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## TRYING A NEW WAY: BARACK OBAMA'S TOLERANCE OF INTOLERANCE\*

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This thought-piece concerns Barack Obama's choices for the three highest-profile ministers during his inauguration weekend, namely Gene Robinson, the deeply spiritual, openly-gay, white Episcopal bishop; Rick Warren, the conservative, anti-gay, white mega-church pastor; and Joseph Lowery, the black civil rights icon and supporter of gay rights. As a very complex script about religion, sexuality, and race, Obama's presentation of this particular line-up can be read to propose (1) religious affirmation of the full personhood of gays and lesbians (given inclusion of Robinson and Lowery); (2) gay rights as civil rights (which is one aspect of what Lowery stands for); and (3) religious tolerance, suggesting that conservative Christians, like Rick Warren, loosen their sectarianism and that religious liberals be more respectful of conservatives, like Rick Warren. Because the choice of Rick Warren to deliver the invocation garnered enormous media attention, this essay begins with an inquiry into the theological meaning of a liberal's decision to include a conservative in the inaugural rites.<sup>1</sup> Then, the analysis shifts to Robinson and Lowery, with whom the mainstream media were less concerned, but who might be of particular interest to Critical Race Theory because of the challenges posed by Robinson and Lowery to religious conservatives, particularly conservative African Americans.

Barack Obama's invitation to Rick Warren might be a partial, tentative response to the following question: how far can progressives and liberals

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\* This paper was presented at the LatCrit XIV panel entitled "Obama's Public Religion."

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1. My co-panelist at LatCrit XIV, Professor Carlton Waterhouse, explored the sacred dimension of presidential inaugurations, which are extremely important ceremonies that construct and commemorate American civil religion. For an introduction to the concept of American "civil religion," see Robert N. Bellah, *Civil Religion in America*, in *BEYOND BELIEF: ESSAYS ON RELIGION IN A POST-TRADITIONAL WORLD* 168 (1970).

go in tolerance of the intolerant—particularly tolerance of religious systems that incorporate strong heterosexist predilections grounded in conservative biblical theologies? The question whether to be tolerant of the intolerant has been addressed by a long line of liberal *political* theorists, beginning with John Locke and including, more recently, John Rawls and Michael Walzer. The focus of this essay, however, is the problem of tolerance of the intolerant as a *theological* matter, looking at Obama's project of inclusiveness as a reflection of premises about God and the human quest for a relationship with God. The President has articulated a "need to take faith seriously, not simply to block the religious right, but to engage all persons of faith in the larger project of American renewal."<sup>2</sup>

Obama seems to have broken with a pattern, discernible in past centuries, wherein liberal theologians have denigrated religious certainty as "idolatrous," meaning treating as God that which is not God. The notion is that whenever individuals or religious bodies claim absolute knowledge regarding any religious matter, including how to read the Bible,<sup>3</sup> they have elevated their own ideas to a level of sanctity that belongs only to God.<sup>4</sup> While Barack Obama shares the bedrock liberal principles of tolerance and doubt,<sup>5</sup> he differs from many liberal theologians in one key respect: he is

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2. BARACK OBAMA, *THE AUDACITY OF HOPE* 216 (2006).

3. Actually, differences in biblical theologies were the principal precipitating causes of the mutual hostilities between liberal and conservative Christians in the United States. See ERNEST R. SANDEEN, *THE ROOTS OF FUNDAMENTALISM* 103-31 (1970).

4. Two of the most prominent liberal theologians of this lineage were William Ellery Channing of the nineteenth century and Paul Tillich of the twentieth. Each excoriated the conservative Christians of his time, disparaging them as idolatrous. William E. Channing, *Unitarian Christianity*, in *AN AMERICAN REFORMATION: A DOCUMENTARY HISTORY OF UNITARIAN CHRISTIANITY* 90, 112-15 (1985) (Sydney E. Ahlstrom and Jonathan S. Carey, eds.); PAUL TILlich, *DYNAMICS OF FAITH* 51-52, 98 (1957). In legal academic literature, Michael Perry, citing Tillich, likewise suggested that adherence to a doctrine of infallibility is idolatrous. MICHAEL J. PERRY, *LOVE AND POWER: THE ROLE OF RELIGION AND MORALITY IN AMERICAN POLITICS* 73-75 nn. 36-44 (1991).

