

JOURNAL *of* CHRISTIAN LEGAL THOUGHT

1 What Does Jerusalem have to do with Washington D.C.?
THADDEUS WILLIAMS

4 Carl Henry Was Right
RICHARD J. MOUW

7 The Church as a Public Policy Actor in a Democratic Republic
HUNTER BAKER

11 The Church's Social Witness and the Further Work of the Reformation
JORDAN J. BALLOR

17 Richard Mouw (Was) Right
BRIAN G. MATTSON

21 Carl Henry's Quandary
FRANCIS J. BECKWITH

25 The Gospel Untarnished
MYRON STEEVES

28 Politics, the Pulpit, and Richard Mouw
JEFFERY J. VENTRELLA

32 Reflection and Response
RICHARD J. MOUW

35 Speaking of Religious Freedom
MICHAEL P. SCHUTT

JOURNAL of CHRISTIAN LEGAL THOUGHT

VOL. 5, NO.2 | FALL 2015

PUBLISHED BY

The Institute for Christian Legal Studies (ICLS),

a Cooperative Ministry of Trinity Law School and The Christian Legal Society, founded as a project of Regent University School of Law.

The Mission of ICLS is to train and encourage Christian law students, law professors, pre-law advisors, and practicing lawyers to seek and study Biblical truth, including the natural law tradition, as it relates to law and legal institutions, and to encourage them in their spiritual formation and growth, their compassionate outreach to the poor and needy, and the integration of Christian faith and practice with their study, teaching, and practice of law.

EDITORIAL ADVISORY BOARD

William S. Brewbaker, III
Associate Dean and
William Alfred Rose Professor of Law
University of Alabama School of Law

Zachary R. Calo
Associate Professor of Law
Valparaiso University School of Law

Kevin P. Lee
Professor, Campbell University School of Law

C. Scott Pryor
Professor, Regent University School of Law

Michael A. Scaperlanda
Gene and Elaine Edwards Chair of Family Law,
University of Oklahoma College of Law

Robert K. Vischer
Dean and Professor, University of St. Thomas School of Law

Editor in Chief:

Michael P. Schutt
Visiting Professor, Trinity Law School
Director, Institute for Christian Legal Studies

STATEMENT OF PURPOSE

The mission of the Journal of Christian Legal Thought is to equip and encourage legal professionals to seek and study biblical truth as it relates to law, the practice of law, and legal institutions.

Theological reflection on the law, a lawyer's work, and legal institutions is central to a lawyer's calling; therefore, all Christian lawyers and law students have an obligation to consider the nature and purpose of human law, its sources and development, and its relationship to the revealed will of God, as well as the practical implications of the Christian faith for their daily work. The Journal exists to help practicing lawyers, law students, judges, and legal scholars engage in this theological and practical reflection, both as a professional community and as individuals.

The Journal seeks, first, to provide practitioners and students a vehicle through which to engage Christian legal scholarship that will enhance this reflection as it relates to their daily work, and, second, to provide legal scholars a peer-reviewed medium through which to explore the law in light of Scripture, under the broad influence of the doctrines and creeds of the Christian faith, and on the shoulders of the communion of saints across the ages.

Given the depth and sophistication of so much of the best Christian legal scholarship today, the Journal recognizes that sometimes these two purposes will be at odds. While the Journal of Christian Legal Thought will maintain a relatively consistent point of contact with the concerns of practitioners, it will also seek to engage intra-scholarly debates, welcome inter-disciplinary scholarship, and encourage innovative scholarly theological debate. The Journal seeks to be a forum where complex issues may be discussed and debated.

EDITORIAL POLICY

The Journal seeks original scholarly articles addressing the integration of the Christian faith and legal study or practice, broadly understood, including the influence of Christianity on law, the relationship between law and Christianity, and the role of faith in the lawyer's work. Articles should reflect a Christian perspective and consider Scripture an authoritative source of revealed truth. Protestant, Roman Catholic, and Orthodox perspectives are welcome as within the broad stream of Christianity.

However, articles and essays do not necessarily reflect the views of the Institute for Christian Legal Studies, the Christian Legal Society, Trinity Law School, or other sponsoring institutions or individuals.

To submit articles or suggestions for the Journal, send a query or suggestion to Mike Schutt at mschutt@clsnet.org.



WHAT DOES JERUSALEM HAVE TO DO WITH WASHINGTON D.C.?

Rethinking the Church's Role in Law and Public Policy

BY THADDEUS WILLIAMS

The summer of 2014 gave us the Supreme Court's 5-4 ruling in *Burwell v. Hobby Lobby* on the side of religious liberty. The summer of 2015 witnessed another culturally controversial 5-4 ruling in *Obergefell v. Hodges*, which carries potentially ominous implications for religious liberty (particularly according to the dissents of Justices Roberts and Alito). Meanwhile, some legal scholars are forecasting a massive public policy paradigm shift in coming years over another hotly contested issue—the right to life. Fordham University's Charles Camosy, as a case-in-point, sees such a dramatic shift as not only possible but indeed *inevitable*.¹ He offers several lines of evidence: an unprecedented increase of pro-life legislation advanced across both red and blue states over the last few years;² the strong right to life slant among American demographics who will hold an increasing share of legislative clout in coming decades (most notably, millennials and Hispanics);³ an upsurge of pro-life feminism;⁴ the fact that the majority of Americans now believe that abortion should be legal in “few” or “no” circumstances;⁵ the proliferation of social media and better technologies (e.g., smartphone apps to hear the child's heartbeat en utero, medical advances in surgical procedures for prenatal children, 3-D and 4-D fetal imaging, with pictures joyfully plastered all over social media, etc.), among other factors that render it increasingly implausible to deny the humanity and rights of the unborn.⁶ These trends (among others) lead Camosy to conclude, “The question is not *if* the American national abortion policy will undergo a substantial change, but *when*.”⁷

A VERTICAL VIEW

Given the high stake issues of life and liberty that loom on our nation's public policy horizon (along with the 2016 Presidential election right around the corner), this is hardly the time for reactionary, superficial, or haphazard Christian politics. It is a time for carefully reasoned Christian engagement with public life, a time to ask with renewed seriousness: What does Jerusalem have to do with Washington D.C.? How should Christians engage the political process? What normative role should the church play in public life and legislation?

These are 21st century iterations of what have been perennial questions throughout church history. This much we know (though we need consistent reminders): We know that God is sovereign, and from this theological truth it follows that He, not any human court, is really supreme.⁸ Jesus, not Caesar, is Lord, and, as my colleague Russell Moore often points out, no court ruling can put Jesus back in the grave. Doom and gloom, therefore, are not options. Neither is bowing to any human authority when it oversteps its circumscribed, delegated powers to challenge and usurp His Lordship.⁹ We also know that God is holy. God's holiness and his mission to create a holy people mean that becoming chameleons who lose all of our distinctive Christian colors in an effort to appear “relevant” in public life is also not an option. Furthermore, we know that the God of holy transcendence is simultaneously the God of profound immanence—an involved God, a God who draws near, an incarnate God. If we are concerned about mirroring that God well, then a church that adopts a guns-and-gold

¹ See CHARLES CAMOSY, *BEYOND THE ABORTION WARS: A WAY FORWARD FOR A NEW GENERATION*, Ch. 1 (2015).

² *Id.* at 34-35.

³ *Id.* at 36-39.

⁴ *Id.* at Ch. 5. Highly notable in this regard is the work of Hastings Center Distinguished Scholar, Sidney Callahan. See *Abortion and the Sexual Agenda: A Case for Pro-Life Feminism* in THERESE LYSAUGHT ET. AL., EDs., *ON MORAL MEDICINE* 938-44 (3rd ed., 2013).

⁵ 62% according to a 2013 CNN poll. For further analysis of shifting American demographics on right to life issues see CAMOSY, at 26-40.

⁶ *Id.* at Ch. 2.

⁷ *Id.* at 39, emphasis in original.

strategy—a self-imposed mountain exile from politics and public life—is also not a live option.

Why the need for such theological reminders? Hunter Baker observes that, “Politics is exciting... [and] partakes of the nature of sporting events.”¹⁰ It is easy to get so swept up in “this horse race aspect of politics” that it becomes more enamoring to us than God Himself. This generates the kind of horizontally fixated political activism that bears the moniker of God but does very little to accurately mirror and shine His character and attributes into the world of politics. Beginning with (and sustaining) a vertical view, however, our horizontal perception becomes more vivid. We begin to see the sphere of politics as a place for fearlessness because God is sovereign, distinctiveness because God is holy, and redemptive involvement because God is incarnate (among other postures toward culture that follow from God’s justice, compassion, grace, love, etc.).

We all need such reminders. But they still leave some important questions hanging: What exactly are Christians to do so fearlessly, distinctively, and incarnationally in the world of politics? Should the church endorse specific public policies? Should church leaders take sides on legislative questions and rally support from the pulpit for (or against) specific candidates? Should policy and voting questions be left to the consciences of Christians *as individuals*, or do they fall within the proper scope of the church *as an institution*, or perhaps both?

WAS CARL HENRY RIGHT?

These were the questions brewing in the mind of Richard Mouw in 1967 when he submitted an article for publication to *Christianity Today*. Mouw wanted to rouse the dosing church in America to engage the social evils of the day with more political clarity and verve. Carl F.H. Henry—the founding editor of *Christianity Today* (1956-68) and one the most rigorously thoughtful and respected voices in 20th century evangelicalism—offered Mouw an instructive critique. According to Henry, individual Christians may engage the political process by endorsing specific policies; whereas the church as an institution should stick to declaring the

general principles of a biblical worldview as they relate to socio-political issues, while stopping short of explicit public policy endorsements. For Henry, the institutional church can and should voice negative verdicts on bad policies, but lacks the “mandate, jurisdiction, or competence to endorse political legislation or military tactics or economic specifics in the name of Christ.”¹¹

Mouw “grudgingly accepted what [he] considered a less-than-fully satisfactory compromise arrangement,” while remaining convinced that “the church could rightly say a bold ‘yes’ to specific policy-like solutions.”¹² Forty-three years later all of that would change. In January of 2010, *Christianity Today* published Mouw’s updated reflections under the humble and candid title, “Carl Henry Was Right.” Why did Mouw, over the course of four decades, come to side with Henry in placing specific policy endorsements beyond the purview of the institutional church’s mission and mandate? Was Carl Henry right?

This edition of the Journal opens with the 2010 *Christianity Today* article (reprinted with permission) in which Mouw explains why he has come to see his “youthful conviction as misguided” and that “Henry was right.”¹³ This article sets the context for the rest of this issue in which top Christian thinkers—professional theologians, ethicists, and lawyers—weigh in on whether Henry was right, that is, whether the institutional church should refrain from declaring “a bold ‘yes’” to particular public policies.

Hunter Baker (Professor of Political Science at Union University) builds a case for a more expansive, policy-affirming role for the church in American politics. Jordan Ballor (Research Fellow at the Acton Institute) draws on the thinking of Martin Luther, Abraham Kuyper, Paul Ramsey, and Dietrich Bonhoeffer to further reinforce and nuance Henry (and now Mouw’s) position. Brian Mattson (Senior Scholar of Public Theology for the Center for Cultural Leadership) finds Henry’s position unnecessarily constricting as the church seeks to fulfill its transformative role in society. Francis Beckwith (Professor of Philosophy and Church Studies at Baylor University) highlights a major worldview shift since Mouw first engaged Henry, namely, the loss of a general cultural awareness of key features of a traditional

⁸ When the early church in Jerusalem faces a harsh legal ruling to cease evangelizing or face prosecution and death, they open their prayer with the word—Despotes—meaning “Sovereign Lord”—as a reminder that God, not the assorted political powers, sits on the throne of the cosmos (Acts 4:24). Their prayer goes on to acknowledge that when the ruling came down to execute Jesus, the political forces involved were doing “what the hand and will of God has predetermined to take place” (4:28). With such a robust theology of divine sovereignty, they “continued to speak the word with great boldness” (4:31). For extended discussion of this crucial text see THADDEUS WILLIAMS, *LOVE, FREEDOM, AND EVIL*, 83-101 (Brill, 2011).

⁹ As Peter and the apostles tell the Jerusalem senate: “We must obey God rather than men” (Acts 5:29).

¹⁰ HUNTER BAKER, *The Church as a Public Policy Actor in a Democratic Republic* in this issue of the JOURNAL, p. 7.

¹¹ CARL F.H. HENRY, *CONFESSIONS OF A THEOLOGIAN*, 270 (1986).

¹² RICHARD MOUW, *Carl Henry Was Right*, CHRISTIANITY TODAY, 32 (January 2010).

Christian worldview, particularly as it relates to human nature and responsible ecclesiastical engagement with public life. Jeffrey Ventrella (Senior Counsel at Alliance Defending Freedom) argues that the pulpit is not only a proper but indeed an essential outlet for both negative and positive political pronouncements. Myron Steeves (Dean of Trinity Law School) contends that Henry was indeed right, and that, given the compromises that go with the political enterprise, the church risks undermining its prophetic role and tarnishing its gospel proclamation if it ventures too intimately into the political realm. The discussion concludes with the responses and reflections of Dr. Mouw five years after his CT piece, and some forty-eight years after his first exchange with Henry.

When Mark Noll surveyed (and often lamented) the role of evangelicals in 20th century politics, he saw in Carl Henry a bright ray of hope for a resurgence of serious Christian political reflection, deeming him “the most visible figure reawakening a concern for social and political thought” while celebrating Henry’s “extraordinarily positive influence toward a recovery of an evangelical politics.”¹⁴ Henry’s brief work *The Uneasy Conscience of Modern Fundamentalism*, while written in 1947, remains a treasure trove of insight for anyone concerned with biblically faithful socio-political engagement. With such works as *Political Evangelism* (1973), *Politics and the Biblical Drama* (1976), *When the Kings Come Marching In* (2002), *Uncommon Decency* (2010), among others, and his most recent work with Biola University’s Center for Christian Thought on recovering civility in

the public square, Richard Mouw stands firmly within Henry’s legacy of thoughtful Christian engagement, and moves that legacy forward. Both thinkers are deeply connected by the conviction that the Lordship of Christ cannot be crammed into some Platonic box of other worldly forms, but stretches out over the whole terrain of existence, including social and political existence. It is our hope that the following dialogue contributes to a clearer vision of Christ’s comprehensive Lordship as it relates to the church and our role in the nation’s political future. What does Jerusalem have to do with D.C.? How should Christians engage the political process? Was Carl Henry right? However we ask it, there is far too much at stake for us to ignore the question.

Thaddeus Williams (Ph.D., Vrije Universiteit, Amsterdam) teaches Systematic Theology for Biola University in La Mirada, CA. He also serves as Affiliate Faculty at Trinity Law School, where his Jurisprudence courses challenge students to integrate their study of law with the distinctives of a biblical worldview. Professor Williams also serves as a lecturer for the Blackstone Legal Fellowship, a Senior Fellow of the TruthXChange Thinktank, and has lectured for the Federalist Society in Washington D.C. along with Francis Schaeffer’s L’Abri Fellowships in Holland and Switzerland. He is a regular contributor to Talbot’s GoodBookBlog.com and his publications include Love, Freedom, and Evil (Brill, 2011). Dr. Williams lives in Orange County, CA with his wife and three daughters. He also served as Editor for this issue of the Journal of Christian Legal Thought.

¹³ *Id.* at 32.

¹⁴ MARK NOLL, *THE SCANDAL OF THE EVANGELICAL MIND*, 221-222 (1994).



CARL HENRY WAS RIGHT

Christianity Today's first editor grasped what I as a young theologian failed to understand about church involvement in social justice.

BY RICHARD J. MOUW

(This article first appeared in the January 27, 2010 issue of *Christianity Today*. Used by permission of Richard Mouw and *Christianity Today*, Carol Stream, IL 60188.)

I have an account to settle with Carl Henry. It is too late to personally settle it with him—although I hope the Lord eventually gives me the chance to do that in the hereafter. For now, though, I can at least set the record straight in the pages of this magazine, which Dr. Henry served so capably as *Christianity Today's* first editor.

The story starts in the fall of 1967 when, as a Ph.D. student in philosophy at the University of Chicago, I received a phone call from Henry. A few weeks before I had sent an essay to him, outlining what I took to be a proper evangelical approach to the sub-discipline of social ethics. Henry told me that he very much liked my piece for its critique of liberal Protestantism's approach to the field, and wanted to publish it. He had only one revision to suggest—a minor one, he insisted. At the point where I said that it was indeed important for *the church* to on occasion take a stand on some specific question of social justice, he preferred to have me speak of the need for *individual Christians* to take such a stand.

