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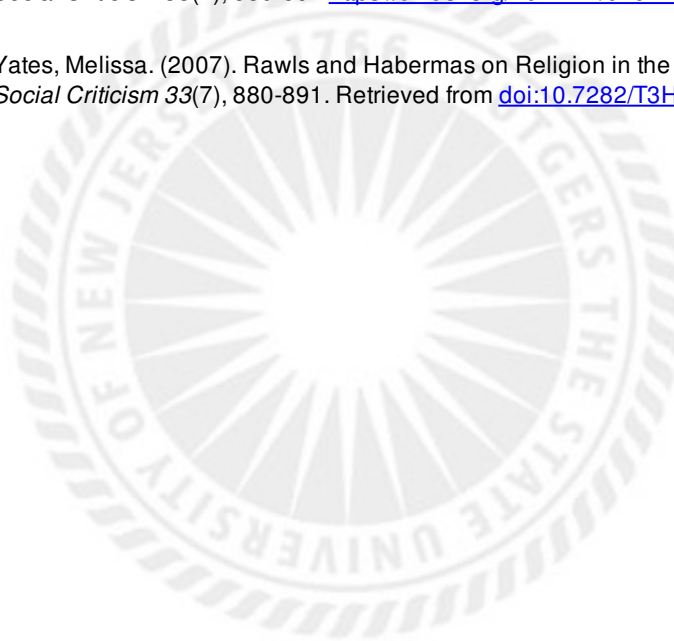
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Rawls and Habermas on Religion in the Public Sphere

By Melissa Yates

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Jürgen Habermas' treatment of religion in his early writings on the public sphere often appeared to be committed to the thesis that enlightenment entails the diminishment of the role of religion in modern societies. This fueled the charge that his theory of rationality was too narrow or unfairly biased toward scientific reason. Critics argued that self-reflective discourse takes place in religious contexts as well, and that neglecting the role played by religious citizens in public-political discourse reflected a blind-spot with respect to both the historical role of religious public debate in the development of the public sphere in the 17th century and the promise of self-criticism found within contemporary religious public spheres.¹

Habermas' recent articles, however, reveal a different diagnosis of the role of religion in modern liberal societies. Since the publication of *Between Facts and Norms*, he has been particularly interested in working out the implications of his discourse theory of democracy for concerns raised by what John Rawls calls the fact of pluralism, or the modern acceptance that reasonable people can and do disagree about the best way to lead a good life. As a consequence of the fact of pluralism, most theorists maintain that coercive law should not be justified on grounds that presuppose one particular worldview. Habermas argues that the fairness and legitimacy of coercive law should be guaranteed through practices of public deliberation

¹ David Zaret provides a useful development of this line of concern in "Religion, Science, and Printing in the Public Spheres in Seventeenth-Century England," *Habermas and the Public Sphere*, Edited by Craig Calhoun (Cambridge, MA: MIT Press, 1992): 212-235.

regulated by his discourse principle: coercive laws are legitimate to the extent that all those possibly affected could accept them as participants in rational discourse.²

Habermas endorses an account of political liberalism much like John Rawls'. Like Rawls, he argues that laws and public policies should be justified 'neutrally', by reasons that people holding conflicting worldviews could all accept. Habermas also distinguishes between reasonable religious citizens and unreasonable religious citizens in his expectation that religious citizens self-modernize.³ But in sharing these Rawlsian features, Habermas is vulnerable to some of the same objections that have been posed to Rawls. In this paper I assess Habermas' ability to overcome two objections that have been frequently posed to Rawls: that religious citizens shoulder an unfair burden of censorship in the public sphere in having to split their religious and nonreligious identities, and that the obligations of citizenship are asymmetrically distributed between religious and nonreligious citizens. I conclude that while he may be able to overcome the second, that the first remains a problem.

From the outset Habermas' account should be distinguished from Rawls' in one important respect: Habermas defends a procedural rather than substantive account of public reason. He favors a conception of the public sphere that relies on fair procedures that guide public deliberation, but do not restrict citizens' participation. While Rawls argues that citizens ought to provide public justifications for political positions, Habermas leaves open the kinds of

² Jürgen Habermas, *Between Facts and Norms*, Translated by William Rehg (Cambridge, MA: MIT Press, 1992): 107.