5. Posting by Steve Waldman to Christianity Today Politics Blog, *Obama's Fascinating Interview with Cathleen Falsani*, [http://blog.christianitytoday.com/ctpolitics/2008/11/obamas\\_fascinat.html](http://blog.christianitytoday.com/ctpolitics/2008/11/obamas_fascinat.html) (Nov. 11, 2008) (reprinting, in full, Falsani's interview on 3/27/2004 with Obama about his spirituality). Obama is quoted as saying:

I retain from my childhood and my experiences growing up a suspicion of dogma. And I'm not somebody who is always comfortable with language that implies I've got a monopoly on the truth, or that my faith is automatically transferable to others.

I'm a big believer in tolerance. I think that religion at its best comes with a big dose of doubt. I'm suspicious of too much certainty in the pursuit of understanding just because I think people are limited in their understanding.

I think that, particularly as somebody who's now in the public realm and is a student of what brings people together and what drives them apart, there's an enormous amount of damage done around the world in the name of religion and certainty.

*Id.*

willing to extend the circle of tolerance to include conservative Christians,<sup>6</sup> at least provisionally. This may turn out to be an important corrective. While it has been fun, and maybe even defensible, to use “idolatry” to derisively label the Religious Right, perhaps the distancing through critique has been overdone, leading to liberals’ inability to appreciate either the worth or the appeal of conservative Christianity.<sup>7</sup> Even as liberals legitimately continue to reject biblical literalism and to refuse interpretations of rules in the Bible as timeless, God-given, and mandatory, we err when we sneer and deride such beliefs. Because of the individualist and rationalist distortions typical of liberal theology, we are slow to recognize, respect, or acknowledge the spiritual function played by comparatively authoritarian religious systems, including conservative Christianity: voluntary submission to authority. Whether encountered as a hierarchical system of propounding doctrinal orthodoxy or as a clear, binding rendition of scriptural commands, this spiritual function of voluntary servitude has the salutary effect of decentering the ego. This dynamic has intrinsic value because significant spiritual development is impossible without quelling or transforming ordinary egotistic aspirations, which, in the West, are most commonly manifested as acquisitive individualism.

If we suspend our prejudgments (prejudices) arising from typical political alliances and look further, an assessment of the spiritual quality of conservative, evangelical Christianity yields much that is worthy of respect and, perhaps, emulation. As Harvey Cox did, we might discover what Pentecostalism and some strands of born-again Christianity have in common with the meditation practices that emigrated to the U.S. from India. Such practices all are grounded in the *experience* of the Divine, more fundamentally than in doctrine or ritual practice.<sup>8</sup> We might also learn some lessons from the phenomenal success of *The Purpose-Driven Life*, a book written by Rick Warren.<sup>9</sup> *The Purpose-Driven Life* presents a forty-day set of spiritual exercises. They are not bad. They are not as good a program for spiritual development as the Alcoholics Anonymous Twelve

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6. See Nomi Stolzenberg, “He Drew a Circle that Shut Me Out”: *Assimilation, Indoctrination, and the Paradox of a Liberal Education*, 106 HARV. L. REV. 581, 588-611 (1993) (employing the circle metaphor to argue for the accommodation of conservative Christians).

7. See JIM WALLIS, *GOD’S POLITICS: WHY THE RIGHT GETS IT WRONG AND THE LEFT DOESN’T GET IT* 7-14 (2005) (criticizing the “left” for failing to understand the importance of religion in American politics).

8. See generally HARVEY COX, *FIRE FROM HEAVEN: THE RISE OF PENTECOSTAL SPIRITUALITY & THE RESHAPING OF RELIGION IN THE 21ST CENTURY* (1995).

