in formal logic they exclude each other. However, there is no real conflict between dialectics and formal logic. Dialectics follows the movement of thought or the movement of reality through yes and no, but it describes it in logically correct terms."⁷

The logical character of dialectics can ultimately be traced back to Hegelian philosophy. In Tillich's words: "Formal logic is not contradicted when Hegel describes the identity of being and non-being by showing the absolute emptiness of pure being in reflective thought. Nor is formal logic contradicted when, in the dogma of the Trinity, the divine life is described as a trinity within unity." Basically, theology is "not expected to accept a senseless combination of words, that is, genuine logical contradictions. Thus, dialectical thinking is not in conflict with the [logical] structure of thinking." Tillich is quite emphatic on this point: "Theological dialectics does not violate the principle of logical rationality." To be sure, as a theologian, Tillich is quite aware of such unusual features as mystical experiences, miraculous events, and paradoxical statements. However, for him, all such features have ultimately to be grounded in the principle of logical non-contradiction. As he states: "Confusion begins when such *paradoxa* are brought down to the level of genuine logical contradictions

and people are asked to sacrifice reason in order to accept senseless combinations of words as divine wisdom.” What needs to be remembered is that “paradox in religion and theology does not conflict with the principle of logical rationality. Paradox has its logical place.”⁸

So, we are here on firm ground—or so it appears. It is the ground of modern reason or rationality, the ground secured by Kant, Hegel, and the entire modern Enlightenment. As Kant had famously formulated the point: “Religion within the limit of reason alone.”⁹ But is the ground really so secure? Are there not different ways to think or reason about reason? Different ways to interpret the meaning and limits of reason, as well as the meaning and limits of logic? Maybe the ground is shifting today? In his *Identität und Differenz*, Martin Heidegger made this statement: “For Hegel, the point of thinking is thought viewed as absolute [self-identical] concept (*Begriff*). For us, on the other hand, the point of thinking, in a provisional formulation, is difference seen *as* difference.”¹⁰ Here, in this simple, innocuous statement something incredible is happening: the loosening of self-identical, conceptual reasoning and the retreat of modern, Hegelian binary logic. In a nutshell, what is happening is the rise of “difference” as such, a difference which is neither sameness nor radical otherness, neither synthesis nor antithesis, neither monism nor dualism. Although profoundly recessed or sheltered, this rise may very well constitute the most important happening in our time: a subterranean trembling or tremor by comparison with which all the surface events pale in significance. What is needed to perceive it is some stillness, a willingness to put one’s ear to the ground without any “will to power.”¹¹

Tillich surely held his ear to the ground, but very cautiously, always frightened by the dangers of unreason, of the darkness of “demonic” forces (which, to be sure, are formidable dangers). By comparison, Panikkar was perhaps more light-footed and cheerful. Never concerned too much about the “demonic,” he took the idea of “sacred secularity” in stride, insisting that the phrase was not a “slip of the tongue” nor a misprint. Perhaps, in a rough approximation, one could formulate the distinction between the two theologians in this way: While, by glossing the dark horrors of secularity, Panikkar was tempted to streamline *Advaita*

in the direction of “monism,” Tillich’s attachment to dialectical logic compelled him to lean in many ways in the direction of “dualism.” Neither temptation is fully compatible with the rise of difference.¹²

As I stated, this is only a “rough approximation.” Many times, in his *Systematic Theology*, Tillich strains against the limits of Hegelian logic, of the three-step dialectics of thesis-antithesis-synthesis. This is evident in his comments on the relation between reason and revelation. As he writes: “Theology obviously must use theonomous [God-inspired] reason in order to explain the Christian message. This includes the fact that the conflict between the receiving and shaping functions of reason is conquered in theological work. If it is understood that reason *receives* revelation and that it is an object of salvation like any other element of reality, a theology using *theonomous* reason may again become possible.¹³ Reason, as one can see, is neither the same as nor the negation of revelation—thus showing the hidden tremor of difference. The straining against dialectical logic is also manifest in Tillich’s comments on the coming “Kingdom of God,” comments that go a long distance beyond any Hegelian philosophy of history. As he points out, the idea of God’s Kingdom has a “double character” by referring both to an immanent, inner-historical movement and a transcendent symbolism. This dual character, he observes, is the place where historical reason and revelation meet in a not-binary way. Thus, “the emphasis on transcendence in the symbol ‘Kingdom of God’ does not exclude inner-historical features of decisive importance—just as the predominance of the immanent element does not exclude transcendent symbolism.” Is this not really a way of articulating non-binary difference?¹⁴

The rise of difference as a mode of thought is more directly manifest in Panikkar’s work. This may have to do with his comparative closeness to Heideggerian philosophy. I previously cited some of his comments on the meaning of *Advaita*, statements taken from *The Rhythm of Being* (which can be read as a kind of sequel to *Being and Time*). In these comments, Panikkar boldly pushes beyond the limits of Hegelian or Enlightenment logic, even courting the danger of logical contradiction. As he writes: “If *Advaita* is ‘nondualism’ and at the same time claims to be ‘non-monism,’ then *Advaita* is

pure contradiction. Excluding any other plurality, we cannot escape the dilemma of either one or two without falling into contradiction. We cannot deny both one (not two) and two (not one) at the same time.” As he elaborates further: “A dualism qualifies the *one* (*ekam*) so much that it negates the very essence of *oneness*, namely, that the one [conceptually] allows for a second. Otherwise, why is it *one*? From the *advaitic* perspective, uniqueness [or singularity] is not a number. Any quantification of reality destroys uniqueness [or singularity] and constitutes an abuse of our mind.” For Panikkar, if *Advaita* affirms anything, it is “that the ‘one’ reality reveals the absence of any duality, that reality has absence adhering to the ‘one’ so as to disallow any numeric ‘one’ lest we fall into formal abstraction.”¹⁵