³ Self-modernization, on Habermas' account, requires not merely an attitude of openness to debate, but moreover an acceptance of substantive scientific beliefs, like the acceptance of the theory of evolution. This is a stronger claim than Rawls' concept of reasonability.

reasons that can be provided in the informal public sphere; but I argue that opening the public sphere in this way ultimately fails to address the most pressing objections posed to Rawls.

Part 1: The Split-Identity Objection

Rawls' ideal of public reason requires what he calls a freestanding defense of political principles when citizens vote or advocate political positions. Here 'freestanding' refers to a feature of a conception of justice. According to Rawls, the reasons acceptable in public deliberation are freestanding if they do not presuppose the acceptance of a particular comprehensive doctrine in order to have force. As an alternative to the early modern defenses of religious toleration, Rawls argues that citizens can reach reasonable agreement, instead of political compromise, on a conception of justice that can serve as the basis of justification for a constitutional regime. He assumes that all citizens, insofar as they are invested in background cultures, are committed to various (partially or fully) comprehensive doctrines. These comprehensive doctrines apply to a wide range of concerns in a person's life. For instance, a person whose Catholicism informs her beliefs about a good life may thereby be committed to views about marriage, child-rearing, abortion, confession, and the afterlife. What is important about comprehensive doctrines, for political liberalism, is that they inform a wider range of concerns than what Rawls calls the political conception of justice.⁴ A citizen's moral conception of the good may be informed by any number of views that she cannot reasonably expect to be shared by all citizens in a democratic society. By contrast, the political conception of justice is meant to apply only to constitutional essentials and basic matters of justice common to all citizens.

⁴ Rawls, "Priority of the Right and Ideas of the Good," *John Rawls: Collected Papers*, Edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999 [1988]): 450.

But there is a dualism in Rawls' account of the reasons a person should have to support his views about political issues. A citizen qua religious person has one set of reasons to reject or endorse a political position while a religious person qua citizen should have another set of reasons that are suitably public.⁵ Consequently, people are to have a *two-sided* defense of their views, mutually independent from one another. Citizens act in congruence with the 'duty of civility' when they act as if they were legislators, justifying their beliefs about political matters in terms amenable to public reason.⁶ Take, for instance, a person's views about physician assisted suicide: if he believes that there is a moral constraint on letting people die, say a commandment from God, he may believe that physician assisted suicide should not be legal. According to the duty of civility he should not, however, vote against the permissibility of physician assisted suicide for that reason, which relies on a premise about which reasonable people disagree.⁷ Instead, he should rely on reasons derived from his political conception of justice. In addition to the above set of beliefs, he may also believe that many people considering physician assisted suicide are not fully capable of making a free and autonomous decision because they are in great pain, or he may worry that legalization would discourage the development of life-saving technologies. Granted, both views are vulnerable to serious objections. But the second kind of

⁵ Rawls conceives of this dualism as a natural outgrowth of a liberal political culture. In other words, it is not philosophically necessary that individuals support political conceptions in these two ways; rather they do so because their cultures support reasonable disagreement about a wide range of comprehensive doctrines.

⁶ Rawls, "The Idea of Public Reason Revisited," *John Rawls: Collected Papers*, Edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999 [1997]): 578.

⁷ For an informative discussion of the debate over personhood in bioethical contexts see Ruth Macklin's, "Personhood in the Bioethics Literature," *The Milbank Memorial Fund Quarterly. Health and Society* 61/1 (Winter 1983): 35 – 57.

considerations, Rawls would contend, relies on politically shared values, like the protection of innocent life or concerns related to the just distribution of resources. According to Rawls, this person should not let his nonpublic values enter his deliberation about how to vote or advocate about physician assisted suicide.

This kind of dualism leads to the following worry: the expectation that citizens have two justifications for political views but only voice one in the public sphere is tantamount to the expectation that citizens split themselves in two.⁸ Critics like Stephen Carter, Michael Perry, and Andrew Murphy argue that constraints on public justifications deny the centrality played by religious doctrines in people's lives.⁹ As Perry puts it, 'one's basic moral/religious convictions are (partly) self-constitutive and are therefore a principal ground...of political deliberation and choice. To "bracket" such convictions is therefore to bracket — to annihilate — essential aspects of one's very self'.¹⁰ In claiming that moral and religious convictions are a principal ground Perry argues that such convictions are at least as important, if not more important, than values and considerations upheld by political conceptions. He thus charges that political liberals fail to give due credit to the significance of comprehensive doctrines, especially those that are religiously based. Stephen Carter shares this concern with the Rawlsian characterization of religious beliefs, claiming:

⁸ Stephen Carter, *The Culture of Disbelief* (New York, NY: Basic Books, 1993): 8.

