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June 28, 2009: "Is Democracy Possible Here?"

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Title: "Is Democracy Possible Here?"

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6/28/2009--This is how Paul Starr, reviewing Ronald Dworkin's book, *Is Democracy Possible Here?* in the *New York Review of Books* (7/16/2009), describes Dworkin's thought about religion in public life:

"In discussing the role of religion in public life, he avoids any suggestion that conservatives are intolerant and instead identifies the central divide as a choice between conceiving of America as a "tolerant religious society" or as a "tolerant secular society." The first model views the nation as "collectively committed to the values of faith and worship, but with tolerance for religious minorities, including nonbelievers," while the second sees the nation as "committed to thoroughly secular government but with tolerance and accommodation for people of religious faith." From the first standpoint, though government cannot favor any particular religion, it can endorse religious belief in general by providing for ecumenical prayer in public schools, incorporating references to God in public ceremonies, oaths, and justifications of public decisions, and punishing practices such as homosexuality that the religious majority sees as violating God's will.

By contrast, the second standpoint insists, as Dworkin conceives it, on the principle of personal responsibility, which requires the state to afford individuals the ethical freedom to define value in their own lives. That requirement prevents the state from using its power to favor faith over nonbelief or to punish practices of a minority on the basis of religious convictions. He argues unequivocally that those who celebrate the traditions of marriage and family life should not deny the accumulated experience and benefits of those traditions to homosexuals who want to marry."

There are two points to note here for our purposes. First, Dworkin is wrong, I hope, if he believes we must choose between the tolerant religious, or the tolerant secular society. We need a model that allows more common ground than that—tolerance is not such a ground. Second, Dworkin puts his rabbit in the hat if he suggests that the majority may not "punish" on the basis of religious belief. The majority in America has already agreed that gay sex may not be criminalized.

The question is whether policy can be made on the basis of religious belief. Certainly it seems that one should not do that—prohibit practices based on religious belief—when the question is whether to permit gay marriage. The matter would look very different, however, if the religious position were integration a la MLK, Jr., or universal healthcare or fairness to illegal immigrants. Now, suddenly, the objection that the majority is legislating religion rings hollow, in fact becomes unworkable. We cannot even say when our motives and purposes are religious or not.