What emerges here is a close correlation of presence and absence, of positive being and non-being—or what, in *Being and Time*, is called an “ontic-ontological difference.” This view is a strong sheet anchor against any form of positivism, especially against the quantitative-digital positivism dominating our age. It is confusing and upsetting only to a “one-dimensional” rationalism or logical “realism” which sunders “reason” from revelation, expectation, or promise. Referring to the famous “*neti, neti*” (not this, not that) of the Vedic tradition, Panikkar finds in it a description of “*atman/ braham*” (Being, spirit) which, he says (almost breathlessly), is “incomprehensible, indestructible, unattached, unfettered, impassable, the highest, the real of the real, the truth of truth.” While monism by itself may be logically intelligible, and so also dualism by itself, this is not the case in the same way when speaking of “*atman/ braham*” or “*Advaita*.” What is at issue is the relation of “*atman/ brahman*” and its intelligibility. In Panikkar’s words: “*Advaita* denies both that ‘reality is one’ and that ‘reality is two,’ precisely because it discovers that the ‘real’ [or Being] is not reducible to intelligibility.” This implies that “*atman/ braham*” or reality ultimately “transcends knowledge,” that “to *be* is more than to know. *Advaita* denies the absolute identification of knowing (thinking) with being not because the intellect is weak, but because reality (or being) is stronger.” Differently put: “Thinking accompanies Being all the way, but Being [following the *Bhagavad Gita*] may still have a secret, a *gubhyam mahágubhyam*.”¹⁶

Here one almost inevitably is reminded of Heidegger’s reflections on the saying of Parmenides that “thinking and Being are the same,” where “the same” does not mean “identical” but joined or belonging together in their difference. As Heidegger says: “Parmenides wishes to show us where thinking (*noein*) belongs. For only where it belongs and is at home can we find it; only there can we experience how far thinking belongs to Being.”¹⁷ We might also remember Heidegger’s invitation to “an other thinking.” But let me conclude with Panikkar. Regarding thinking and Being, he draws our attention to the *Kena Upanishad* and its saying about *atman/ brahman*: “That which cannot be thought by thought, but by which the thought is thought,” and to the *Brihadaranyaka Upanishad* which asks: “With what can one know it? With what should one know the knower?” and responds:

You cannot hear the hearer of hearing;
You cannot think the thinker of thinking;
You cannot know the knower of knowing.¹⁸

Drawing on the preceding observations one might say that in Panikkar’s key phrase (“sacred secularity”) sacredness and secularity “belong together” in their difference.

Please
remember your dues.

Many thanks!

¹ Ronald Beiner, “The Problem of Secularism: Rawls, Taylor, and Dallmayr,” in Ruth Abbey, ed., *Cosmopolitan Civility: Engaging Fred Dallmayr* (New York: SUNY Press, 2018), p. 16.

² Ibid, pp. 15-16.

³ Compare in this context my “A War against the Turks? Erasmus on War and Peace,” in Dallmayr, *Peace Talks – Who Will Listen?* (Notre Dame, IN: University of Notre Dame Press, 2004), pp. 22-41.

⁴ Raimon Panikkar, *The Rhythm of Being: The Gifford Lectures* (Maryknoll, New York: Orbis Books, 2010), pp. 68, 216.

⁵ See Paul Knitter, “Cosmic Confidence or Preferential Option?” in Joseph Prabhu, ed., *The Intercultural Challenge of Raimon Panikkar* (Maryknoll, New York: Orbis Books, 1996), pp. 187-189.

⁶ Paul Tillich, *Systematic Theology*, vol. 1, *Reason and Revelation; Being and God* (Chicago: University of Chicago Press, 1951), p. 114.

⁷ Tillich, *Systematic Theology*, vol. 2, pp. 54, 56.

⁸ Ibid, pp. 56-57.

⁹ Immanuel Kant, *Religion Within the Limits of Reason Alone*, ed. Theodore M. Greene & Hoyt H., Hudson (New York: Harper & Brothers, 1954).

¹⁰ Martin Heidegger, *Identität und Differenz* (Pfullingen: Neske, 1957), pp. 36-37.

¹¹ Compare in this context my *Mindfulness: On Engaged Thinking and Acting* (Lanham, MD: Lexington Books, 2014).

¹² On the real-life dangers that any theology must recognize, see my *Against Apocalypse: Recovering Humanity's Wholeness* (Lanham, MD: Lexington Books, 2016). Although strongly attracted to *Advaita* or non-dualism, Gandhi's real-life experiences prompted him occasionally to embrace a dash of dualism

¹³ Tillich, *Systematic Theology*, vol. 1, 153.

¹⁴ Tillich, *Systematic Theology*, vol. 3, *Life and the Spirit; History and the Kingdom of God* (Chicago: University of Chicago Press, 1963), 360-361.

¹⁵ Panikkar, *The Rhythm of Being*, p. 216.

¹⁶ Ibid., 217-218.

¹⁷ Heidegger, “Moirā (Parmenides, VIII, 34-41)” in Heidegger, *Early Greek Thinking: The Dawn of Western Philosophy*, trans. David F. Krell and Frank A. Capuzzi (San Francisco: Harper & Row, 1984), 90.

¹⁸ Panikkar, *The Rhythm of Being*, 184, 202. Panikkar invokes here especially the *Kena Upanishad* I, 6 and the *Brihadaranyaka Upanishad* III, 4, 2.

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