The essay was the first piece I had ever submitted to any periodical beyond the world of on-campus publications. Needless to say, I was thrilled to get this kind of personal attention from one of my evangelical heroes. But I was also troubled by the change he was proposing. This was a period in my life when I had often felt alienated from evangelicalism because of what I saw as its failure to properly address issues raised by the civil rights struggle and the war in Southeast Asia. As a corrective, I wanted the church, *as church*, to acknowledge its obligation to speak to such matters. So I responded by telling Henry that I did not see his proposed change as a minor bit of editing. As much as I would be honored to see my essay appear as an article in *Christianity Today*, I said, I could not approve the formulation he was suggesting.

Henry thanked me for my time, and the conversation ended. But over the next two weeks he called several times, on each occasion urging me to accept some revision. At one point, for example, he asked me to approve a statement to the effect that the church should regularly articulate general principles that bear on social concerns, leaving it up to individuals to actively apply

those principles to social specifics. I rejected that way of putting the case.

His final call set forth what he presented as some compromises. And I accepted them, albeit with some reluctance. Thus, where I had referred to “the church’s duty” to address the topic of civil rights, he had substituted a revision that spoke, with some ambiguity, of a “Christian duty with respect to the civil rights of human beings.”

And while he kept my insistence that the church itself must on occasion address social specifics, he limited its role to the making of negative pronouncements. He had me saying that the church can say “no” to things that are happening in the economic and political realms, without mentioning anything about the church legitimately endorsing specific remedial policies or practices.

Here is how the case was put in the published version of my essay: “[I]t is often necessary for the church to take an unequivocal stand against prevailing economic, social, and political conditions, even where it is practically impossible to offer any solution” in terms that don’t draw on extra-theological “‘theoretical and empirical’ analysis.”

FIVE PRINCIPLES OF ENGAGEMENT

In his biography, *Confessions of a Theologian*, Henry makes it clear that there was much going on in the background during the time we were having those phone conversations. He goes into much detail about how, during this period, he was attempting to take on social issues in a reasonable manner in his editorial role, while also pleasing J. Howard Pew, president of the Sun Oil Company, who was contributing much-needed funding for the magazine.

Henry’s obvious worries that Pew might be troubled by my article were confirmed by the fact that, after my essay appeared in print, Pew wrote to complain about what he saw as my insistence that “the church must often take a stand on economic, social, and political issues.” In reporting on this in his memoir, Henry explains how he defended me to Pew.

“Mouw’s essay, I wrote in reply, had clearly stated that the church cannot offer legislative or military specifics, and is on safer ground, moreover, when it voices a negative verdict on the status quo.” Henry goes on to

set forth what he explained to Pew as the five principles that had consistently guided his editorial policy on such matters in the magazine's pages:

1. The Bible is critically relevant to the whole of modern life and culture—the social-political arena included.
2. The institutional church has no mandate, jurisdiction, or competence to endorse political legislation or military tactics or economic specifics in the name of Christ.
3. The institutional church is divinely obliged to proclaim God's entire revelation, including the standards or commandments by which men and nations are to be finally judged, and by which they ought now to live and maintain social stability.
4. The political achievement of a better society is the task of all citizens, and individual Christians ought to be politically engaged to the limit of their competence and opportunity.
5. The Bible limits the proper activity of both government and church for divinely stipulated objectives—the former, for the preservation of justice and order, and the latter, for the moral-spiritual task of evangelizing the earth.

Having made his case to Pew, Henry reports that “[t]hereafter I received only infrequent correspondence; little if any of that pertained to the church in politics.” By itself, of course, this could have been a sign that the oilman was satisfied with Henry's account. But the larger narrative does not allow for this interpretation of Pew's lack of communication. It is clear, for example, that Pew was instrumental in eventually moving Henry out of his editorship, desiring—as Henry puts it in his autobiography—“a more aggressive denunciation of ecumenical perspectives,” particularly as they related to political and economic questions.

SOMETIMES THE CHURCH MUST SAY ‘NO!’

Here is what I need to say now about my youthful negotiations with Carl Henry: Henry was right and I was wrong. At the time I agreed to Henry's revision of my draft, I only grudgingly accepted what I considered a less-than-fully satisfactory compromise arrangement. What I really wanted to say is that the church—in the form of both preaching and ecclesial pronouncements—could do more than merely utter a “no” to some social evils. There were times, I was convinced, that the church could rightly say a bold “yes” to specific policy-like solutions. I now see that youthful conviction as misguided. Henry was right, and I was wrong.

In pushing me on this subject, Henry was not merely trying to avoid offending a significant funding source. The second point of the five principles that Henry summarized for Pew had long been a major theme in his reflections on the church's public calling.

For example, in his now-classic 1947 jeremiad, *The Uneasy Conscience of Modern Fundamentalism*, Henry had complained that the evangelical ministers of his day were not addressing important social concerns. In the early pages of his book, he tells us that he had recently posed this question to a group of evangelical pastors about their preaching:

How many of you, during the past six months, have preached a sermon devoted in large part to a condemnation of such social evils as aggressive warfare, racial hatred and intolerance, the liquor traffic, exploitation of labor or management, or the like—a sermon containing not merely an incidental or illustrative reference, but directed mainly against such evils and proposing the *framework* in which you think solution is possible?

Not one of the pastors, he reports, could testify that he had preached such a sermon.

Note that in urging pastors to address social concerns, Henry is careful to limit their role to the no-saying function. He wants from them a “condemnation” of selected social evils. They are to speak “against” such things. What they are to offer in positive terms is not practical solutions, but the “proposing [of a] *framework* in which you think solution is possible” (emphasis mine).

In the months immediately preceding my telephone conversation with Henry, he had taken up this theme at some length in *Christianity Today's* pages. In a feature article, along with an accompanying editorial in the September 15, 1967, issue, Henry praised Princeton University ethicist Paul Ramsey for the way he had criticized ecumenical Protestantism in his recent book, *Who Speaks for the Church?* In particular, Henry praised Ramsey's critique of ecumenical Protestantism's way of issuing what Henry describes (paraphrasing Ramsey) as “a staggering number of resolutions that support particular positions.” And the issue for Ramsey was not just the sheer number of pronouncements, but also a methodology that flowed from a defective theology. Henry quotes Ramsey's harsh verdict: “Identification of Christian social ethics with specific partisan proposals that clearly are not the only ones that may be characterized as Christian and as morally acceptable comes close to the original New Testament meaning of heresy.”

While endorsing the general thrust of Ramsey's case, Henry was careful not to let evangelicals off the hook. This important critique should be the occasion, Henry insisted, for evangelicals "to consider what they may properly say to the world about social justice." The church is obliged to "declare the criteria by which nations will ultimately be judged, and the divine standards to which man and society must conform if civilization is to endure." What the Bible actually says about such matters should "belong legitimately to pulpit proclamation." Evangelicals, he urged, needed to do a more effective job of "enunciating theological and moral principles that bear upon public life."

This did not mean for Henry that the church should get into endorsing specific solutions. A constant theme in his writings was that the church as such has neither the competence nor the authority to address political or economic specifics. He would usually add, though—probably with the memory of Nazi Germany in mind—that there may be "emergency situations" in which the church would have clear mandate from God to address specific evils. But in the normal course of things, the church should leave it up to individuals to take a very general mandate to think and act Christianly in the public arena.

WHAT CHRISTIANS CAN DO TOGETHER

So, again, Henry was right about all of that. If I still have a slight misgiving about the way he made his case, it has to do with an impression Henry gives about what takes place *after* the church provides the Christian community with biblically grounded general principles. He suggests that once believers have heard what the church has to say, it's up to them to struggle individually with moving toward specifics.

Another of my theological heroes, Abraham Kuyper, would have agreed completely with Henry about the

limits of what the church, as a worshiping and catechizing community, can do by way of addressing issues of public life. But Kuyper would have insisted that, between the gathered church and individual Christians going out into the world to struggle with applications to specifics, there is an important intermediate area of activity. Christians must form a variety of organizations that focus on specific areas of cultural involvement, in order to engage in the kind of communal reflection necessary to develop a Christian mind for the area in question.

This means that it is important, say, for Christians who are deeply involved in policies and practices relating to concern for the poor to develop specific proposals building on the general principles proclaimed by that church, by deliberating on these matters in groups that have the expertise to struggle with them. And it is even appropriate to present those policy proposals as Christian-inspired specifics, even if they move well beyond what the church—as church—has a right to say.

In our own day, it may be especially important for the church to see to it that this "beyond the worshiping church" communal discussion actually takes place. A good model is the creative outreach embodied in the very creative Center for Faith and Work, sponsored by New York's Redeemer Presbyterian Church, where laypeople can meet to think more specifically about how to serve the Lord beyond the worshiping community's borders.

But that is not so much a disagreement with Henry as it is a further development of his important views about church and the public arena. I am not alone in owing a debt of gratitude to Henry for his pioneering—and courageous—efforts to encourage a more mature evangelical discipleship in the broad reaches of culture. I hope others will join me in continuing to learn from him how best to search out remedies for an evangelicalism that still suffers from an "uneasy conscience."



THE CHURCH AS A PUBLIC POLICY ACTOR IN A DEMOCRATIC REPUBLIC

A Response to Richard Mouw and by Extension, Carl F. H. Henry

BY HUNTER BAKER

The church father Tertullian memorably asked, “What does Athens have to do with Jerusalem?” Having read Richard Mouw’s mature reflection on Carl F. H. Henry’s view of the church’s role in relationship to public policy,¹ we might state the question a bit differently: What does Washington, D.C. or Atlanta, Georgia or Tallahassee, Florida or Sacramento, California or any other government capitol have to do with Jerusalem?

In the course of writing a piece reflecting on his early journalistic enterprise with Henry conducted under light protest, Mouw provides us with a clear understanding of *Christianity Today*’s founding editor’s position. The mild dispute, as between the younger and the older man, revolved around whether the church should take stands in public policy or whether it should be up to individual Christians to take such stands.² Henry, according to Mouw, thought that the church should “regularly articulate general principles that bear on social concerns, leaving it up to individuals to actively apply those principles to social specifics...”³ With regard to such “specifics,” Mouw tells us that Henry believed the church should limit itself to “the making of negative pronouncements.”⁴ Thus, the church can say no to the status quo without ever “endorsing specific remedial policies or practices.”⁵ Such a view of the church’s role would keep the institution on “safer ground” as it has neither the authorization nor the special competence to deal with questions of civil government more directly and specifically.

The church, in Henry’s view (and now Mouw’s, too) has a certain mandate, a jurisdiction, a particular competence. So, too, does the state. It would be a mistake for the church to confuse its rightful sphere of activity with the

territory occupied by the civil authority. This exercise in carefully delimiting boundaries runs afoul, to some degree, of the substantial effort made by so many Christians in the past quarter century to insist upon a high level of integration between church and life.⁶ Many of us have worked to break down barriers that would isolate the church from any major cultural undertakings, including politics. Any tension felt here would be ironic as it was Henry’s short, but convicting *The Uneasy Conscience of Modern Fundamentalism* that played an important role in placing an emphasis on integration-minded thinking.⁷

The conversation over how the church interacts with politics is an important one. It deserves careful consideration. Recklessness carries a heavy price tag. To begin, I think we can probably agree to set aside the old model espoused by Jerry Falwell prior to his Moral Majority period. At that time, he argued that pastors should preach on neither the race problem nor the Cold War. Sermons of that type, he claimed, stray beyond the proper work of the pastor. Later on, he clearly rejected such an approach.⁸ Mouw and Henry do, as well. Based on Mouw’s essay, it appears that both men would approve of a pulpit condemnation of segregation and perhaps a call to remain stalwart in the face of aggressive, atheistic totalitarianism. Both examples involve the rejection of an evil rather than an endorsement of specific policy activities.

Then we get down to the rub. Yes, pastors should include the stuff of today’s headlines in their sermons when appropriate. They should condemn or praise (I think there is room for that even though Mouw does not explicitly say so) in general terms. Segregation is bad. Totalitarianism is bad. A lack of opportunity for citizens to flourish in

¹ RICHARD J. MOUW, *Carl Henry Was Right*, CHRISTIANITY TODAY 30-33 (January 2010).

² *Id.*

³ *Id.* at 30.

⁴ *Id.* at 32.

⁵ *Id.*

⁶ See, for example, the intensive effort to integrate faith and learning in the various academic disciplines at Baylor University and elsewhere during the past few decades.

⁷ CARL F. H. HENRY, *THE UNEASY CONSCIENCE OF MODERN FUNDAMENTALISM* (1947).

⁸ STEVE INNSKEEP, *Religion, Politics a Potent Mix for Jerry Falwell*, NATIONAL PUBLIC RADIO (June 30, 2006) accessed March 18, 2015. <http://www.npr.org/templates/story/story.php?storyId=5522064>

important ways is bad. Truth, justice, and liberty are good. The church can weigh in on these things.

But should the church refuse to weigh in with specificity? Can mandate, jurisdiction, and competence stand as reasons that the church should not deal in specifics?⁹ These questions call for an examination of the roles of the church and the state. Let's begin with questions of mandate and jurisdiction. It is clear to me that the church should not attempt to be the state. We have the witness of history against us on that point. Instead of saving souls, the church is liable to be pressed into the service of baptizing and preserving political regimes. It enters the world's power game and becomes just one more piece to be manipulated by often-unscrupulous players. It should not try to rule souls with steel, as Martin Luther said.¹⁰ Rather, it has the tasks of proclaiming the word, spreading the gospel, administering the sacraments, discipling believers, and caring for widows and orphans. Those activities are clearly authorized within the New Testament. If there is a specific mandate from God or a particular jurisdiction within which to operate, these things fit the description.

Let us look, then, to the state. What is its proper role? Romans 13:1-7 captures the distinctive charge of kings. It seems that their mandate, jurisdiction, and competence would lie primarily in the punishment and restraint of evil. Certainly, this was the focus of Martin Luther in his book *On Secular Authority*. He thought the Christian should observe the Sermon on the Mount to the letter. Suffer harm to oneself. Suffer insult. But do not watch passively as evil falls upon your neighbor. And God gave us the state to prevent evil men from turning the world into a desert. The Christian should join the state apparatus if he has the proper gifts. (Interestingly, Luther used the hangman as an example of the type of service that might be given.¹¹)

Thomas Paine divided human life up into "society" and "government." Society was the voluntary sphere. Government was the involuntary sphere. He viewed government as a necessary evil which had to operate in deterrence and restraint of wrongdoers. If we were to distill the essence of government down to its most basic and fundamental quality, we would see coercion sitting at the bottom of our crucible. If you want to know the special mandate, jurisdiction, and competence of the state, that would be it—coercion.

Thus, the two kingdoms of church and state, each answering to God for their special duties, also answer for different means to accomplish their work. The church persuades. The state dictates through force of law and

with the sword or the gun behind it. This much should be largely uncontroversial. If this much were all that is meant by a proper jurisdiction, then there would be little choice other than to agree. However, it is clear that Mouw and Henry mean something more when they refer to jurisdiction and mandate. Their view of the proper turf goes further than recognizing that the church may only persuade rather than dictate. Even in persuasion, they would limit the church. With regard to public policy, this jurisdiction and competence extend only so far as negative assessment. It is at this point that I would like to lodge a protest or perhaps make a suggestion in favor of a somewhat more ambitious view.

The states that we encounter in the Bible are generally monarchies or tyrannies. The opportunity to form public policy outside of royal families, their advisors, or members of the aristocracy is not really there. On the other hand, we live in a world in which democratic republics have become somewhat normative. It is the form of government to which most people probably aspire. In a democratic republic, the opportunity to participate in making public policy is broad. Every citizen is actually part of the policy-making process. In addition to those citizens, there are a wide variety of organizations with more or less formal status that participate full-time, part-time, or maybe even only once in attempting to influence public policy. Citizens partake of the government's sovereignty. They take that share of the sovereignty with them in their various walks of life.

In the Mouw-Henry presentation of how the church might take part in the policy process, the church must observe a limit in which it only takes a general stance condemning various evils in a general way. Having offered a general opinion, it is then up to "individual Christians" to work out for themselves what kind of specifics the government should approve and implement.¹² It seems to me that this distinction with regard to "individual Christians" is artificial and lacks imagination. In a free society, everyone has the opportunity to attempt to influence public policy. Certainly, there are important prudential rules. Churches, for example, are not permitted to endorse specific candidates, but that is not really so much an inherent democratic principle as it is a consequence of the tax-exempt status of the institutions. Without such rules, it would be possible to transform churches into channels for charitable deductions to turn into political contributions. Aside from the law, churches may want to avoid either specific candidates or specific positions on policy

⁹ MOUW, *supra* note 1 at 32.

¹⁰ MARTIN LUTHER, *On Secular Authority*, in LUTHER AND CALVIN ON SECULAR AUTHORITY 32 (Harro Hopfl, ed. and trans., 1991).