⁹ The split-identity objection is referred to as 'dignitary harm' by Perry and as the belief-action distinction in Murphy. See Andrew Murphy, "Rawls and the Shrinking Liberty of Conscience," *The Review of Politics* 60/2 (Spring 1998): 269-276; and Michael J. Perry, *Morality, Politics, and Law: A Bicentennial Essay* (New York, NY: Oxford University Press, 1988).

¹⁰ Perry, 181-2.

Neutrality treats religious belief as a matter of individual choice, an aspect of conscience, with which the government must not interfere but which it has no obligation to respect ... In this sense, neutrality treats religious belief like any other belief, controlled by the same rules: the choice is free, but it is entitled to no special subsidy, and, indeed, it can be trampled by the state as long as it is trampled by accident.¹¹

For both Carter and Perry political liberals operate under false assumptions about the values upheld by comprehensive doctrines. Only by watering down the significance of people's nonpublic views, they charge, can Rawls expect citizens to restrict themselves from drawing on their nonpublic views in voting and advocacy. In short, the split-identity objection argues that the ideal of public reason places an unfair obligation on citizens to split themselves into nonpublic and public selves: the nine to five self speaks in public terms and keeps her religious commitments to herself, and only after hours can she fully express her true self.

Identity is not a term that comes up often in Rawls' writings, so this charge may seem to miss the target from the outset. But he is committed to there being a split in one's moral identity between aims informed by a political conception of justice and aims informed by a comprehensive doctrine.¹² They are, however, *both* part of one's moral identity. In other words, a reasonable citizen acting according to the duty of civility should not, according to Rawls, be said to forgo his moral identity full stop, though he is expected to constrain his nonpolitical moral identity in the public sphere. Rawls' best response to the split-identity objection relies upon the fact that reasonable citizens will view their public moral identities as consistent with

¹¹ Carter, 134.

¹² John Rawls, *Political Liberalism* (New York, NY: Columbia University Press, 1993): 34.

their nonpublic moral identities. This, in turn, rests upon the plausibility of his distinction between public and nonpublic matters (which motivates the split), and the extent to which an acceptance of this distinction is internal to the conception of being a reasonable citizen. Critics have, in my view, rightly charged that citizens could justifiably reject the distinction between public and nonpublic matters; in consequence, Rawls' constraints on deliberation amount to the expectation that citizens adopt public identities alien to their nonpublic identities.

Since Habermas sees no reason to exclude *a priori* certain kinds of reasons from the public political sphere his response may pose a plausible alternative to Rawls' conception of public reason. After all, in "Faith and Knowledge" he argues that 'the boundaries between secular and religious reasons are fluid. Determining these disputed boundaries should therefore be seen as a cooperative task which requires both sides to take on the perspective of the other one'.¹³ For Habermas, the public political sphere must be open to religious contributions.¹⁴ Because they share a burden of co-legislation, religious *and* secular citizens are responsible for reflecting on their own positions and for analyzing reasons provided in the context of opposing worldviews. This would seem to assuage, at least in part, the worries critics of Rawls have about trivializing religious convictions or marginalizing religious citizens.

But there is a deeper worry underlying the split-identity objection: as Rawls puts it, 'How is it possible for citizens of faith to be *wholehearted* members of democratic society who endorse society's intrinsic political ideals and values and do not simply acquiesce in the balance of

¹³ Habermas, "Faith and Knowledge," Translated by Hella Beister and Max Pensky, *The Future of Human Nature* (Malden, MA: Polity Press, 2003): 109.

¹⁴ Habermas defends a gap between the public sphere and the institutional spheres in which laws are justified formally. This raises a further question regarding the extent to which the problems with Rawls' distinction between nonpublic and public spheres should apply to Habermas' conception of informal and formal public spheres.

political and social forces?’¹⁵ Moreover, ‘how is it possible—or is it—for those of faith, as well as the nonreligious (secular), to endorse a constitutional regime even when their comprehensive doctrines may not prosper under it, and indeed may decline?’¹⁶ These are fair questions to pose to Habermas, in view of his conception of communicative freedom. As described in “On the Relation of the Secular Liberal State to Religion,” the kind of communicative freedom secured by a just public sphere does not merely defend negative liberties of free thought or free speech. Instead, communicative freedom *mobilizes* co-legislators.