9. RICK WARREN, *THE PURPOSE-DRIVEN LIFE: WHAT ON EARTH AM I HERE FOR?* (2002). This book sold millions of copies and had a major impact on the publishing industry, which realized, for the first time, that very large profits could be gleaned by targeting a “Christian” audience.

Steps or the Ignatian Spiritual Exercises, but they are not bad. A person who has undertaken Warren's spiritual exercises will emerge not only with a character that has been stretched and reshaped, but also with renewed aspirations for a meaningful life. Therefore, Obama's choice of Warren to give the inaugural invocation can be seen as a reflection of Obama's premise that people have spiritual needs<sup>10</sup> and an acknowledgment that conservative evangelical Christianity, as represented by Rick Warren, offers an approach to meeting those needs.<sup>11</sup>

Although there are many obvious religious differences between them, Obama seems willing to presume that conservative evangelical Christians are treading one of many paths to God.<sup>12</sup> In this, Obama is quite different from those liberal theologians who, historically, have advised intolerance of conservative Christianity. Of course, Obama's respectful regard for certain features of conservative Christianity has not required him to defer to conservative Christians on policy matters<sup>13</sup> or to deny that toleration has limits.<sup>14</sup> Nevertheless, if it can ever get traction (given the press of economic and military crises), broadening the scope of liberals' tolerance—Obama's "New Way"—might be significant. Indeed, if liberals follow Obama's lead by recognizing the spiritual worth in what the conservatives have to offer, this shift could eventually be the precursor to major changes. Such changes include the conversion of some conservatives to more moderate Christianity,<sup>15</sup> reversal of the decline in the mainline Protestant denominations, and revivification of American political culture on a more richly principled basis.<sup>16</sup>

Back to the inauguration weekend. Beyond the challenge to liberal

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10. See OBAMA, *supra* note 2, at 202 (noting that many Americans are discovering a spiritual lack).

11. See *id.* (opining that one factor in the explosive growth of nondenominational Christian churches is "a hunger for the product they are selling, a hunger that goes beyond any particular issue or cause").

12. See *id.* (acknowledging that conservative evangelical Christians are helping people to fulfill "a sense of purpose" and are providing them with "assurance that somebody out there cares about them").

13. For example, despite conservative Christian objections, Obama lifted the ban on federal funds being used for stem cell research. See Exec. Order No. 13505, 74 Fed. Reg. 10667 (Mar. 9, 2009).

14. See OBAMA, *supra* note 2, at 196 (criticizing religiously-motivated intimidation or violence).

15. See Frances FitzGerald, N.Y. REV. OF BOOKS, *The Evangelical Surprise*, (Apr. 26, 2007), <http://www.nybooks.com/articles/20131> (exploring a trend from conservative toward centrist or moderate evangelicalism).

16. According to Paul Starr, Obama, like Ronald Dworkin in his recent work, pursues "liberal aims within a vision of a wider democratic partnership that would include conservatives, even if conservatives refuse their overtures." See Paul Starr, N.Y. REV. OF BOOKS, *Liberalism for Now*, (July 16, 2009), [http://www.princeton.edu/~starr/articles/articles09/Starr\\_ReviewDworkinDemPoss\\_7-09.html](http://www.princeton.edu/~starr/articles/articles09/Starr_ReviewDworkinDemPoss_7-09.html).

intolerance, Obama attempted additional symbolic work by his choice of ministers. Both Gene Robinson (white, openly gay, Episcopal bishop) and Joseph Lowery (black, pro-gay, civil rights leader) signified bold, devout affirmations that biblical justice encompasses gays and lesbians. Moreover, Lowery's embodiment of this message would counter the discernible tendency, among some African Americans, to view gay marriage as a "white" issue and to resent the characterization of gay rights as "civil rights."<sup>17</sup> Unfortunately, while the media seized on the controversy over Warren's inclusion in the inauguration ceremony, they failed to highlight the fact that Lowery, an African American minister, is a vocal opponent of discrimination against gays and lesbians. Tragically, perhaps blinded by their own construction of African Americans as anti-gay,<sup>18</sup> the media wasted a tremendous opportunity to use coverage of Lowery to break through the supposed binary opposition between African American religious traditions on the one hand and gay rights on the other.