¹¹ See generally, *Id.* at 11-32 to trace the argument.

because of fears about driving a wedge into the body of members. That is an important prudential concern.

However, these legal or prudential concerns do not really put an end to the conversation. I readily grant that in a system of government in which kings hold their thrones from God it seems to be clear that the church answers for its spiritual program aimed at souls and the state acts to restrain evil and to protect the good. But in a free society, the government is not simply a closed system. By its nature (at least in the American model) it is open to consistent, ongoing permeation from the whole of society. Can private individuals recommend specific policies? Yes. Can the Chamber of Commerce do so? Yes. Can professional groups made up of lawyers, doctors, plumbers, and pest control experts recommend specific policies? Indeed, they may. Is the church an outlier in this sense? Does it occupy a position so different from all the other associations in a free and open society that it must not engage with the government in the way they can and do? I would argue that the answer is no.

As I consider the idea of the church being highly circumscribed in its approach to public policy while “individual Christians” struggle toward whatever conclusions they might reach, I am reminded of the logic of totalitarianism. A totalitarian state seeks a situation in which it deals with citizens directly with no mediating institutions such as church, union, neighborhood association, charitable organization, etc. By raising this point, I do not intend to conflate the Mouw-Henry view with the logic of totalitarianism. Rather, I raise the point to support my contention that it would be wise and good (especially in an age when the state does not see itself as relating to God in any way) to ask the church to see its role in more expansive terms as it bears an increasing responsibility to call the state to righteousness. Filling that role may call for more than simply casting negative judgments upon the status quo or setting out generalities.

To underline my point, I am arguing that when it comes to mandate and jurisdiction I doubt that the New Testament confines the church’s role as narrowly as the Mouw-Henry view would. I take that position because the New Testament shows us the church in action in a world where political power and participation was much more concentrated than it is today. I am not sure that there are any strong reasons to assume that the church’s activity in that setting is normative for the institution as it exists in different political scenarios. I am not making a claim for some kind of evolution of the church so much as arguing that its strategies and activities might look different with varying political backdrops. The mandate and jurisdiction is perhaps not as clear as some may think or assume. If

by mandate or jurisdiction, we mean the church should not exercise police and military type powers in a political community, then that much is clear. If, however, we construe the mandate to mean that the church stays out of public policy discussions in anything other than a very general way, then I think that construction is unnecessarily truncated.

That leads us to the third conceptual limitation raised by the Mouw-Henry position, which is competence. The idea here would be that the church possesses no special competence to participate in a more direct and detailed way than the two men have indicated. How are “individual Christians” to arrive at the set of policy prescriptions they would like to or should pursue? In pursuing an answer to that question, we should define competence as having the knowledge and ability to assess real world conditions (both in the present and for potential futures) and then formulate informed public policies in response to those conditions. If we define competence in that way, then I do not know why the church is unable to be competent in that fashion.

When the state fashions public policies, it does so through the work of a great many people in government. However, it does not do so exclusively through the work of government employees. The work of government is public, but the sphere of the “public” does not end with the government. Many academics do research relevant to policy and make policy recommendations. Policy professionals in a wide variety of businesses and other organizations interact with the governmental process. There is little reason that the church would be unable to hire public policy professionals (at least at the denominational or associational level) and be every bit as sophisticated in matters of government as any of the other players. The competence is available.

As an example, I served in such a role for an organization that was thoroughly intertwined with a variety of evangelical churches. I wrote policy briefs to be distributed to legislators, testified before legislative committees, met with officials, and communicated with our constituencies. While my organization was not “the church” in a formal way, I would still consider it an organization *of the church* speaking broadly. In light of that experience, I think I would claim that Mouw’s reference to some more acceptable area of intermediate activity on policy is arguably a distinction without a difference.¹³ But in any case, churches and denominations do fund organizations of policy experts for the purpose of interacting with the state on specific policies to good effect. Indeed, I serve as a fellow for the Ethics and Religious Liberty Commission of the Southern Baptist Church.

¹² Mouw, *supra* note 1 at 32.

The ERLC possesses the competence to easily weigh in on a variety of specific legislative initiatives in a competent manner. It has done so both in terms of communicating with legislators and courts.

I have made a case for a more extensive involvement of the church in public policy. In a sense, I am supporting the younger Mouw's view of the things over against the older Mouw who now stands with Carl F. H. Henry, who sought to correct him. It feels a little dangerous to take that position, but I do so for the reasons I have set out. In conclusion, while I have made a case for a larger and more direct role in public policy than the one envisioned by Mouw and Henry, it would be foolish not to note some necessary points of caution. Circumspection and care are fully warranted in the case of the church entering into the public policy process. Politics is exciting. It partakes of the nature of sporting events. People have a rooting interest for parties, for politicians, and yes, even for specific public policies. This horse race aspect of politics and policy presents the danger of distraction from the parts of the church's mandate and jurisdiction, which, if not exclusive, are more essential.

Aside from team sports style partisanship, politics is also fully pregnant with questions of self-interest and group interest. There will always be a temptation to draw the church into policy debates for the wrong reasons. I mentioned the danger early in this essay with regard to endorsing candidates. That same danger exists with regard to the policy process. The church is a powerful player. Appeals to draw it into an argument may be driven more strongly by questions of Machiavellian strategy rather than by the pursuit of the good.

Finally, though not truly the last word (as there are many worries we might seek to vindicate here), the church faces the danger of endorsing some policies when it may not be clear at all that they are superior to other policies from a Christian point of view. For example, I think

it is pretty obvious that the church should take a pro-life stance and favor religious liberty. I believe the church could competently review and/or offer specific proposals in those areas. However, if we stray into an area such as economics, then I think we would find ourselves in a tougher situation. I know faithful, orthodox Christians who differ greatly on points of economic theory and practice. To endorse specific bills in the area of economics, as one might find with regard to entitlements and the redistribution of wealth, would invite tremendous conflict and would seem to put the church on a side that is insufficiently determined by scripture. This point really sits on the nerve of the whole enterprise under discussion. Does this trouble that I have located in the area of economics (others may not) extend to almost everything in public policy for Christians or not? I think the answer is no. Humility and judiciousness are requirements, but neither those virtues nor scripture rule out a stronger engagement than Mouw and Henry endorse.

Hunter Baker, J.D., Ph.D. is an Academic Dean and Associate Professor of Political Science at Union University in Jackson, Tennessee. He is the author of three books (The End of Secularism, Political Thought: A Student's Guide, and The System Has a Soul), has contributed chapters to several others, and has written for a wide variety of print and digital publications. His work has been endorsed by Robert P. George, Russell Moore, David Dockery, John Mark Reynolds and others. He is the winner of the 2011 Michael Novak Award conferred by the Acton Institute and has lectured widely on religion and liberty. In addition to his work at Union, Baker also serves as an associate editor for the Journal of Markets and Morality, as a contributing editor for Touchstone: A Journal of Mere Christianity, and as writer at large for The City (a journal he co-founded). He is also a research fellow of the Ethics and Religious Liberty Commission and an affiliate faculty member of Trinity Law School.

¹² *Id.* at 33.



THE CHURCH'S SOCIAL WITNESS AND THE FURTHER WORK OF THE REFORMATION

BY JORDAN J. BALLOR

Richard Mouw's essay, "Carl Henry Was Right," is a model for principled Christian social engagement. At one level, Mouw is to be commended for his forthrightness and honesty in his settling of accounts with Henry, acknowledging that Mouw himself was wrong and Henry was right. Our world would be a far better place if more writers and academics were willing to admit their errors in such a direct and public way.

The content of Mouw's piece, however, also serves as an excellent introduction into the travails and complexities of the church's social witness in the modern world. I found Mouw's essay to be an encouragement when it first appeared, as I was finishing my own small work on the social ethics of the ecumenical movement in the spring of 2010.¹ The ecumenical movement was, in fact, in the background of Mouw's original correspondence with Henry in 1967. As Mouw writes, he had in mind the American civil rights struggle and the Vietnam War, but the World Council of Churches also met the previous year, and the Princeton ethicist Paul Ramsey penned a noteworthy rebuke of the proceedings, entitled *Who Speaks for the Church?*² According to Ramsey, "ecumenical social action pronouncements have presumed to encompass the prudence of churchmen in their capacities as citizens." This presumption, said Ramsey, was a shirking of the ecumenical movement's more serious duty to be a forum for substantive ethical deliberation:

It has been easier to arrive at specific recommendations and condemnations after inadequate deliberation than to penetrate to a deeper and deeper level the meaning of Christian responsibility—leaving to the conscience of individuals and groups of individuals both the task and the freedom to arrive at specific

conclusions through untrammelled debate about particular social policies.³

In questioning Mouw's original formulations, Henry was taking a view of the church's social witness that accorded with Ramsey's, as Mouw would have had the evangelical churches follow the lead of the mainline ecumenical groups. "What I really wanted to say is that the church—in the form of both preaching and ecclesial pronouncements—could do more than merely utter a 'no' to some social evils," says Mouw. "There were times, I was convinced, that the church could rightly say a bold 'yes' to specific policy-like solutions. I now see that youthful conviction as misguided. Henry was right, and I was wrong."⁴ The ecumenical movement had been saying both "yes" and "no" to specific policies, and Mouw wanted North American evangelical churches to do likewise. In that, he now admits, Henry and Ramsey were right, and he and the mainline ecumenical movement were wrong.

THE CRCNA—A CASE STUDY

In the intervening decades, however, both the mainline ecumenical movement and some evangelical churches have followed the vision embraced by the younger Mouw. My own church, the Christian Reformed Church in North America (CRCNA), formed denominational offices focused precisely on advocating for and against specific policies. (Mouw was a Professor of Philosophy at a CRCNA denominational school, Calvin College, for seventeen years before he went to Fuller Theological Seminary in 1985.) In the United States, this impetus eventually came to expression in the Office of Social Justice and Hunger Action, which later became and is now called

¹ JORDAN J. BALLOR, *ECUMENICAL BABEL: CONFUSING ECONOMIC IDEOLOGY AND THE CHURCH'S SOCIAL WITNESS* (2010).

² PAUL RAMSEY, *Who Speaks for the Church? A CRITIQUE OF THE 1966 GENEVA CONFERENCE ON CHURCH AND SOCIETY* (1967).

³ *Id.* at 15.

⁴ RICHARD MOUW, *Carl Henry Was Right*, *CHRISTIANITY TODAY* 32 (January 2010).

the Office of Social Justice. As a bi-national church, the CRCNA had also previously formed a separate Canadian entity in 1968, the Committee for Contact with the Government, which has since been renamed the Centre for Public Dialogue.

As Ramsey's concerns about the imprudence of ecumenical social pronouncements indicate, the vision that turns the ecclesiastical structures of the church into advocacy groups endangers a vital distinction. This distinction is, as Mouw summarizes one of Henry's proposals, "that the church should regularly articulate general principles that bear on social concerns, leaving it up to individuals to actively apply those principles to social specifics." The difference lies between the responsibilities of the church as a formal institution and the members of the church as individual Christians. To violate this distinction brings a concomitant danger of binding individual consciences where they ought not be bound. There are important differences between these two conceptions of church, even while there is an indissoluble connection between them.

Ever since the Reformation, the distinctive characteristics of the institutional church have been identified with the basic liturgical functions of gospel proclamation, administration of the sacraments, and sometimes explicitly, the exercise of church discipline. These are all activities that involve office-bearers of the institutional church. But not all Christians are pastors, elders, or deacons, and they pursue activities as followers of Jesus Christ in their everyday lives. There is a sense in which all Christians, whether ordained to the pastoral ministry or not, represent Jesus to others in this foundational and basic way. As Martin Luther put it,

Just as our neighbor is in need and lacks that in which we abound, so we were in need before God and lacked his mercy. Hence, as our heavenly Father has in Christ freely come to our aid, we also ought freely to help our neighbor through our body and its works, and each one should become as it were a Christ to the other that we may be Christs to one another and Christ may be the same in all, that is, that we may be truly Christians.⁵

Over time the Reformed tradition developed this distinction into a more formalized pairing often identified as the difference between the church as *institution*

and *organism*. The institutional church, on this construction, is identified with the formal offices and activities of office-bearers. It includes pastors preaching in pulpits as well as the diaconal and missional work of churches and ecclesiastical agencies. The organic church, by contrast, is a view of the church that focuses on the activities and responsibilities of all Christians in their everyday activities.

The background of this distinction in Protestantism goes back to the Reformation, but it was given more precise articulation and formulation in the tradition of neo-Calvinism, a theological movement that gave rise to the CRCNA. Abraham Kuyper (1837-1920) gave expression to this principled distinction in an important sermon from 1870, in which he called for an understanding of the church as both institution and organism represented in the Pauline formula, "rooted and grounded" (Eph. 3:17).⁶ Although sometimes the church as institution is depicted in opposition to, and even separated from, the church as organism, on Kuyper's view the biblical model is a complementary unity of the two ideas: "'Rooted and grounded' unites organism and institution, and where Scripture itself refuses to allow any separation, it weaves them together."⁷

Taken together, then, the institute/organism distinction allows for a division of labor of sorts with respect to the church's social witness. There is an aspect of the church's institutional work that necessarily has a social aspect. The Christian faith comes to expression in word as well as deed, and the church's prophetic task involves proclamation related to the social concerns of the age. However, while the scope of the institutional church's gospel proclamation encompasses all of life, the specificity of its claims must be limited in some way. The office-bearers of the church do possess special responsibility to declare the spiritual and moral principles through which God governs the world, but they do not possess privileged insights into the complex details of the political process or the global economy. As Paul Ramsey would later put it,

However great the overlap in particular instances, there are nonetheless vital distinctions to be made between Christian moral judgments on the one hand and particular political, legal, and military judgments on the other; or between what is morally permitted

⁵ MARTIN LUTHER, *The Freedom of a Christian*, in LUTHER'S WORKS 367-68 (Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann, Eds., Vol. 31, Fortress Press, 1999).

⁶ ABRAHAM KUYPER, *ROOTED & GROUNDED: THE CHURCH AS ORGANISM AND INSTITUTION* (Nelson D. Kloosterman, Trans., Christian's Library Press, 2013).

⁷ *Id.* at 5.

or prohibited and what is tactically or prudentially advisable and practicable.⁸

The institutional church has a primary role in determining and proclaiming the former, but has no special standing to address the latter. Individual Christians in the context of their vocations will have a variety of expert insights to bring to bear on prudential matters, and they should come together and form organizations to cultivate and disseminate that wisdom. But this work, even in cases where other institutions are formed to do this kind of work, remains an expression of the work of church as organism rather than institution.

The view that Mouw had sympathy for in his younger years often has little patience for this kind of fine distinction and the necessary deliberation that follows from it. We can see this, for instance, in a debate of sorts that took place in the CRCNA over the role of the church with respect to social justice. Calvin Van Reken, a professor of moral theology at the denomination's seminary, disputed with a denominational office's representative, Peter Vander Meulen, precisely along these lines. Van Reken invokes the institute/organism distinction as a background to what he calls *church vs. kingdom* work. "Working for the church makes you a church worker, and the work you do is church work," writes Van Reken.⁹ Kingdom work, on the other hand "is the work that a Christian does in service of his Lord—but not as an agent of the institutional church."¹⁰ Van Reken counsels caution in using the institutional church for public advocacy: "To link the cause of Christ with specific social policies that are not morally obligatory seriously impedes the primary work of the church."¹¹

Vander Meulen, like the younger Mouw, is far more sanguine about the institutional church's ability to effectively advocate for and against specific policies and activities:

Witnessing to issues of justice needs to be an integral part of our Christian Reformed corporate ministry. Some examples of these areas for witness are: life issues, such as euthanasia, abortion, and assisted suicide; wealth and poverty issues, such as the apparent inability of our global economy to sustain vast numbers

of people while keeping others in luxury; racism and sexism issues; and stewardship issues, including the care for God's earth.¹²

DIETRICH BONHOEFFER AND THE ECUMENICAL MOVEMENT

These examples from the history of the CRCNA should not be understood as indicating that such disputes over the limits of the institutional church's social witness are somehow unique to Reformed or neo-Calvinist traditions. These backgrounds are important for understanding Mouw's development on these issues, but the development of the institute/organism distinction provides a powerful conceptual tool for understanding the nature of these debates as they occur in a variety of Christian communions.

We can see this distinction, in substance if not in name, for instance, in Henry's preference for individual Christian action as opposed to ecclesiastical advocacy: "At the point where I said that it was indeed important for the church to on occasion take a stand on some specific question of social justice, he [Henry] preferred to have me speak of the need for individual Christians to take such a stand," writes Mouw.¹³ The invocation of Ramsey's work has shown us the ecumenical background as well. But there is also the important specter of Nazi Germany that casts its shadow over Protestant social thought in the twentieth century. Here I would like to draw specifically on the work of the German Lutheran theologian and dissenter Dietrich Bonhoeffer (1906-1945).