Habermas responds to the fact of pluralism by adopting a procedural theory of democracy that remains agnostic with respect to competing worldviews. Unlike Rawls, however, Habermas denies that our commitment to the procedures of legitimate legislation arises from a freestanding political conception. He instead claims that this commitment is justified from within our shared democratic common sense. He argues, ‘Among members of a political community, solidarity—however abstract and legally mediated it may be—emerges only when principles of justice enter into the thicker web of cultural value orientations’.¹⁷ For instance, according to Habermas, embedded in the common sense of democratic citizens is an awareness of one’s own fallibilism with respect to moral and political issues. For Habermas, the way in which European religions have been incorporated into liberal society bears historical witness to the successful reliance on the democratic common sense in conflicts over moral and religious beliefs.

Citizens of faith, according to Habermas, can be wholeheartedly involved in public political deliberation only if their commitments to principles of liberalism arise from within their

¹⁵ Rawls, “The Idea of Public Reason Revisited,” 588.

¹⁶ Rawls, “The Idea of Public Reason Revisited,” 588-589.

¹⁷ Habermas “On the Relation of the Secular Liberal State to Religion,” Translated by Matthias Frisch, Edited by Eduardo Mendieta, *The Frankfurt School on Religion*, (New York, NY: Routledge, 2005): 341.

deepest held convictions. However, if the ‘pre-political’ sources for such commitments are to be derived from within different, often conflicting worldviews, then Habermas has to give an account of how it is that we happen to find in every reasonable worldview the same democratic common sense. As described in his essay “Religious Tolerance—The Pacemaker for Cultural Rights,” his solution calls not for the *discovery* of a democratic common sense in passive terms, but rather for the *self*-modernization of religions. First and foremost, this requires of citizens that they cognitively differentiate between their roles as members of a religious community and their roles as co-legislators in a larger social context. Religious citizens may contribute reasons for political positions in their own terms while acting as members of an informal public political sphere. They must, however, accept that when it comes to lawmaking only those reasons that can be translated into secular counterparts may serve as sources of justification. The formal public sphere in which legislators construct laws and public policies is, according to Habermas, rightly exclusive of religious reasons. It is precisely this differentiation, however, that is called into question by the split-identity objection. The split between one’s identity as a co-legislator and one’s identity as a religious person persists at a different theoretical level, but maintains a significant resemblance to the distinction upheld in Rawls’ theory between citizens’ public and nonpublic selves. Consequently, Habermas’ opening of the *informal* public sphere does not fully address the split-identity objection, as the split remains in Habermas’ account of the norms of civic participation.¹⁸

¹⁸ For a full discussion of Habermas’ description on the three requirements of self-modernization see his, “Religion in the Public Sphere,” Translated by Jeremy Gaines, *European Journal of Philosophy* 14:1 (2006): 14. To my mind, Habermas can overcome the split-identity charge only if he defends the requirements of self-modernization as civic obligations. In contrast, he maintains that the epistemic attitudes described by his theory of self-modernization cannot be obligated.

Part 2: The Asymmetry Objection

Another related objection frequently leveled against Rawls is that public reason unfairly excludes some comprehensive doctrines from the justification of coercive laws and not others.

As Rawls describes the objection,

Historically one common theme of liberal thought is that the state must not favor any comprehensive doctrines and their associated conception of the good. But it is equally a common theme of critics of liberalism that it fails to do this and is, in fact, arbitrarily biased in favor of one or another form of individualism.¹⁹

Critics argue political liberalism defends an asymmetrical burden of citizenship because, while reasonable nonliberal comprehensive doctrines are not admissible in political discourse liberal comprehensive doctrines may sometimes be treated as neutral. Public reason would in practice constrict the deliberation of only some people. In its strongest (and least plausible) form, the asymmetry objection claims that political liberalism implicitly supports atheism.

There is, however, a more widely acknowledged formulation of the asymmetry objection that poses serious problems for Rawls and, as I will argue, for Habermas. Both Kent Greenawalt and Richard Sinopoli argue that citizens holding nonreligious liberal comprehensive doctrines will not experience the constraints of public reason as an imposition in the same way that religious or nonliberal citizens will.²⁰ For example, as Greenawalt argues,

¹⁹ Rawls, *Political Liberalism*, 190.