Mouw presumes that Henry had just such a context in mind when Henry allowed for "emergency situations' in which the church would have clear mandate from God to address specific evils."¹⁴ Bonhoeffer likewise identified the situation in Germany under the Nazis to an "emergency situation," a *status confessionis* in which the fundamental truths of the gospel were threatened. In a remarkable essay from 1933, "The Church and the Jewish Question," Bonhoeffer outlines a tripartite structure for the church's social action with the basic assumption that "there is no doubt that the church of the Reformation is not encouraged to get involved directly in specific political actions

⁸ RAMSEY, *supra* note 2 at 53.

⁹ CALVIN P. VAN REKEN, *The Church's Role in Social Justice*, in 34 CALVIN THEOLOGICAL JOURNAL 198 (1999).

¹⁰ *Id.*

¹¹ *Id.* at 201.

¹² PETER VANDER MEULEN, *The Church and Social Justice*, in 34 CALVIN THEOLOGICAL JOURNAL 203 (1999).

¹³ MOUW, *supra* note 4 at 30.

¹⁴ *Id.* at 33.

of the state.”¹⁵ When combined with his work on the nature of the Confessing Church movement (which opposed the Nazification of the church) and the ecumenical movement, we see a functional distinction between the task of the institutional church and that of individual and voluntary groups of Christians. The primary social responsibility of the church with respect to political authority, writes Bonhoeffer, was to prophetically call the government to uphold its responsibility, that is “questioning the state as to the legitimate state character of its actions, that is, making the state responsible for what it does.”¹⁶ This activity is not a specific endorsement or rejection of policies or regimes, but rather a duty to “keep asking the government whether its actions can be justified as *legitimate state* actions, that is, actions that create law and order, not lack of rights and disorder.”¹⁷

In the second place, the church does have an institutional role to not merely proclaim the gospel verbally but also to take direct action to help others. Thus, writes Bonhoeffer, “The church has an unconditional obligation toward the victims of any societal order, even if they do not belong to the Christian community.”¹⁸ Here we can think of aid agencies and diaconal ministries, the work of the institutional church to provide material assistance for those in need.

Bonhoeffer’s third category of action—action under extreme situations—differed in kind from the previous two, which were perennial duties of the institutional church. Bonhoeffer writes:

The *third* possibility is not just to bind up the wounds of the victims beneath the wheel but to seize the wheel itself. Such an action would be direct political action on the part of the church. This is only possible and called for if the church sees the state to be failing in its function of creating law and order, that is, if the church perceives that the state, without any scruples, has created either too much or too little law and order.¹⁹

The limitation that Bonhoeffer places on this possibility for direct political action is that such a situation “must, however, be decided by an ‘evangelical council’ as and when the occasion arises and hence cannot be casuistically construed beforehand.”²⁰

This, in brief, is Bonhoeffer’s rubric for understanding the social witness of the institutional church. He also employs something like the institutional/organic distinction in that the institutional church’s actions do not exhaust the possibilities for Christian advocacy and activity. Even on something as fundamental as the plight of the Jews in Germany, Bonhoeffer allowed for the primary responsibility for moral advocacy to rest with the organic church. “It remains for the humanitarian associations and individual Christian men who see themselves called to do so, to make the state aware of the moral aspect of the measures it takes in this regard, that is, should the occasion arise, to accuse the state of offenses against morality,” he writes.²¹ Such associations and advocacy organizations are necessary expressions of the Christian faith and important to the vitality of the broader social order.

It is precisely this distinction between the institutional church and Christian humanitarian organizations (one possible expression of the “organic church”) that Bonhoeffer brings to bear in his engagement with the ecumenical movement. In “The Confessing Church and the Ecumenical Movement,” drafted in 1935, Bonhoeffer puts the ecclesiastical question directly: “Is the ecumenical movement in its visible form church?”²² If it is, then it would have the kind of social responsibility to witness to the gospel that Bonhoeffer had previously outlined. It would have to call the state to create law and order and might even take up the question of the direct political action in extreme circumstances. “If the ecumenical movement does indeed claim to be the church of Christ, then it is just as unchanging as the church of Christ in the larger sense; in that case, its work possesses ultimate seriousness and ultimate authority,” writes Bonhoeffer.²³ But if, on the

¹⁵ DIETRICH BONHOEFFER, *The Church and the Jewish Question*, in BERLIN: 1932–1933, 362 (Carsten Nicolaisen, Ernst-Albert Scharffenorth, and Larry L. Rasmussen, Eds., Isabel Best, David Higgins, and Douglas W. Stott, Trans., vol. 12, DIETRICH BONHOEFFER WORKS, Fortress Press, 2009).

¹⁶ *Id.* at 365.

¹⁷ *Id.* at 364.

¹⁸ *Id.* at 365.

¹⁹ *Id.* at 365–366.

²⁰ *Id.* at 366–367.²¹ *Id.* at 363.

²² DIETRICH BONHOEFFER, *The Confessing Church and the Ecumenical Movement*, in THEOLOGICAL EDUCATION AT FINKENWALDE: 1935–1937 399 (Victoria J. Barnett and Barbara Wojhoski, Eds., Douglas W. Stott, Trans., vol. 14, DIETRICH BONHOEFFER WORKS, Fortress Press, 2013).

other hand, the ecumenical movement is not an expression of the institutional church, then it is merely an international gathering of concerned Christians, a kind of Christian humanitarian organization with no special insight on and no special authority to determine social questions. In this case, the ecumenical movement would “be an association of Christians, all of whom are rooted in their own churches, an association that now either comes together for the sake of common tactical-practical action or for nonbinding dialogue with other Christians.”²⁴ In that case, the work of the association “may have only a confessionally neutral character, such dialogue only informational, discursive character, and is never to issue a judgment or certainly any decision regarding this or that doctrine or, certainly, this or that church.”²⁵

THE FURTHER WORK OF THE REFORMATION

My colleague Stephen Grabill has referred to the development of Protestant moral teaching as the “unfinished” work of the Reformation.²⁶ That is not to say that the systematic doctrinal teachings of the Reformation era do not continue to be of importance or in need of development and defense. Neither is it to say that the Reformation had nothing to do with developing moral theology or articulating Christian ethics. But it is to say that the development of a coherent body of Protestant social teaching has, for five centuries, been the promise and the peril of the Reformation churches. Thus, James E. Gustafson once wrote that the modern social teaching of the Protestant churches was “only a little short of chaos.”²⁷

For many, including Carl Henry and Richard Mouw, the chaos of Protestant moral teaching might be mitigated by more careful thinking about the boundaries of ecclesial pronouncement. If churches as institutions were more wary of making specific moral judgments about particular policies or initiatives, it would go a long way toward placing the diversity of

Protestant thought in the proper arena: the prudential sphere of the public square rather than the proclamation from the pulpit. As Ramsey puts it, “The specific solution of urgent problems is the work of political prudence and worldly wisdom. In this there is room for legitimate disagreement among Christians and among other people as well in the public domain—which disagreement ought to be welcomed and not led one way toward specific conclusions.”²⁸ In this regard the ecclesial institute/organism distinction has much value and can help us to understand why Carl Henry, and now Richard Mouw, are right.²⁹

Disputes about the scope and substance of church pronouncements necessarily put the ecclesial question at the center of the discussion as well. In this way, the ecclesiastical status of local congregations, denominations, presbyteries, and synods, as well as ecumenical gatherings and organizations are all important elements in coming to grips with what Christian social witness entails. If we are to understand who speaks for the church, we must come to define the church, and if we do so institutionally (as well as organically), then the institutional status of various communities stands in need of assessment and definition.

A final application of the institute/organism distinction that is particularly relevant for social life today, particularly in North America, has to do with the question of religious freedom. If we only emphasize the work of the institutional church as “religious,” then we risk reinforcing an erroneous and socially destructive paradigm for the division of the world into sacred and secular realms. Religious liberty can then easily be reduced to a truncated “freedom of worship” that comes to expression only in the context of institutional churchly ceremonies. We must retain the vigorous sense of the Christian call to follow Christ in all areas of life and in all offices and occupations if we are to truly appreciate and instantiate the love of Christ and the church as the body of Christ given for the life of the world. The “unfinished” work of the Reformation will continue to be

²³ *Id.* at 399.

²⁴ *Id.* at 400.

²⁵ *Id.* at 400.

²⁶ For his own attempts to reclaim the Reformation’s legacy in this regard, see STEPHEN J. GRABILL, *REDESCOVERING THE NATURAL LAW IN REFORMED THEOLOGICAL ETHICS* (2006).

²⁷ JAMES E. GUSTAFSON, *PROTESTANT AND ROMAN CATHOLIC ETHICS: PROSPECTS FOR RAPPROCHEMENT* 130 (1980).

²⁸ RAMSEY, *supra* note 2 at 19.

²⁹ For Mouw’s own view of some of the implications of this distinction, see RICHARD J. MOUW, *ABRAHAM KUYPER: A SHORT AND PERSONAL INTRODUCTION* 57-59 (Eerdmans, 2011). For concerns that Kuyper’s distinction is too contextually-bound to be of contemporary use, see AD DE BRUIJN, ‘Colony of Heaven’: *Abraham Kuyper’s Ecclesiology in the Twenty-First Century*, in *JOURNAL OF MARKETS & MORALITY* 17, no. 2: 445-490 (Fall 2014).

so, in some sense, because it will always require further interpretation and application of God's moral demands to contemporary circumstances, which are ever changing and controverted anew. Christian social witness will continue to need to be developed and applied further, even while we rightly appreciate the limits of the institutional church's social responsibility.

Jordan J. Ballor (Dr. Theol., University of Zurich; Ph.D., Calvin Theological Seminary) is a Research Fellow at the Acton Institute for the Study of Religion & Liberty and author of Get Your Hands Dirty: Essays on Christian Social Thought (and Action), Covenant, Causality, and Law: A Study in the Theology of Wolfgang Musculus, and Ecu-

menical Babel: Confusing Economic Ideology and the Church's Social Witness. Jordan serves as executive editor of the Journal of Markets & Morality and is also associate director of the Junius Institute for Digital Reformation Research at Calvin Theological Seminary. He has authored articles in academic publications such as The Journal of Religion, Scottish Journal of Theology, Reformation & Renaissance Review, and Journal of Scholarly Publishing. In 2006, Jordan was profiled in the book, The Relevant Nation: 50 Activists, Artists And Innovators Who Are Changing The World Through Faith. Jordan is a member of the Christian Reformed Church in North America (CRCNA), and he resides in Jenison, Michigan with his wife and three children.



RICHARD MOUW (WAS) RIGHT

A Response to Carl F.H. Henry and Richard Mouw

BY BRIAN G. MATTSON

Writing a critical reply to Richard Mouw and the late Carl F. H. Henry proves challenging in more than one way. There is, of course, the ordinary challenge of actually meeting the arguments of brilliant and thought-provoking people with better ones. But I find it more difficult than usual because I thoroughly sympathize with the case they seek to advance—namely, that the prophetic role of the institutional church ought to be relegated to a merely *negative* function in matters of public concern. That is, the church (as a formal institution, as opposed to individual Christians acting on their own consciences) may say “No!” with respect to various public evils, but never (or at least very rarely) “Yes!” to perceived public goods.

It ought to be surprising that one firmly located in the Neo-Calvinist, transformationalist tradition of Bavinck and Kuyper is sympathetic to what appears at first glance a form of social and cultural self-censorship by the church—indeed, it surprises even me. But try as I might, I cannot erase my sympathies. Take a look at any mainline church you choose; the Presbyterian Church (U.S.A.) will suffice. With just a few clicks on their denominational website I find official statements (both by the General Assembly and their mission agency) related to mass incarceration, same-sex marriage, social justice, fair trade, fair food, public education, ecology, sustainability, environmental justice, population control, natural resources, soil erosion, wealth inequality, climate change, nuclear weapons, the Iraq War, the Israeli/Palestinian conflict, and much, much more. The only thing I could not find was a page describing what the Presbyterian Church (U.S.A.) believes about God, the Bible, Jesus, sin, the way of salvation, or many other such peripheral issues.

I take it that this is precisely the sort of thing Henry and Mouw (2.0) wish to avoid, and I join wholeheartedly with their desire to avoid churches becoming so earthly minded that they are of no heavenly good. There is something terribly lamentable about churches so distracted from their primary calling and so enamored with being the salt of the earth that they never realize

that their own saltiness is missing. Henry and Mouw are suggesting that granting the church liberty to say “Yes” to specific public policy matters is one avenue by which a church loses sight of its primary commission, what Henry calls “the moral-spiritual task of evangelizing the earth,” thereby ceasing to be meaningfully Christian. Having now been recently informed by a major denomination what is the “Christian” position on the extent of my carbon footprint, I appreciate their point.

While sympathetic, I believe they have replaced what is and always will be a matter of faithful biblical wisdom with a kind of normative, *a priori*—and, as we shall see, unsound and unworkable—principle. I confess my skepticism is initially aroused because I find it unlikely that Henry and Mouw (no offense) have, in so short a compass, resolved what is one of the most vexing and perennial issues in the history of the church: the proper relationship between the church and the state. They stand in a long line of thinkers attempting to find a satisfactory limiting principle for the church, and while I think that theirs is an attempt more admirable than others, it is nevertheless misguided.

As I understand it, their principle seeks to ground an ethic of speech (when the church ought to say “yes” and “no”) in a conceptual distinction between the formal and material, general and specific, abstract and concrete. With respect to socio-political issues if we are talking about formal, general, or abstract ideas, the church may speak positively. If, however, the topic is material, specific or concrete, the church must only speak negatively. So, in Henry’s view, the church’s positive proclamation has to do with “general principles,” a “framework” for solutions, the “criteria” and “standards” by which nations are to be judged, and a “very general mandate.”¹ But when it comes to concrete policy specifics, the church is limited in its role to “the making of negative pronouncements,” a “no-saying function,” a “condemnation,” and “speaking-against.”² Writes Mouw:

What I really wanted to say is that the church—in the form of both preaching and

¹RICHARD MOUW, *Carl Henry Was Right*, CHRISTIANITY TODAY (January 2010).

²*Id.*

ecclesial pronouncements—could do more than merely utter a ‘no’ to some social evils. There were times, I was convinced, that the church could rightly say a bold ‘yes’ to specific policy-like solutions. I now see that youthful conviction as misguided. Henry was right, and I was wrong.³

Cognizant that I am up against the lifelong journey that has led Dr. Mouw to his current position, allow me to lay out some problems I see in the hopes of perhaps rekindling a bit of his youthful zeal.

THE PROBLEM OF ABSTRACTION

Just how “general” does a principle have to be? At what level of abstraction must it reside? At what point does a “framework” become too specific? How “very” is a “very general mandate?” Like an Impressionist painting, the distinction looks sharp and well defined from a distance, but gets blurrier the closer one gets. Is there really a principled difference between promoting a general principle like, say, “Protect life,” and advocating for legislation to restrict abortions? What, precisely, prohibits the church from saying the latter?

If one disqualifies it because it is a specific application of a general principle as opposed to the principle itself, it raises the question of what an abstraction or generality, standing nakedly on its own, actually means. In his *Doctrine of the Knowledge of God*, John Frame convincingly (to my mind) argues that “meaning is application,” and that “to ask for the meaning of an expression is to ask for an application.” Imagine the church telling the state, “Protect life!” and the state wondering, “What does that mean?” An answer must be forthcoming from someone, but a meaningful reply necessarily requires more specificity than the general principle. On the Henry/Mouw model, the church then ought to remain silent. If specificity is the disqualifying factor, in other words, the church is in the awkward position of providing, quite literally, meaningless pronouncements, or at least leaving those to whom they are directing the proclamation to provide the meaning themselves.

This appears to cut against their own stated desire to promote the church’s guidance-giving role to the state. If the meaning of a general principle is not provided, in what sense can we call it guidance? Note these wonderful editorial principles Henry outlined: “The Bible is critically relevant to the whole of modern life and culture—the social-political area included,” and “The institutional church is divinely obliged to proclaim God’s

entire revelation, including the standards or commandments by which men and nations are to be finally judged, and by which they ought now to live and maintain social stability.”⁴ Henry here grasps that the Bible’s normative status necessarily applies to situations (“social-political area”) and people (“by which they ought to now live”). But the principle he then builds on the general/specific polarity has the effect of isolating the norm from actual people and situations, at least as far as ecclesiastical proclamation goes. The Bible may well be “critically relevant” for the socio-political arena, but the church is never to say *how* and *to whom*. But the Bible’s own norms often include situational and existential applications by precept and example (e.g., Proverbs, Exodus 21-23). To not make known the Bible’s own moral applications is precisely not to “proclaim God’s entire revelation.” It seems to me Henry’s principle takes away what his other editorial policies intend to give.

Then again, Henry and Mouw do not argue that the church should remain silent. They may speak, but only in the *negative* tone of voice when the state gets it wrong. I think this reinforces that we are in the position of never offering useful moral guidance at all. If specifics warrant only head *shakes* and never head *nods*, we are essentially hoping that others *stumble* upon moral policies that conform to the general principles. Children sometimes play a game called “hot or cold.” One will identify an object in a room and the other will seek to find it by asking the other child, “Am I hot or cold?”—meaning, getting closer to it or further away. Imagine now the game being played where the child with the knowledge of the object can only say “No.” “Am I hot?” the other child asks. Head shake. “Am I cold?” Head shake. The other child may as well start randomly pointing to objects. The guidance function of the game is inoperable. Or perhaps not. More likely the searcher will quickly figure out that the absence of a head shake is a tacit “yes.”

Now imagine for a moment we reach the happy day when a state looks to the church for moral guidance. A satisfactorily general ecclesiastical pronouncement of which Henry and Mouw approve is made, say—to return to my previous example—“Protect life!” In response, the state begins deliberating on specific legislation to do just that. Recall at this point the church is only in head *shake* mode because we are no longer in the realm of general principles. A bill is passed. The church shakes its head and denounces it as not good enough, but refrains, as the principle requires, from offering specific guidance. The state listens, and another bill is passed. The church shakes its head. Yet another bill is passed to replace it,

³*Id.* at 32

⁴*Id.*

and so on. Not only is no useful moral guidance being provided, once the church stops shaking its head and sits stone-faced (no nods allowed), it thereby accomplishes exactly what the principle was designed to preclude. Not saying “No” in this scenario is tacit approval. But why the charade? What useful function does this pageantry provide? If a “Yes” is going to be allowed through the back door, why not the front?

It is significant, moreover, that Henry and Mouw admit exceptions. Mouw writes:

A constant theme in [Henry’s] writings was that the church as such has neither the competence nor the authority to address political or economic specifics. He would usually add, though—probably with the memory of Nazi Germany in mind—that there may be ‘emergency situations’ in which the church would have clear mandate from God to address specific evils.⁵

The most significant word in this paragraph is in Mouw’s offhand remark: “memory.” Of course we can see, as Henry did, that the Third Reich was an emergency situation *in hindsight*; but the principle being advanced is supposed to tell us in advance what the church may appropriately say. How do we know something is an emergency dire enough to break through the guardrails of their principle? What are the criteria? In fact, since Mouw brings it up, is it unfair to wonder whether guardrails similar to those he is suggesting contributed precisely to the church’s failure to speak during the humanitarian emergency that was the twentieth century?

WHEN “NO” MEANS “YES”

I am certainly in agreement that there are many socio-political issues about which there is wide space for different and acceptable solutions, and even areas in which the church might have no interest at all in opining (e.g., pay scales of public employees, zoning laws for commercial businesses, naming of roads and highways). There are obvious reasons why arguing for certain speed limits is not a subject for church councils. In that case, aside from the “very general” principle of protecting life, there are varying legitimate views of what constitutes a proper speed limit, encompassing many issues like topography, lot sizes, street width, population density, etc., subjects on which the church has no special competence.

However, Henry and Mouw seem to think that the specificity of the issue is a factor, and I fail to see why. Why shouldn’t the church, as the church, say “Yes” to everything to which the Bible (clearly) says “Yes,” and “No” to everything to which the Bible (clearly) says “No,” regardless of whether it is general or specific? I am by no means under the illusion that discerning what is clear and establishing conclusions on the basis of what the *Westminster Confession of Faith* calls “good and necessary consequence” is an easy task. It requires a host of considerations, including the obvious practical problem of overcoming church divisions and achieving consensus using the tools of biblical theology, systematics, hermeneutics, and exegesis.⁶ But the proposed principle obviates all of this difficult work by simply banishing certain topics from ecclesiastical discourse. Why? Because Henry and Mouw are convinced (on what grounds, they do not say) that “the institutional church has no mandate, jurisdiction, or competence to endorse political legislation or military tactics or economic specifics in the name of Christ.” As I have already observed, this is simply at odds with Henry’s very next sentence: “The institutional church is divinely obliged to proclaim God’s entire revelation.” If this principle holds true then the church has a divine obligation or mandate to speak about the Bible’s relevant teaching (if any) on politics, war, and economics. I do not see how one can have this both ways.

Biblical foundation really is the question behind the questions in this discussion. There is no appeal to anything in the Bible in Mouw’s article to support the theory. Is it too much to ask—perhaps too biblicist of me?—that such a profoundly wide-reaching conclusion about the church’s mandate in the world be given biblical support? The most one can say is that Henry appears to derive his understanding of the church’s mandate from its original charter in the Great Commission. He summarizes it as “the moral-spiritual task of evangelizing the earth,” a fine way of putting it. However, that very commission expressly provides as a means to that end: “teaching them to obey everything I have commanded you.” Nothing in this text sounds like a very general mandate, principles, or frameworks. The church’s words are to be *coextensive* with Christ’s word. Far from restricting the church’s moral discourse, the Great Commission maximizes it.

Readers might notice that my chosen example (Protect life!) is one of those issues about which there

⁵ *Id.* at 33.

⁶ It is important to note my inclusion of all of these tools. I am not advocating a kind of literalism that results in one-to-one applications of all biblical laws (e.g., theonomy’s “abiding validity of Old Testament law in exhaustive detail”). I am saying that all results of sound biblical interpretation deserve a “Yes” from God’s people.

is not much “space” for a variety of interpretations. There is no space between dead or alive. This is intentional. I am favorably inclined toward Henry’s citation of Paul Ramsey: “Identification of Christian social ethics with specific partisan proposals *that clearly are not the only ones* that may be characterized as Christian and as morally acceptable comes close to the original New Testament meaning of *heresy*.”⁷ The italicized words are crucial. There are zero-sum moral issues in which “No” means “Yes,” issues for which neutrality is not an option. In the moral landscape these issues tend to cluster around what we might call “first principles.” Life and death or freedom and slavery come to mind. It makes far more sense to me that we might wish to restrict the church’s proclamation to these sorts of first principles, for they do not run afoul of Ramsey’s helpful dictum. Indeed, as a practical matter they are the ones about which the Bible speaks most clearly and specifically. But injecting considerations of whether something is appropriately “general” or inappropriately too “specific” or whether speech should be “positive” or “negative” strikes me as irrelevant. The church’s proclamation on anything should be as positive or negative, general or specific as the Bible requires.

Given the state of the world today, one would not think this should be difficult. As we breathe our last, fleeting wisps of western Christendom’s cultural oxygen, is it not the case that the most pressing socio-political issues precisely are the first principles— life and death, human dignity, freedom of conscience, sexuality and reproduction? I see no principled reason, to give a specific example, why the institutional church should not sign (or, alternatively, write their own versions of) the *Manhattan Declaration*, an ecumenical document positively proclaiming to the world what God requires with respect to life, sexuality, and religious freedom. Being told that it is “too positive” or “too specific” will not persuade me.

READING THE BIG “E”

Finally, I do not think it is a coincidence that those churches most interested in opining about socio-political minutiae like “fair food” and carbon footprints are also churches that have largely disregarded the Bible’s clear teaching on the big, zero-sum moral questions. The former seems to be a symptom of the latter. As Doug Wilson once put it, they are like the person in the eye examination who confidently reads the tiny bottom set of letters but cannot for the life of them read the great big “E” at the top. This should indicate to us that the problem is not primarily *methodological*, but rather moral and spiritual. The problem is the faithless abandonment of the Bible’s truth and clarity, and no set of imagined guardrails or principles—and certainly not the one being promoted here—will save such a church or keep it on the task of its gospel mission.

I share Henry and Mouw’s frustrations, but what is needed is biblical wisdom sought in genuine faith, not an unworkable *a priori* principle. I suggest that we begin by forcefully, clearly, and specifically reading to the world the great big “E” at the top of the chart. The details might just work themselves out.

Brian Mattson serves as the Senior Scholar of Public Theology for the Center for Cultural Leadership. He holds an M.A.R. from Westminster Theological Seminary and a Ph.D. in Systematic Theology from the University of Aberdeen (Scotland). Dr. Mattson also serves on the faculty team for the Alliance Defending Freedom’s Blackstone Legal Fellowship and Collegiate Academy. He co-host and produces a weekly web video and podcast called Dead Reckoning (see www.deadreckoning.tv), which thoughtfully engages questions of public policy, culture, and the Christian worldview.

⁷*Id.* at 33



CARL HENRY'S QUANDARY

Whose Bible, Which Anthropology?

By FRANCIS J. BECKWITH

In the private dispute between the young philosopher Richard Mouw and the seasoned theologian Carl F. H. Henry, I concur with the retrospective judgment of the President Emeritus of Fuller Seminary. Understanding the difficulty (not to mention the imprudence) of offering particular policy proposals as the only deliverances of Christian moral theology based on principles that are at a much higher level of generality, Henry exercised a wisdom that is far too uncommon today.

Henry's position is not unlike the one advanced by the Catholic Church over the past century in its many encyclicals on social, moral, and political issues. Rather than employing the categories of contemporary political thought—e.g., right, left, liberal, conservative—or explicitly endorsing specific policies or forms of government, the Church has offered an account of the human person that is grounded in certain principles of justice, which it maintains are derived from Scripture. Take, for example, St. Pope John Paul II's 1995 encyclical, *Evangelium Vitae*.¹ The late pontiff presents a case for the sanctity of human life and the role that governments and communities should have in protecting it. Although his case is biblical, insofar as he relies on extensive citations of Scripture, it is also philosophical and theological, insofar as he reads the Scripture through the principles

and categories that the contemporary Church has inherited from its predecessors.²

When responding to the contemporary challenges of abortion, euthanasia, and capital punishment, the late pontiff does not merely comb the Bible to find passages that directly address these challenges. (This, of course, would be a fool's errand, since these topics, except for the death penalty, are not specifically mentioned in the Bible,³ though even in the case of capital punishment the question of whether its use in the modern world is permissible—a question addressed by the encyclical—is clearly not dealt with in Scripture). Rather, St. Pope John Paul II reads the Bible as the Church has read it from its earliest days, and thus imparts to his flock the philosophical and theological principles that the Church had always believed were embedded in the text. Thus, what the Scripture teaches us about the nature of man (theological anthropology) and its proper ends are not normative beliefs that one can discover by merely reading the Bible in an ahistorical fashion, detached as it were from the first and subsequent readers of the sacred text.

Evangelium Vitae, as with the entirety of Catholic Social Thought, offers to both the Church and the world an understanding of the human person at odds with both the right and the left wings of the Enlightenment. On the one hand, it is profoundly conservative, insofar

¹ JOHN PAUL II, *EVANGELIUM VITAE* (March 25, 1995)

² For example, he writes: "From the beginning, the living Tradition of the Church--as shown by the Didache, the most ancient non-biblical Christian writing--categorically repeated the commandment "You shall not kill": "There are two ways, a way of life and a way of death; there is a great difference between them... In accordance with the precept of the teaching: you shall not kill ... you shall not put a child to death by abortion nor kill it once it is born ... The way of death is this: ... they show no compassion for the poor, they do not suffer with the suffering, they do not acknowledge their Creator, they kill their children and by abortion cause God's creatures to perish; they drive away the needy, oppress the suffering, they are advocates of the rich and unjust judges of the poor; they are filled with every sin. May you be able to stay ever apart, o children, from all these sins!" (Ibid., 54, quoting DIDACHE, I, 1; II, 1-2; V, 1 and 3: Patres Apostolici, ed. F.X. Funk, I, 2-3, 6-9, 14-17; cf. *Letter of Pseudo-Barnabas*, XIX, 5: loc. cit., 90-93.)

³ However, this does not mean that one may not infer from Scripture the impermissibility of abortion and euthanasia from what the Bible teaches about morality and the proper ends of human nature. This is precisely why Christian communities, until recently, were nearly unanimous in their condemnation of abortion. See, for example, my article, "A Critical Appraisal of the Theological Arguments for Abortion Rights," *Bibliotheca Sacra* 148 (July-September 1991): 337-355. On the matter of euthanasia, it is a bit different. As St. Pope John II writes: "With regard to the last moments of life too, it would be anachronistic to expect biblical revelation to make express reference to present-day issues concerning respect for elderly and sick persons, or to condemn explicitly attempts to hasten their end by force. The cultural and religious context of the Bible is in no way touched by such temptations; indeed, in that context the wisdom and experience of the elderly are recognized as a unique source of enrichment for the family and for society." (*EVANGELIUM VITAE*, 46)

as affirming the inviolable dignity of every human person from conception until natural death. It rejects the personal subjective relativism of ideologies that reduce the human person to the conscious and deliberative exercise of his autonomy regardless of what the person may choose for himself or herself or for those who are judged as “non persons” because they lack the present ability to exercise their autonomy due to immaturity (the fetus), illness (the profoundly disabled), or age (the elderly).

On the other hand, the Church’s anthropology is profoundly liberal, insofar as it employs the language of fundamental rights to express its understanding of human dignity and the role those rights ought to play in advancing the common good in modern Western democracies:

To be actively pro-life is to contribute to the renewal of society through the promotion of the common good. It is impossible to further the common good without acknowledging and defending the right to life, upon which all the other inalienable rights of individuals are founded and from which they develop. A society lacks solid foundations when, on the one hand, it asserts values such as the dignity of the person, justice and peace, but then, on the other hand, radically acts to the contrary by allowing or tolerating a variety of ways in which human life is devalued and violated, especially where it is weak or marginalized. Only respect for life can be the foundation and guarantee of the most precious and essential goods of society, such as democracy and peace. There can be no true democracy without recognition of every person’s dignity and without respect for his or her rights.⁴

In opposition to both the Lockean and Hobbesian understandings of rights—which attempt to ground rights in fictional states of nature detached from the real goods to which the human person is ordered—the Church’s project is radically prophetic. It is, to paraphrase St. Paul, a stumbling block to the Austrians and foolishness to the Social Democrats. It suggests that the

way Western liberal democracies subtly transform fundamental truths of the human good into contested questions for the human will to answer, through either popular vote or judicial fiat, is a recipe for tyranny. For it privileges radical individual autonomy while at the same time championing moral skepticism and philosophical materialism.⁵ “This view of freedom,” the late pontiff writes, “leads to a serious distortion of life in society.”⁶ He explains:

If the promotion of the self is understood in terms of absolute autonomy, people inevitably reach the point of rejecting one another. Everyone else is considered an enemy from whom one has to defend oneself. Thus society becomes a mass of individuals placed side by side, but without any mutual bonds. Each one wishes to assert himself independently of the other and in fact intends to make his own interests prevail. Still, in the face of other people’s analogous interests, some kind of compromise must be found, if one wants a society in which the maximum possible freedom is guaranteed to each individual. In this way, any reference to common values and to a truth absolutely binding on everyone is lost, and social life ventures on to the shifting sands of complete relativism. At that point, everything is negotiable, everything is open to bargaining: even the first of the fundamental rights, the right to life.⁷

As should be evident, the Church offers *Evangelium Vitae* to the global community in the same spirit of Henry’s five principles, but especially the third one: “The institutional church is divinely obliged to proclaim God’s entire revelation, including the standards or commandments by which men and nations are to be finally judged, and by which they ought now to live and maintain social stability.”⁸ As Mouw notes in his article, it was fairly clear to Henry that God’s revelation had something substantive to say about public ethics that could be applied to the social evils of post-war America. As Henry writes in his groundbreaking 1947 book, *The Uneasy Conscience of American Fundamentalism*:

⁴ EVANGELIUM VITAE, 101.

⁵ “How did such a situation come about? Many different factors have to be taken into account. In the background there is the profound crisis of culture, which generates scepticism in relation to the very foundations of knowledge and ethics, and which makes it increasingly difficult to grasp clearly the meaning of what man is, the meaning of his rights and his duties....The eclipse of the sense of God and of man inevitably leads to a practical materialism, which breeds individualism, utilitarianism and hedonism....” (Ibid 11, 23)

⁶ *Id.* 19.