²⁰ Here nonliberal citizens are those who hold a reasonable, nonliberal comprehensive doctrine but still accept politically liberal values. In other words, nonliberal fundamentalists are not the subject of this claim.

When someone urges that the value of autonomy be respected, it may be virtually impossible for him and others to tell whether he is relying on a particular comprehensive perspective or the widely shared value of autonomy in our culture. Liberal nonreligious comprehensive perspectives are bound to “suffer less” from a principle of self-restraint than both religious views and nonreligious, nonliberal views. This difference may reasonably be thought to involve a kind of inequity.²¹

Greenawalt is not concerned so much with comprehensive doctrines seeping into the public sphere, but rather with the predisposition to accept liberal political values like those of public reason that, he presumes, are supported within most liberal comprehensive doctrines.²² Rawls is subject to this formulation of the asymmetry objection because he accepts that liberal citizens will likely experience the duty of civility as less burdensome than reasonable religious citizens opposed to comprehensive liberal doctrines.

²¹ Kent Greenawalt, “On Public Reason,” *Chicago-Kent Law Review* 69 (1993-4): 688. Greenawalt’s formulation of the asymmetry objection presumes that comprehensive liberals would experience the duties of civility as less burdensome than religious citizens. This overlooks significant objections that have been posed to Rawls from comprehensive liberals. See Stephen Gardbaum, “Liberalism, Autonomy, and Moral Conflict,” *Stanford Law Review* 48/2 (January 1996): 388; David Estlund, “The Insularity of the Reasonable: Why Political Liberalism Must Admit the Truth,” *Ethics* 108 (January 1998): 265; and Joseph Raz, “Facing Diversity: The Case of Epistemic Abstinence,” *Philosophy and Public Affairs* 19/1 (Winter 1990).

²² Richard C. Sinopoli “Liberalism and Contested Conceptions of the Good: The Limits of Neutrality,” *The Journal of Politics* 55/3 (August 1993): 661.

Rawls' response to the asymmetry objection relies on his conception of reasonable religious citizens, defined by an acceptance of the 'burdens of judgment': religious citizens are reasonable, on his view, to the extent that they accept limitations on their comprehensive views for *epistemic* reasons. In short, reasonable religious citizens maintain that reasoning about political and moral matters is open to reasonable disagreement—that is, disagreement that does not arise from mistaken judgments. But this move seems to underplay the justified significance of religious beliefs for religious citizens.

Habermas conceives of the public political sphere in more open terms. In "Faith and Knowledge" he explicitly responds to the asymmetry objection, arguing that secular and religious citizens should share an equal burden in trying to understand one another's reasons in the informal public sphere. He argues:

The other side of religious freedom is in fact a pacification of the pluralism of worldviews that distribute burdens unequally. To date, only citizens committed to religious beliefs are required to *split* their identities, as it were, into their public and private elements...But only if the secular side, too, remains sensitive to the force of articulation inherent in religious languages will the search for reasons that aim at universal acceptability not lead to an unfair exclusion of religions from the public sphere, nor sever secular society from important resources of meaning.²³

²³ Habermas, "Faith and Knowledge," 109.

In essence, Habermas' solution to the asymmetry objection is to claim that both secular and religious citizens ought to share the burden of splitting their identities. This is tantamount to overcoming the asymmetry objection by inviting the split-identity objection.

Habermas defends a symmetrical account of civic obligations by imposing somewhat surprising requirements on nonreligious citizens, the most striking of which is that of 'cognitive openness'. Being cognitively open requires that nonreligious citizens restrain themselves from making cognitive judgments about religious speech in their roles as participants in public-political discourse. In short, Habermas expects nonreligious citizens to take seriously the possibility that deeper universal intuitions may be clothed in religious language. Habermas' account of the post-secularization of society is not, after all, merely an acceptance that religion is here to stay. Instead, Habermas conceives of a *complementary* learning process, 'in which both sides take seriously, for cognitive reasons, their contributions to controversial topics in the public sphere'.²⁴

There are two ways, however, to interpret this requirement of cognitive openness. On the one hand Habermas could expect nonreligious citizens to withhold judgment about the truth of religious claims in the public sphere. A nonreligious citizen, on this interpretation, would remain agnostic with respect to whether God or heaven exists. On the other hand, cognitive openness could mean something more minimal: Habermas could have in mind that nonreligious citizens should accept a kind of fallibilism with respect to their beliefs. On this interpretation the emphasis would be placed on the possibility of translating religious intuitions into publicly accessible counterparts.