⁷ *Id.*

In a company of more than one hundred representative evangelical pastors, the writer proposed the following question: “How many of you, during the past six months, have preached a sermon devoted in large part to a condemnation of such social evils as aggressive warfare, racial hatred and intolerance, the liquor traffic, exploitation of labor or management, or the like—a sermon containing not merely an incidental or illustrative reference, but directed mainly against such evils and proposing the framework in which you think solution is possible?” Not a single hand was raised in response. Now this situation is not characteristic only of one particular denominational group of Fundamentalists; rather, a predominant trait, in most Fundamentalist preaching, is this reluctance to come to grips with social evils.⁹

Given the social issues that Christians face today—on marriage, the sanctity of human life, the nature of religious liberty—Henry’s list of social evils, though certainly important, seems relatively uncontroversial to contemporary Evangelicals and Catholics,¹⁰ no matter where they may align themselves on the political spectrum. But even when Henry raised his question to these Evangelical pastors, he must have known that his audience would have recognized these social evils as real evils, otherwise he would have not asked the question and been subsequently scandalized by the pastors’ lack of response. Given the widely held Christian presuppositions embraced by a vast majority in post-war America—even by those who were not especially devout—Henry shared with not only his audience, but with most of his fellow citizens, a cluster of anthropological assumptions about the good, the true, and the beautiful that were relatively uncontroversial, and seemed obviously “biblical” to virtually everyone. For Henry

and his contemporaries, the problem was not that the moral lessons of Scripture were not clear. But rather, the problem was that these lessons were often not followed or preached. Many people may have been unfaithful to Christian ethics, but they knew the content of the faith to which they had been disloyal.

Today, the situation has changed dramatically. What counts as an unbiblical social evil is itself contested. There are, for example, Evangelicals, who no longer believe that the anthropological assumptions embraced by Henry—and taken for granted by virtually everyone throughout Christian history—are obvious deliverances of Scripture. For this reason, some who self-identify as “orthodox” Evangelicals have offered “biblical” defenses of same-sex relations,¹¹ physician-assisted suicide,¹² and (limited) abortion rights.¹³ (In terms of the latter issue, some Evangelicals,¹⁴ had rejected the traditional Christian understanding of unborn life years before the prolife position had become the only “biblical one” for the Evangelical world.) On the matter of religious liberty, what seemed to Henry’s generation as an obvious entailment of Scripture¹⁵—a respect for individual conscience and government non-coercion, oddly consistent with the American Founding—is now denied by some Evangelicals,¹⁶ who argue “biblically” that religious liberty, except in very rare circumstances, ought not to be invoked when it conflicts with gay rights, oddly consistent with prevailing cultural trends.

Although Henry was clearly correct that “the institutional church is divinely obliged to proclaim God’s entire revelation,”¹⁷ we are now living in an age in which what constitutes the institutional church and the content of the revelation it is obliged to proclaim are very much contested. This is not because there is no identifiable body of moral and social doctrine that is truly Christian. Rather, it is because Evangelicals like Henry believed they could extract these doctrines from Scripture without the authoritative assistance of the philosophical and

⁸ As quoted in RICHARD J. MOUW, *Carl Henry Was Right*, CHRISTIANITY TODAY (January 2010)

⁹ CARL F. H. HENRY, *THE UNEASY CONSCIENCE OF MODERN FUNDAMENTALISM* (1947), 15.

¹⁰ I confess that I carry no brief against the “liquor traffic.” For this reason, I will take the fifth.

¹¹ See, for example, the website of the group, Evangelicals for Marriage Equality: <https://www.evangelicals4equality.com>

¹² See, for example, the work of the late Westmont College philosophy professor, ROBERT WENNBERG, *TERMINAL CHOICES: EUTHANASIA, SUICIDE, AND THE RIGHT TO DIE* (1989)

¹³ See DOLORES DUNNETT, *Evangelicals and Abortion*, JOURNAL OF THE EVANGELICAL THEOLOGICAL SOCIETY 33 (June 1990) 215-225; and ROBERT WENNBERG, *LIFE IN THE BALANCE: EXPLORING THE ABORTION CONTROVERSY* (1985)

¹⁴ See, for example, LEWIS B. SMEDS, *MERE MORALITY: WHAT GOD EXPECTS FROM ORDINARY PEOPLE* (1983), 99-156; WALTER R. MARTIN, *ABORTION: IS IT ALWAYS MURDER?* (1977); and NORMAN L. GEISLER, *ETHICS: ALTERNATIVES AND ISSUES* (1971): 218-223. For a narrative on the development of Evangelical understandings of abortion, see RUSSELL D. MOORE, *The Gospel according to Jane Roe: Abortion Rights and the Reshaping of Evangelical Theology*, THE SOUTHERN BAPTIST JOURNAL OF THEOLOGY 4 (Summer 2003). It should be noted that Geisler eventually changed his position on abortion, becoming strongly prolife. See NORMAN L. GEISLER, *CHRISTIAN ETHICS: CONTEMPORARY ISSUES AND OPTIONS*, 2/e (2010), 131-159.

theological infrastructure presupposed by their ancient predecessors, the Bible's earliest readers and interpreters.

Because I am Catholic, it is probably not surprising that I am appealing to the normative status of Christian tradition. However, I am not suggesting that the solution to Henry's quandary is for American Evangelicals to become Catholic. (I think the first course of action should be for American Catholics to become Catholic.) Rather, what I am suggesting is that when we fail to recognize that divine revelation cannot be authentically understood outside of the Great Tradition in which it was first proclaimed—that is, if we continue to insist that the Bible's moral doctrines can be rationally deduced from the text without recourse to the historical development of Christian theology—we are left with no divine revelation to proclaim and no institutional church to proclaim it. In such a state, as St. Paul tells the Ephesians, we will surely be “tossed to and fro and blown about by every wind of doctrine.” (Eph. 4:14 – NRSV)

Francis J. Beckwith is Professor of Philosophy and Church-Studies, and Associate Director of the Graduate Program in Philosophy, Baylor University. A graduate of Fordham University (Ph.D., Philosophy) and the Washington University School of Law, St. Louis (MJS), he has published scores of articles in a wide range of journals across a variety of disciplines including Harvard Journal of Law & Public Policy, Synthese, Ratio Juris, Notre Dame Journal of Law, Ethics & Public Policy, Hastings Constitutional Law Quarterly, Evangelical Quarterly, The Heythrop Journal, Philosophia Christi, Journal of Medical Ethics, Nova Et Vetera, and Journal of Law & Religion. His most recent books include Taking Rites Seriously: Law, Politics, and the Reasonableness of Faith (Cambridge University Press, forthcoming 2016), Politics for Christians: Statecraft as Soulcraft (IVP, 2010); and Defending Life: A Moral and Legal Case Against Abortion Choice (Cambridge University Press, 2007).

¹⁵ See, e.g., GLENN E. HINSON, RELIGIOUS LIBERTY: THE CHRISTIAN ROOTS OF OUR FUNDAMENTAL FREEDOMS (1991); JAMES E. WOOD, JR., E BRUCE THOMPSON, AND ROBERT T. MILLER, CHURCH AND STATE IN SCRIPTURE, HISTORY AND CONSTITUTIONAL LAW (1958)

¹⁶ DAVID GUSHEE, *On Religious Liberty and Gay Rights: Who Would Jesus Sue?*, OnFaith website (12 March 2014), available at <https://www.faithstreet.com/onfaith/2014/03/12/liberty-gay-rights-who-would-jesus-sue/31265>

¹⁷ As quoted in RICHARD J. MOUW, *Carl Henry Was Right*, CHRISTIANITY TODAY, 31 (January 2010)



THE GOSPEL UNTARNISHED

The Political Wisdom of Carl Henry for the Prophetic Voice of the Church

BY MYRON STEEVES

Fifteen years ago, I was leading seminars on “Christians, the Law and Politics” in churches on behalf of the Newport Institute for Ethics, Law and Public Policy. Among the principles we advanced in the seminar was that the Church should speak more directly on public policy matters, but should not get directly involved in politics. The principle justification for this concept was that the Church had a prophetic voice that had to remain pure to be authoritative, and should never tarnish that authority. If it compromised in its message, the Church would lose its authoritative voice, and this would water down the message of the gospel. In contrast, politics always involves compromise, and it must do so to be effective, as political advocates who do not negotiate have less impact than those who do.

I found that this was the most difficult message in our seminar for listeners to grasp. We encouraged the Church to be more active in discussing social policy and encouraging involvement by the laity. We taught that this was vital to the Church’s salt and light ministry, since silence on public policy tacitly communicates that the gospel is irrelevant to public discourse. We exhorted the Church to take a stance on issues, and encourage political engagement, even to the point of assisting in drafting bills. However, once the contribution was accepted, the Church should not lobby, and never endorse. This is a principle that has been understood in modern Church history as demonstrated, for example, in the words of Martin Luther King, Jr.:

The church must be reminded that it is not the master or the servant of the state, but rather the conscience of the state. It must be the guide and the critic of the state, and never its tool. If the church does not recapture its prophetic zeal, it will become an irrelevant social club without moral or spiritual authority.¹

DR. HENRY WAS RIGHT

In 2003, I led the seminar at a church in North Hollywood, California. At the break after the public

policy section, one of the attendees approached me to challenge my views. He said that he was a pastor in Kenya and also a member of parliament there. He told me that quite a few members of Kenya’s parliament were pastors, that this was viewed as the most practical application of the Church’s prophetic voice, and that it worked just fine. This conversation made me second guess my views, in part because I wondered if my viewpoint was too narrowly defined by my American experience, and I was a little intimidated by someone whose experience as a politician made me apprehensive about my ivory tower conclusions.

But in later days, my views grew more resolute. The gospel gets tarnished by being too closely associated with politics. This is well illustrated by the election of the first Evangelical head of state in Latin America, President Efraín Ríos Montt of Guatemala in 1982. President Ríos Montt spoke openly and convincingly of his faith, and sounded typically Evangelical. American Evangelicals, out of a desire to root for the home team, supported him with very little real knowledge of the man apart from his professed faith. The civil war in Guatemala was complex, and Ríos Montt ended his short time in office warding off allegations that he was a brutal violator of human rights, responsible for torture and genocide. Whether or not Ríos Montt was guilty as charged, the fusion of a proclamation of the gospel with an apparent casual indifference to human suffering in Guatemala hurt the Evangelical message profoundly. This remains the case 33 years later.

After having defended my views in this area for several years, and recognizing how difficult it was to articulate this message, I was very excited when I read a short article by Richard Mouw in *Christianity Today* in January 2010. The article had a big impact on me for two reasons. First, Mouw’s modesty was memorable. In the journalistic world, it is unusual to read someone volunteer that he had made a mistake in his reasoning years ago, and now wanted to clear the record. Second, Henry had stated in very few words a clear summary of what I was unable to say in less than half an hour—namely, that

¹MARTIN LUTHER KING, JR., *STRENGTH TO LOVE* (1963).

the Church, when it enters the socio-political arena, can always say “no,” but it should never say “yes.”

I was overjoyed to find that the *Journal of Christian Legal Thought* was revisiting an article that set forth one of the best statements of the contours of a Christian approach to public policy that I feared had been forgotten. To that end, I am very grateful to Dr. Henry, Dr. Mouw, and to the *Journal*. Dr. Henry was right.

THE CHURCH UNCOMPROMISED

The primary reason Henry’s conclusion is important to the Church is that it clarifies the point at which the Church should speak into public policy issues clearly and even specifically, and also the point at which it should stop. It must cease speech on a subject when the subject has been incorporated into proposed legislation where the content is subject to compromise and complex webs of unintended consequences.

In this approach, Henry was not suggesting that the Church is saying “yes” when it stops saying “no.” While the distinction between general principles (where the Church can say “yes” or “no”) and social specifics (where it should only say “no”) may seem difficult to ascertain, it can work out in practice if the Church follows the principles laid out by Henry as *Christianity Today’s* editorial policy. By general principles, Henry was not teaching that the Church’s message on public policy should be reduced merely to broad statements that “Racism is bad,” “abortion is bad,” and “unjust war is bad.” Mouw sought out Henry in part because of the Church’s deafening silence on the ethics of U.S. involvement in Vietnam. A close reading of Henry, as mediated by Mouw, makes it evident that Henry would have encouraged the Church to teach that, even when warfare is undertaken to fight tyranny, foreign nations need to look for the point at which their interference with self-determination tends to cause more harm than good. Henry would even have been comfortable with the Church saying that we should study the impact of the United States’ involvement in Vietnam through the lens of Scripture and actively engage our elected officials on the morality of our involvement. However, Henry’s policy would not license the Church to say either “Now is the time to withdraw our troops,” or “We must continue the U.S. involvement in the war.” The principle that the Church may sometimes say “no,” but never “yes,” may be read in an over-reductionist manner. That is the problem of aphorisms. But the five points Henry followed for *Christianity Today’s* editorial policy gives an instructive exposition of his brief summary.

While Henry did not address the Church’s advocacy of political candidates (no doubt due to laws making it costly for churches to do so), the wisdom of

the sometimes “no” / never “yes” distinction is vividly illustrated in that area. Were the Church to criticize a politician for moral failure, the message may be seen as prophetic (E.g., John the Baptist v. Herod). If, however, a bad ruler engages in an act of great virtue, it does not in any way detract from the pronouncement on evil. For example, Josef Stalin was no moral superior to Adolf Hitler. Yet if we speak of Stalin having acted virtuously in switching Russia to the Allied cause in World War II (notwithstanding his motives), then we have not lost credibility in assessing him as an evil ruler. Virtuous rulers are not the mirror image of vicious ones in this regard. Were the Church to support a ruler for his or her apparent virtue, the impression of the Church’s moral judgment becomes tarnished when that ruler engages in a vicious act.

In legislation—the area that Henry was most specifically addressing—the problem is the same one found in endorsing candidates or leaders, although it takes on new complexities in this context. As an example from the economic realm, Aid to Families with Dependent Children was a Federal program that provided financial aid to poor families from 1935 through 1996. Both liberals and conservatives would agree that this program sustained children who would have suffered the ravages of poverty if the program were not in place. Both would also agree that the program is inherently over-inclusive in that it provided aid to some who could have worked at an available job but elected to receive aid instead. Somewhat more controversially, the program created at least a theoretical disincentive for single mothers to marry working husbands, thus tending to undermine family flourishing and stability. In keeping with the general distinction between liberals and conservatives, liberals tended to argue that the harm from some over-inclusiveness is a worthwhile price to pay for the real good that occurs with aid. Conservatives tended to argue that the moral harm of over-inclusiveness outweighs the cost and good achieved by the program.

Into this argument the Church can speak to justice in several ways. It can address: the need to meet the needs of the abject poor who are chronically unable to rise from poverty without assistance, the harm caused by excessive dependence on aid, the cost effectiveness of the program, and the cost to society of programs that tend to expand beyond their initial intent. If, however, the Church were to endorse the specific program, then it creates the unintended ambiguity of promoting a program for one purpose, while simultaneously opposing the very same program because of its ancillary impact. Brokering that conflict is a matter for which, in the words of Carl Henry, “[t]he institutional church has no mandate, jurisdiction, or competence.”

REFLECTIVE ENGAGEMENT

Of course, other institutions have endorsed legislation and have still survived and flourished. These other organizations, however, are not the Church (at least in the Kuyperian sense of the *institutional* church), and, thus, do not have the same concerns about their prophetic voice. If you are a member of a trade organization that takes a political position that you disagree with, then you have the option of quitting the organization or calculating whether remaining a member is financially worthwhile. That is not an option for members of the Church. For this reason, the Church should encourage political action by its members, but not be a political actor itself.

Henry did allow for the possibility of there being rare exceptions to the never say “yes” principle. There is, in fact, a narrow range of exceptions that Henry likely did not entertain, but a range worthy of consideration. For example, Churches don’t always act purely as religious bodies. They hold many other roles in society as well. They are landowners, employers, general contractors, food-servers, retailers, publishers, broadcasters and participants in society in other ways. There are times when it is certainly appropriate for those who occupy these roles to engage directly in political action. When a city council measure is proposed, for example, that might authorize a billboard across the street from a church building, the church could conceivably take a stance on that measure without inviting the problems otherwise addressed in Henry’s policy.

Henry’s statement that the Church can sometimes say “no,” but never say “yes,” may seem overly simplistic at first glance. The full extent of Henry’s view, however, requires an intricate interplay between the five principles that guided his editorial policy for *Christianity Today*. Without balancing these, Henry may be wrongly accused of seeking more restraint than he actually proposed. Henry was a bold voice for increased participation by the Church in the social life of the community. As Mark Noll notes,

The most visible figure in reawakening a concern for social and political thought was Carl F.H. Henry, who not only roused the troops with his *Uneasy Conscience of Modern Fundamentalism* in 1947 but, as a theology professor and then founding editor of *Christianity Today*, urged evangelicals to a more reflective engagement with the modern world.²

However, that “engagement” was carefully bounded by limitations that guided the means and manner in which that engagement took place.