²⁴ Habermas, "On the Relation of the Secular Liberal State to Religion," 344-5.

There are serious problems with both of these alternatives. The first interpretation parallels the expectation of religious citizens that Habermas defends in his argument that religious citizens ought to self-modernize. As co-legislators, religious citizens ought to suspend their judgments about the truth of their religious beliefs in order to participate in public deliberation. Likewise, on the first interpretation of cognitive openness, a nonreligious citizen would also have to forgo claims that could be contested by religious citizens.

The first interpretation addresses the problem of asymmetry, but at a high cost. Not only does Habermas accept split identities as part and parcel of fair deliberative participation, but the requirement of cognitive openness seems to presuppose the dubious claim that laws and public policies can be neutral with respect to competing worldviews. Debates over abortion, euthanasia, and homosexual marriage all suggest otherwise. It seems likely, for example, the conception of personhood informing abortion legislation can *only* be informed by controversial worldviews: any law about abortion must affirm some conception of when a fetus is a person. Since there is no neutral conception of personhood it would drastically hinder deliberative practices if participants were expected to forgo arguments from their worldviews about personhood in the name of cognitive openness.²⁵

The second interpretation of cognitive openness runs into a different set of problems. On the second interpretation, Habermas requires of nonreligious citizens that they take up a fallibilistic attitude with respect to controversial religious claims. The problem here is that religious citizens seem to shoulder a much heavier burden of citizenship in having to self-

²⁵ See *Political Liberalism*, page 30, for Rawls' defense of a political conception of personhood. Robert Audi also argues that political liberalism upholds a plausible conception of personhood in political/secular terms in "Religious Conviction and Political Activism," *Religious Commitment and Secular Reason* (Cambridge University Press, 2000): 181 – 208.

modernize. Embedded in self-modernization is already a duty for religious citizens to adopt a fallible stance toward controversial moral and political matters.²⁶ Religious citizens, however, have an extra burden: they must also split their religious identities from their public identities. On the second interpretation of cognitive openness there does seem to be an asymmetry in the obligations of citizenship, precisely because Habermas remains insensitive to the split-identity objection.

Concluding Remarks

In sum, Habermas' account of the role of religious citizens in democratic deliberation has not yet defended a compelling solution to problems faced by Rawls' account of political liberalism. Rawls' responses to these objections rely on two contentious features of political liberalism: the distinction between public and nonpublic matters and the inclusiveness of his conception of reasonable citizens. It is precisely Habermas' rejection of these two features that makes his alternative promising. While I have not attempted to address Rawlsian rebuttals here, I have aimed to raise awareness about the problems posed by the inclusion of religious arguments in public debate for Habermas' account. He might succeed in defusing these particular objections if he, like Rawls, were to argue that a theory of legitimate deliberation need not defend symmetrical burdens of citizenship or protect citizens from having to split their identities in justifying coercive laws. Such a response is to my mind warranted, though it might conflict with predominant accounts of deliberation taken up by Habermasian conceptions of the public sphere, which emphasize the ideal of equal participation rights in open public discourse.

²⁶ According to Habermas, 'religious citizens must develop an epistemic stance toward the priority that secular reasons enjoy in the political arena. This can succeed only to the extent that they convincingly connect the egalitarian individualism and universalism of modern law and morality with the premises of their comprehensive doctrines', "Religion in the Public Sphere," 14.

Habermas' position offers a revitalized approach to the debates over religion in the public sphere, a discourse so far centered on Rawls' account of public reason. In contrast, Habermas is able to defend a more inclusive and open-ended process of public deliberation in which the modernization of consciousness is a mutually recognized learning process, rather than a prima facie subordination of religion to scientific reason. These benefits warrant further examination of the deliberative democratic alternatives to the problems posed to liberal theories by a deeply pluralistic citizenry.²⁷

²⁷ I presented a draft of this paper at the Critical Theory Roundtable during the Fall of 2004, at Concordia University in Montreal, Quebec. I appreciate the remarks and encouragement I received from many of the participants. I am grateful to Thomas McCarthy, Cristina Lafont, and Jon Garthoff for their thoughtful suggestions and instructive comments. I am also greatly indebted to Jürgen Habermas for stimulating and shaping my interest in this topic.