Myron Steeves is the Dean of Trinity Law School in Santa Ana, California where he has served as a law professor since 1997. A graduate of Georgetown University Law Center, Dean Steeves has practiced in the areas of general business, real estate and insurance coverage litigation, and currently speaks on issues including the integration of faith and law, legal careers as tools for Christian ministry, law and public policy, and law and theology.

²MARK NOLL, *THE SCANDAL OF THE EVANGELICAL MIND* 221 (1994).



POLITICS, THE PULPIT, AND RICHARD MOUW

Carl Henry Was Half Right

BY JEFFERY J. VENTRELLA

Ask any pastor you know and he will likely tell you that it is forbidden for a pastor to support or oppose political candidates or leaders from the pulpit. This idea seems to be accepted almost as firmly as some Gospel truths. But is this widespread belief true from a legal perspective? How about from a theological perspective? Is it even wise? Should the state, via its taxing authority, really determine the content of a pastor's remarks? Should tax exemption pivot on the pastor's prose? Many, if not most, pastors have not thought through this issue on any serious level and merely accept this self-censorship as "conventional wisdom." Carl Henry and now Richard Mouw thankfully disavow this idea, at least in part. However, in their collective formulation that the institutional church and its leaders should not positively prescribe or endorse particular policy matters or candidates—they both err.

POLITICAL PULPITS?

There are good reasons why a pastor should fearlessly move beyond saying "no," and thereby support or oppose political candidates. I offer three:

1. Scripture Warrants Addressing Political Leaders.

The Bible is replete with examples of spiritual leaders addressing political leaders, both positively and negatively. This occurs negatively when a leader's efforts conflict with God's commands. In the same vein, leaders are praised when their behavior aligns with God's word. One of the earliest examples occurs when Moses confronted Pharaoh for oppressing the Israelites (Exod. 5-12). Moses did not respond by explaining to God that a spiritual leader should not address politics and political leaders. Nathan confronted King David after he committed adultery and murder (2 Sam. 12). Elijah confronted King Ahab with God's judgment of drought because of Ahab's sinful behavior (1 Kings 17 cf. 22).

Additionally, the Psalms, which are, among other things, worship songs, frequently address political leaders. Psalm 2 calls political leaders to "kiss the Son" and follow His ways. Psalm 58 confronts "rulers" who "speak unjustly." Psalm 83 indicts oppressive political leaders and petitions God to destroy them." Psalm 94 condemns

wicked leaders who "frame injustice by statute." It would be odd to sing about these things poetically in worship songs, but consider them off limits in the pastor's pulpit. A pastor can sing it, but not say it?

Let us think that the Old Testament only confronts the kings of Israel or Judah, we must remember how Daniel confronted King Nebuchadnezzar over his pride. Daniel told the Babylonian monarch that he would be driven away from his kingship like an animal until he acknowledged "that the Most High is sovereign over the kingdoms of men and gives them to anyone he wishes" (Dan. 4:25). Similarly, Jonah confronted Nineveh, including its leaders, because of its sin (Jon. 3:1-9).

We cannot simply discard these Old Testament examples as inapplicable under a misunderstanding that religion and the state were one and the same back then. The fact is that the Old Testament contained a version of the "separation between church and state." Priests, with a few exceptions, came from the tribe of Levi, and kings came from other tribes, primarily the tribe of Judah. Kings who tried to exercise priestly roles were punished by God (see Saul in 1 Samuel 13 and Uzziah in 2 Chronicles 26). There was an *institutional* separation—but not an *ethical* separation—between the priest and the *polis*.

The New Testament also directly engages political leaders. John the Baptist was imprisoned and ultimately beheaded because he confronted Herod for deviating from God's design for marriage (Mt. 14:3-4). Jesus called Herod Antipas "a fox" and refused to leave Jerusalem when Herod wanted to kill him (Lk. 13:31-32). When on trial, Jesus reminded Pontius Pilate that he would have no authority—that is *legal* and *political* authority — unless it has been granted to him from above (Jn. 19).

There are also Scriptural instances in which political leaders are praised or urged by God's people to do the right thing. Nehemiah petitioned Artaxerxes to allow the return of the Jewish exiles to Jerusalem (Neh. 2:1-8). When Artaxerxes does the right thing, he is praised by the religious leaders. Esther intervened with King Xerxes to prevent a planned slaughter of the Jewish people (Esth. 5, 7, 8). When President Clinton signed

the DOMA and RFRA bills—laws protecting marriage and religious liberty—should not religious leaders have been free to commend such specific public policy actions?

We might add that the Bible instructs Jesus' followers in ways that imply addressing civil magistrates in the context of the congregational gathering. For example, God commands believers to "honor the emperor" (1 Pet. 2:17). Scripture also commands that "prayers, intercessions, and thanksgiving" be made for "kings and all those in authority, that we may lead peaceful and quiet lives in all godliness and holiness" (1 Tim. 2:1-2). If believers can pray for President Clinton's marriage to be preserved after his adultery was revealed, why can't pastors address that same issue from the pulpit in order to direct the believers to obey that scriptural command? To maintain fidelity with Paul's command, why can't pastors express thankfulness when a President's actions and policies respect life, marriage, or religious freedom?

2. Pastoral Silence is a Recent Partisan Invention.

The idea that pastors should not vocally support or oppose political leaders is a new phenomenon. The first 166 years of America, from the time of the Constitution's ratification until 1954, pastors could, and indeed did, speak freely from their pulpits both supporting and opposing political candidates for office.¹ The pulpits of New England thundered with revolutionary fervor, a fervor grounded in a biblical resistance to tyranny.²

That all changed, however, in 1954, with the passage of the Johnson Amendment. Lyndon Johnson was running for reelection to the United States Senate, but faced opposition from two secular non-profit organizations—the Facts Forum and the Committee for Constitutional Government. These organizations were dedicated to opposing communism, and believed that Johnson's stance against communism was too lenient. With his reelection in jeopardy, Johnson conceived a cunning idea to change the law to prohibit non-profits from supporting

or opposing candidates for office. As one scholar of the Johnson Amendment concluded:

Johnson was not trying to address any constitutional issue related to separation of church and state; and he did not offer the amendment because of anything that churches had done... The ban on electioneering has nothing to do with the First Amendment or Jeffersonian principles of separation of church and state.³

A muted pulpit did not arise from any enlightened or noble constitutional principle, but rather became an unintended casualty from a partisan end run that was wholly unconcerned with religious expression. The current ban and self-censorship by pastors supporting or opposing candidates flows from an incumbent-protection measure passed by a powerful Senator bent on keeping his seat in the halls of power.

3. Addressing Public Policies and Persons Benefits the Common Good.

As believers, we are commanded to "do justice" (Mic. 6:8). God calls his people, especially when living 'outside the religious bubble' to "seek the welfare [shalom] of the city" (Jer. 29). The God of Scripture loves justice and hates when injustice pervades a society (see Is. 61:8, Amos 5:23-24; Prov. 14:34 and 29:2). Confronting evil and exalting righteousness by being salt and light, seeking God's kingdom and his righteousness (justice), are hallmarks of the Christian faith. How can a shepherd equip the sheep to reflect these ethical mandates without addressing them in his calling as a vocational preacher?

Recall that the words of Christian leaders from the pulpit sustained the abolition movements in the U.K. and the U.S., as well as the subsequent civil rights movement. The IRS would have silenced Wilberforce and the Clapham sect as well as Martin Luther King, Jr. and his allies. Silencing such giants of justice would impoverish

¹In a sermon in 1800, William Linn opposed Thomas Jefferson's candidacy for President. In 1864, Pastor William Stearns endorsed Abraham Lincoln for President, saying: "There is a power in this land hardly second to that of an immense army. It is the wisdom and honesty, and the reputation of it inspiring confidence at home and abroad, which belong to the character of Abraham Lincoln."

²Jonathan Mayhew, a colonial pastor, was not shy in preaching against tyranny. In 1750 he addressed this very issue from his New England pulpit: "It is hoped that but few will think the subject of it an improper one to be discoursed on in the pulpit—[that it is] a notion that this is preaching politics instead of Christ. However, to remove all prejudices of this sort, I beg it may be remembered that "all Scripture is profitable for doctrine, for reproof, for correction, for instruction in righteousness" [2 Timothy 3:16]. When, then, should not those parts of Scripture that relate to civil government be examined and explained from the desk [pulpit], as well as others? Obedience to the civil magistrate is a Christian duty; and if so, why should not the nature, grounds, and extent of it be considered in a Christian assembly? (*A Discourse Concerning Unlimited Submission and Non-Resistance to the Higher Powers* [1750]).

³JAMES D. DAVIDSON, *Why Churches Cannot Endorse or Oppose Political Candidates*, REVIEW OF RELIGIOUS RESEARCH, Vol. 40, No. 1, 16, 29 (September, 1998).

the public square and curtail the expansion of public justice.

Finally, note that in the U.S., it is the people, not the politicians, in whom political power resides. Many of those people practice religion publicly, that is, they try to live out their zealously held religious precepts. Far from being irrelevant, those religious precepts enrich the public discourse. Proclaiming how religion affects public life is part and parcel of informing a citizen on how to live faithfully. But, to do so, they must learn how their faith applies outside the church doors, including how it applies to matters of culture and, yes, public policy beyond saying “no.” For too long politicians have gotten a free pass from moral and biblical scrutiny by the church and its pastors. Silencing the pulpit from addressing such matters withholds a crucial mechanism for developing and enriching the political checks and balances held by the citizenry, which are integral to a well-functioning constitutional republic. As Jefferson wrote, governments are instituted among men to secure—not confer—inalienable rights, rights bestowed by the Creator. The IRS rule treats voters more as subjects than as citizens. I conclude that politics in the pulpit is a prudent practice for promoting public justice, whether the pastor and church speak negatively or positively.

THE PULPIT: GOD OR CAESAR’S?

Objections remain. Some refreshingly abound with pastoral care and concern—something needed but frequently omitted in many of today’s “cultural discussions.” We must be grateful that both Henry and Mouw seek to prevent the church and its pulpit from being reduced to a partisan political puppet. Many objections, however, never meaningfully engage the central question of whether the state or the church has the final say over the content of pulpit preaching. I briefly assess three such objections:

1. “No Certainty, No Confidence!”

Since pastors could be mistaken regarding a political issue or a candidate, doesn’t it follow that they should rarely, if ever, address these areas? I offer three points. First, every time a preacher says *anything*, whether “political” or not, he could be mistaken. How confident or certain must a pastor be before he passes this “certainty test?” If this objection were correct, no prudent pastor would say anything. The need for prudence in the pulpit is not a trump card gagging all political commentary.

Second, the point here is not that every pastor should unwisely spout inane political or partisan slogans, but rather that a pastor possesses the liberty—liberty that should not be constrained by the state—to wisely address these matters, negatively *and* positively. In wisely addressing such matters, he edifies and equips the sheep and glorifies the Lord.

Third, this objection seems to imply that addressing politics somehow deviates from proclaiming the gospel. That does not seem to be Paul’s understanding. In Paul’s calculus, ethics, including ethics in the public square applied to persons (“law”), *aligns* with the faithful application of the gospel (See 1 Timothy 1:8-10). According to Paul, Scripture equips people for “righteousness” and “every good work” (2 Tim. 3:16-17). Does the public square need righteousness? Is politics a good work (Rom. 13)? Yes and yes. Failing to address such matters withholds God’s full word from the flock.

If a pastor refuses to do this from the pulpit, then he is not faithfully executing his calling. A moral or ethical matter labeled “political” does not cease being a moral matter that would benefit from the light of God’s word. Trying to circumscribe this by only allowing “negative” statements is arbitrary and unfeasible as one man’s “no” is another man’s “yes,” depending on how the principle is framed.

2. “Issues Maybe; Candidates Never!”

This second objection creates a false dichotomy contending that addressing *issues* somehow differs from addressing particular *candidates*, which is deemed particularly problematic and even pernicious. This is where the Henry/Mouw thesis is most exposed as lacking. How, we may ask, do institutions, including political institutions, operate and address matters? They do so via *agents* who are *persons*. *Issues* are effectuated by *persons*. One cannot coherently divorce the agent from the issue because the agent is the actor who effectuates the issue.

To say that preaching and applying Scripture does not apply to persons effectuating issues, but only to the issues themselves, is to truncate Scripture’s witness and intent. The pastor is not somehow “safe” or faithful if he only draws the scriptural line to a key issue—only saying “no”—but omits “naming names.” Scripture often “calls out” actors by name, warning the faithful to avoid and thus *not* support them (e.g., Alexander, Hymenaeus, and Diotrophes in 1 Tim. 1:20; 2 Tim. 4:14; and 3 Jn. 9). “Naming names” carries biblical warrant, which applies

⁴ What about “endorsing” political parties? We may observe that Jesus “names party names” as well (e.g., Jesus, in Rev. 2-3, identifies several parties with whom church members are affiliated and then commands them to repent and disassociate). The Pharisees, the Herodians, the Sadducees, the Sanhedrin, and the Roman officials are all collectively addressed as parties as well.

to political actors as well.⁴ Certainly, if a pastor knows that a gaping defect exists in a candidate's moral competence for the position, he ought to seek the "welfare of the city" (Jer. 29) by alerting the congregation to that deficit. A pastor who remains silent withholds good from the city if he knows that a particular candidate lacks the character to hold a position of responsibility and leadership (See *e.g.*, Deut. 16:19; 17:14; and 2 Chron. 26). Limiting preaching to issues and not addressing persons *qua* persons is necessarily incomplete.

3. "But It Causes Division!"

Lastly, objectors often contend that "division" may result from a pastor "naming names." This assertion commits the "false cause" fallacy (*post hoc ergo propter hoc*) as well as the error of hasty generalization (reaching a conclusion on insufficient evidence). Moreover, this point cuts both ways: what about division "caused" by a pastor who refuses to address a prominent cultural issue that impacts the congregation's ability to discharge its calling? A pastor's silence can just as easily precipitate division as well as threaten the congregation's ability to do what it is called to do. We may add that, in Pauline theology, division is not always necessarily bad. It can, at times, be the means by which the faithful are made evident (1 Cor. 11:9).

Accordingly, invoking the "unity" card on its own provides little guidance for the question at hand. Why? Because *every* assertion from the pulpit potentially could precipitate disunity at some level. If three people depart from a 6000-member congregation, is that inappropriate division? What if two depart? One? The entire analytic thread unwinds because it manifestly lacks a sound principled basis. Thus, this point comprises a classic red herring fallacy as well (introducing an irrelevant topic that distracts from the original topic). Solomon says it well: "Those who forsake the law praise the wicked, but those who keep the law strive against them" (Pr. 28:4). By refusing to "name names" and instead by counseling

silence, these objectors are by default (not design) orienting pastors (and their flocks) to ultimately praise the wicked. Exposing evil, including those who do evil, is part of what Christians are called to do (Eph. 5:11). Could voting for an ungodly candidate constitute participation in "unfruitful works of darkness," which Paul forbids?

CONCLUSION

While many objectors may be well intended and are prompted by wise pastoral and ecclesiastical concerns, silencing the pulpit, especially when bowing to Caesar's desires or edicts, fails to comport with the Bible. The Henry-Mouw thesis is a moral bridge that only crosses the ethical river part way. Neither Henry nor Mouw were right. Jesus is King of Kings and Lord of Lords; that's about as political as one could be. His faithful followers must take every thought captive—including political thoughts—to this King. Preaching is not exempt from this command. In fact, preaching should be emblematic of it.

Jeffery J. Ventrella serves as Senior Counsel, Senior Vice-President, Student Training & Development at Alliance Defending Freedom in Scottsdale, Arizona. Since joining ADF in 2000, he has advised, designed, implemented, and overseen the ADF Blackstone Legal Fellowship, a unique legal internship leadership program that has graduated more than 1500 outstanding law students. Ventrella regularly engages the culture through formal debates and serves as an approved speaker for The Federalist Society. Ventrella earned his J.D. from the University of California's Hastings College of the Law, his Ph.D. from Whitefield Theological Seminary, and has practiced law since 1985. He is a member of the Idaho State Bar and is also admitted to practice before the U.S. Court of Appeals for the Ninth Circuit, the U.S. District Court for the District of Idaho, and the Bar of the U.S. Supreme Court.



REFLECTION AND RESPONSE

BY RICHARD J. MOUW

After I published my “Carl Henry was Right” piece in 2010, a number of people contacted me about what I had written. Some of them wanted me to know how much they agreed with what I had said and others expressed some disagreements. And some folks proposed nuances that they wished I had considered. These present responses cover the same range of perspectives, and they do so—each of them—with admirable clarity. I have learned from these reflections and, taken as a whole, they offer solid evidence that respected Christian thinkers continue to disagree on how the church best carries out its important task of speaking with clarity and boldness about important issues of public life. I certainly am not going to settle the issues in what I have to say here. Indeed, the clearest thing I can say in response is that I hope we will continue to engage in this conversation. These critical comments on my piece have inspired me to think about the two very different situations in my life—1968 and 2010—in which I was reacting to what Carl Henry had written about the church’s address to issues of public life.

My original 1968 article was written when I was a graduate student on a secular university campus. Debates over civil rights were much in the air—Martin Luther King would be assassinated a few months after my article was published. At the time I was also actively protesting the Vietnam War, a topic that was very personal for me, since I had only recently avoided being drafted into military service because of a ruling that exempted married fathers. When I had entered into secular campus life in “the radical sixties,” I responded positively to the calls for justice and peace that I heard. There was, however, very little in the evangelical community that I could look to for spiritual and theological guidance in pursuing these newly formed commitments. Indeed, if anything, much of evangelicalism was overtly hostile to these causes. Some prominent evangelicals were suggesting in those days that Dr. King was influenced by communism, and the larger evangelical community was generally supportive of the conflict in Southeast Asia.

It was a lonely time to be an evangelical activist, and when I came across Carl Henry—one of my intellectual heroes during my undergraduate studies—insisting that church leaders lacked both the competence and

the authority to speak out on the specifics of issues that were so important to me, I was deeply distressed. It did not help that he did allow for the fact that it was good for individual Christians to engage in public activism. My quandary in those days was that I felt very isolated as an evangelical individual, with no sense of support from the Christian community that had nurtured me in the faith. I wanted a clear word on these matters from the evangelical church, and I was not convinced that the pulpit had no business denouncing racism and ill-conceived military ventures.

Forty-two years later, when I wrote in 2010 my second thoughts on Henry’s perspective, my context for thinking about these matters was quite different. In recent decades a new political activism—on both left and right—had emerged in the evangelical community, and many of the pronouncements made by leaders across the spectrum had impressed me as both incompetent and having a misguided authoritative tone. Furthermore, I was now the president of an influential evangelical theological seminary. As a theological educator I was deeply engaged with the pressures being put on the seminary curriculum for new areas of study. My father had been a pastor for almost a half-century, but I don’t think he ever gave a thought to “singles ministry,” “team building,” budget management, strategic planning, interfaith dialogue, counseling skills, popular culture, or worship styles—a few examples of the many topics that have to be addressed in seminary classrooms today. I have had to consider whether I really want to add to all of that the kind of subject matter that would create the competence and authority to speak intelligently in the pulpit about the details of political, economic, and military matters.

So, my two assessments of Carl Henry, separated by four decades, came out of two different contexts—one, the irritated expression of a lonely evangelical activist; and the other, a wrestling with the challenges posed to an educational administrator responsible for the complex patterns of equipping persons for faithful and competent Kingdom service. To say that my two different perspectives on the role of church pronouncements on public policy arose out of two different stages in my life is not to privilege the later over the earlier. My early activist days have continued to influence my life and

thought. There is much that has not changed in my outlook since those days. I still believe, for example, that God hates racism, that the people of God are called to cast their lot with the poor and marginalized, and that the Son came into the world to redeem a community of disciples who follow him as the Prince of Peace. I also believe that God cares deeply about issues of medical ethics and the integrity of marriage and family. When the preaching ministry of the church does not articulate principles bearing on those matters with utmost clarity it has failed in its obligation to promote biblical fidelity. The question is not whether the church should address issues of peace and justice and righteousness. It is the challenge of finding the proper level of specificity in setting forth these concerns.

Another factor that influenced me over the past four decades has been the increased impact of the neo-Calvinist perspective of Abraham Kuyper on my thought about public life. A key Kuyperian distinction—and I am pleased that I am held accountable by these responses for my commitment to this distinction—is between the church as institute and the church as organism. The institutional church gathers for such things as worship (preaching, sacraments), catechesis, and spiritual formation. The people of God need to gather for other purposes as well, beyond the borders of the institutional church as such. The institutional church should see itself as sending us forth into Christian discernment discussions regarding the various spheres of human interaction in the larger world in which we find ourselves on a daily basis.

The recognition of the importance of the church as organism is an important corrective to the idea that the institutional church sends us off into the world to make our way primarily as individual believers. Rather, it is important for Christians who face various sphere-specific challenges and opportunities—in business, law, athletics, family life, information technology, entertainment, and so on—to seek discernment together for those engagements with the cultural contexts they face. The institutional church should promote those intermediate communal discussions—a step away from worship services and a step prior to purely individual discipleship. It is in those sphere-specific communities of discernment that much of the details of public policies are best addressed.

I offer an example: A couple of years ago I spoke to a prominent business person, a venture capitalist, who was very active as a leader in his local congregation. He complained, though, that he felt very little support for his daily calling on the part of his pastor. He wanted more of a connection to his actual daily work experience. When I asked him what this better connection would look like,

he responded: “I’d like a better theology of money, but,” he went on, “I really don’t expect my pastor to preach detailed sermons on economics.” And then after a pause: “I guess I would just like a little more of a sense that my church understood better what it is like to live with the complexities that I have to face everyday!”

He was making a reasonable request. Perhaps one thing his pastor could do would be to visit the man’s office to get a sense of what his work environment is like. It would be encouraging for the business person to know that his pastor wants to experience something—even if only a small slice—of his workaday world. Another pastoral outreach would be to include the subject of business complexities in congregational prayers. This does not have to include a lot of detail. Simply mentioning the fact that there are business people who need prayer support for their complex challenges can be an encouraging gesture. Much of the same can rightly be done for the pulpit to be sensitive to other areas of vocation. The congregation could institute even a further step, by scheduling times when people can inform their fellow Christians what they struggle with as business people, voters, consumers of popular culture, divorced persons, and so on.

The social-political sphere, however, does raise even more basic issues. In thinking about the failures of evangelicalism in this area, I often go back to a conversation I had with one of my students at Calvin College during my first decade of teaching there. During his college years he had become dedicated to the cause of racial justice. He wanted to talk with me about how he, as a white evangelical, could serve the cause of the urban poor, particularly in an African American setting. At a certain point I asked him how his parents and his home congregation felt about his commitment to the struggle against racism. There was a long silence, and suddenly the tears began to flow. “They simply do not understand,” he said quietly. “And I don’t get it! They are the ones who taught me to sing as a child that ‘Jesus loves the little children/ all the children of the world/ Red and yellow, black and white, they are precious in his sight.’” And then with a tone of anguish: “Can’t they understand that all I want to do now is to take that lesson seriously?”

I think the primary failure of his home congregation was in the area of catechesis. They had not served that young man well in his spiritual formation—in nurturing a robust grasp of the deep concern that Jesus has for issues of racial justice. That failure was not so much a lack of political preaching. In the congregation’s teaching and spiritual ministry the people had not been encouraged to reflect adequately on the implications of their own piety. That congregation did not need detailed sermons on civil rights legislation, but they did need to be very clear

about the fact that civil rights legislation was something about which God cares deeply.

My own disillusionment with evangelicalism in the 1960s was not really about an absence of sermons focused on open housing policies, education budgets for inner city schools, or specific topics regarding military endeavors. My real disappointment was due to the fact that the underlying issues of justice and peace were not even on the agenda of the spiritual life of the churches to which I was looking for guidance. While, for example, we seldom heard any details in sermons about how to evangelize our neighbors, we certainly came away from church worship knowing that evangelism was something God required of us. We were frequently pointed to literature and events that could flesh out this concern in practical ways. Similarly, the fundamental Christian concerns at stake in our political and economic lives could have been fruitfully addressed by, say, adult Sunday school classes engaging in dialogue about general principles set forth in a sermon, or by church-sponsored book clubs, or by Bible study groups focusing on justice passages in the Old Testament.

I am well aware of the practical difficulties of finding the right place on the continuum between general principles and political specifics in the preaching ministry of the institutional church. The exploration of that continuum needs to keep going. However, preaching and

ecclesiastical declarations by themselves will be woefully inadequate—and, I am convinced, even regularly wrong-headed—if they are not undergirded by the kind of teaching and spiritual formation that are crucial elements in the ministry of the local congregation.

Richard J. Mouw (Ph.D. University of Chicago) serves as Professor of Faith and Public Life after 20 years as president of Fuller Theological Seminary. He served for 17 years as professor of philosophy at Calvin College in Grand Rapids, Michigan, and as a visiting professor at the Free University in Amsterdam. He has a broad record of publication, authoring 19 books, which include The God Who Commands, The Smell of Sawdust, He Shines in All That's Fair, Culture and Common Grace, Calvinism in the Las Vegas Airport, Praying at Burger King, Uncommon Decency: Christian Civility in an Uncivil World, and most recently, Abraham Kuyper: A Short and Personal Introduction and The Challenges of Cultural Discipleship. In 2007, Princeton Theological Seminary awarded Mouw the Abraham Kuyper Prize for Excellence in Reformed Theology and Public Life. Mouw has also participated on many councils and boards, recently serving as president of the Association of Theological Schools. The Journal gratefully acknowledges Dr. Mouw's generous and enthusiastic participation in this issue.



SPEAKING OF RELIGIOUS FREEDOM

The Trouble with *Obergefell*

BY MICHAEL P. SCHUTT, JOURNAL EDITOR IN CHIEF

On June 26, 2015, a five-judge majority of the United States Supreme Court redefined marriage in the case of *Obergefell v. Hodges*. This was not a surprise to most culture and court-watchers, but the legal reasoning justifying the Court's opinion, written by Justice Anthony Kennedy, was far less legal and far less reasonable than most had expected from a justice on the nation's high court.

The commentary on this case is already vast—millions of words of analysis have already been blogged, emailed, tweeted, and printed, and much of it is wise and helpful. So rather than weighing in with too much detail, I want to suggest three aspects of the case that are most troubling.

LAW OR RAW POWER?

First, the most troubling aspect of *Obergefell* is what it says about law itself and what that means for the future of the rule of law in America. This decision was not based on law—in fact, it had nothing to do with the law. The case was decided, instead, on pure will: the political and social preferences of five justices on the Supreme Court.

Radical law professor Andy Koppelman, a long-time advocate for homosexual marriage, who celebrated the result of the case, admits:

Opponents of the decision are already claiming that the Court was just making it up, on the basis of the judges' personal preferences. This opinion supports that charge.¹

Chief Justice Roberts puts it this way in his dissent:

If you are among the many Americans who favor expanding same-sex marriage, by all means celebrate today's decision. Celebrate the achievement of a desired goal. Celebrate the opportunity for a new expression of commitment to a partner. Celebrate the

availability of new benefits. But do not celebrate the Constitution. It had nothing to do with it.

The most troubling aspect of *Obergefell* is not what it does to marriage. Marriage has been in trouble for decades, thanks to the poor showing by the Church on that score and our failure to raise a biblically-literate generation with tools to hold fast under cultural onslaught. No, the alarming thing about this opinion is how it treats law itself, the role of judges, and the Constitution.

Obergefell is in many ways a culmination of 50 years of judicial law-making by raw political power. If law does not constrain judges, then words can be ignored (think "right to privacy," which appears nowhere in Constitution, but instead "emanates from penumbras" of other rights²), and a judge's personal preference may be substituted for the will of the people, laws passed by Congress, or the language of the Constitution itself, as the case may be. Justice Scalia sums it up in his *Obergefell* dissent:

Today's decree says that my Ruler, and the Ruler of 320 million Americans coast-to-coast, is a majority of the nine lawyers on the Supreme Court. The opinion in these cases is the furthest extension in fact—and the furthest extension one can even imagine—of the Court's claimed power to create "liberties" that the Constitution and its Amendments neglect to mention. This practice of constitutional revision by an unelected committee of nine, always accompanied (as it is today) by extravagant praise of liberty, robs the People of the most important liberty they asserted in the Declaration of Independence and won in the Revolution of 1776: the freedom to govern themselves.

¹ http://www.salon.com/2015/06/29/the_supreme_court_made_the_right_call_on_marriage_equality—but_they_did_it_the_wrong_way/

² Justice William O. Douglas, in *Griswold v. Connecticut* (1965), made up the "Constitutional right" to privacy, which "emanated from penumbras" in the Bill of Rights. This later became the basis for abortion rights.

Law is more than simply raw power politics—the struggle over who gets to decide what the rules are. With *Obergefell*, however, it appears that the Court has brought to completion the transition from the rule of law to rule by elite will.

WHAT IS THE LAW TEACHING?

The second troubling aspect of *Obergefell* concerns the teaching function of the law. Law “teaches”—it tells a people how they should live together. Law is certainly not the ultimate moral guideline in society, but it is in fact a moral guideline, and *Obergefell* retards the law’s teaching function in at least two areas.

The first, of course, is marriage. The state may no longer teach that children are better off with both a mother and a father or that homosexual relations are damaging to a society. This will have serious and long-lasting consequences.

Second, in *Obergefell* the court reinforces a common false teaching about the state. The Court implies through the opinion that the state is the source of rights, even rights over which it has been given no jurisdiction. Consider what the state did in order to redefine marriage. It took an institution that pre-existed the state (marriage) and that was defined by thousands of years of human history, and simply declared that it was something that it was not. The arrogance in this usurpation is stunning.³ And yet coming generations, unless the Church continues to proclaim the real truth, will simply assume that all rights, all reality, all truth comes from the State.

CONSEQUENCES

The final troubling aspect of *Obergefell* is the damage it will do to families and to Western societies. That damage will likely be considerable.

Religious institutions, for example, particularly colleges and parachurch ministries, will come under increasing pressure to violate their deeply-held convictions in the name of non-discrimination laws. While Kennedy’s opinion favorably mentions the right of those who disagree with the redefinition of marriage upon religious grounds, his approach and language do not inspire confidence.

In addition, poor women and children will suffer from the damage done to family structures by this

decision. Because the law no longer teaches that both a father and a mother are important to a strong family, only the Church remains to hold the line on strong family commitments as a central virtue. As fathers lose incentive—and moral instruction—to commit to women and children, those families least connected to churches and strong virtue-centered communities will suffer the most.

Society at large will also suffer, as groups and individuals seek to push the envelope even further on “marriage” relationships. Justice Kennedy’s broad language on the “right” to marry does nothing to suggest why throuples, group marriages, short-term wed-leases, or polygamous relationships should not be protected by law.⁴

In summary, this development in American law signals vast social and legal change, some of which has been in the works for decades. As power politics replaces law as the governing force in this country, as law continues to teach false views of the state, the family, and children, and as society suffers for it, we must remember that the Church is the pillar and banner of truth, with a proclamatory mission in the world, and that we are called to “shine as lights in the world” amidst a crooked and twisted generation, holding fast to the word of life.⁵

Mike Schutt, occupying the back pages for Kim Colby in this issue, is the director of CLS Law Student Ministries and of the Institute for Christian Legal Studies (ICLS), a cooperative ministry of CLS and Trinity Law School, where he is a Visiting Professor. ICLS was founded by CLS and Regent University School of Law, where Schutt taught on the law faculty. Mike currently writes, speaks, and teaches on the relationship of lawyers, faith, and culture. He is the author of Redeeming Law: Christian Calling and the Legal Profession (InterVarsity Press 2007), a vocational exhortation for law students and lawyers. He is an honors graduate of the University of Texas School of Law.

He is the editor-in-chief of the Journal of Christian Legal Thought. Not to worry, Kim Colby will return next month.

This article originally appeared in Relay, The Online Journal of Worldview Academy (www.worldview.org). It is reprinted here with permission.

³ See Justice Scalia’s dissent on this topic as well.

⁴ The Heritage Foundation’s Ryan Anderson has written and spoken extensively on these topics. See GIRGIS, ANDERSON, AND GEORGE, WHAT IS MARRIAGE? MAN AND WOMAN: A DEFENSE (2012) and ANDERSON’S TRUTH OVERRULED: THE FUTURE OF MARRIAGE AND RELIGIOUS FREEDOM (2015).

⁵ See Philippians 2:14-16 (ESV).

GENEROUS SUPPORT FOR
THE JOURNAL OF CHRISTIAN LEGAL THOUGHT
IS PROVIDED BY

TERRENCE J. ———
MURPHY
————— INSTITUTE
for Catholic Thought, Law, and Public Policy

**PEPPERDINE
UNIVERSITY**
School of Law
*Herbert & Elinor Nootbaar Institute
on Law, Religion, and Ethics*

 **REGENT
UNIVERSITY**
SCHOOL OF LAW

**HANDONG
INTERNATIONAL
LAW SCHOOL**

 **the Chuck
Colson Center**
for Christian Worldview

The *Journal of Christian Legal Thought* is a publication of the
Institute for Christian Legal Studies, a cooperative ministry of the
Christian Legal Society and Trinity Law School.

 **CHRISTIAN
LEGAL SOCIETY**

 **TRINITY
LAW SCHOOL**