Of course, the mainstream media do not necessarily have the last word on any subject. Indeed, LatCrit and RaceCrit scholarship has a long tradition of helping to shape public discourse. For example, UCLA's Critical Race Studies Program held a 2008 symposium on "Race, Sexuality, and the Law," which included extensive discussion of the fact that blacks are not peculiarly anti-gay, contrary to media portrayals.<sup>19</sup> The keynote address, entitled "Race, Faith, and Sexuality," marked one of the few occasions during the twenty years since Anthony Cook's groundbreaking article about Dr. Martin Luther King's praxis<sup>20</sup> when Critical Race Theorists have paid attention to the religious dimension of experience.

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17. See, e.g., Symposium, *Is Gay Rights a Civil Rights Issue?*, EBONY, July 2004, at 142 (highlighting that the African American community is not in agreement on the issue of whether gay rights are civil rights). For in-depth theological critiques of heterosexism within the black church, see KELLY BROWN DOUGLAS, *SEXUALITY AND THE BLACK CHURCH: A WOMANIST PERSPECTIVE* (1999) and HORACE L. GRIFFIN, *THEIR OWN RECEIVE THEM NOT: AFRICAN AMERICAN LESBIANS AND GAYS IN BLACK CHURCHES* (2006).

18. At LatCrit XIV, both Professor Russell Robinson and Professor Rhoda Cato described how this distortion pervaded media coverage of the way African Americans voted on Proposition 8 in California. See John Wildermuth, *Black Support for Prop. 8 Called an Exaggeration*, SAN FRANCISCO CHRON., Jan. 7, 2009, at B1 (arguing that a post-election study debunked "the myth that African Americans overwhelmingly and disproportionately supported Proposition 8"). The pattern of singling out blacks as particularly anti-gay has been manifested elsewhere, including New York. See Jay Tokasz, *No Marriage of the Minds*, BUFF. NEWS, May 18, 2009, at A1.

19. For the symposium proceedings and bibliography, see CRS Online, <http://crsonline.law.ucla.edu/> (last visited Sept. 27, 2010).

20. See Anthony Cook, *Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr.*, 103 HARV. L. REV. 985 (1990) (arguing that Dr. King grappled with many of the theoretical questions facing Critical Legal Studies but also engaged in experimental deconstruction, reconstructive theorizing, and social struggle).

Perhaps we should have done more. By not integrating careful, consistent discussion of religion into our work, we may have undermined our effectiveness in dealing with certain issues, as Larry Cata Backer has argued. In a landmark article, Cata Backer demonstrates the efficacy of religious arguments in procuring full LGBT acceptance. He posits that, "by speaking the language of religion within the institutional frameworks of religion, sexual non-conformists can begin to fully speak in culturally significant ways."<sup>21</sup> This sort of advocacy, seeking changes in religious doctrine and religious culture toward full LGBT acceptance, has made dramatic progress in recent years. A number of religious denominations have dropped some or all of their anti-LGBT doctrines and practices.<sup>22</sup> Additionally, new LGBT denominations have been instituted.<sup>23</sup> These examples of success in dismantling theological heterosexism illustrate how fights to transform religion can advance antisubordination goals, and therefore fall within the purview of LatCrit and RaceCrit. A question remains: does the antisubordination principle require us to insist that all institutions endorse same-gender sexual expression? Arguably not.

This brings us back to consideration of Obama's "New Way"—his theological tolerance of intolerance. As argued in the first section of this essay, Obama's theological stance positively evaluates certain aspects of conservative Christianity. Critical Race Theorists who follow his lead might be tolerant of sexual asceticism derived from biblical interpretation, that is, we might respect voluntary submission to rules of sexual abstinence or constraints on sexual practice.<sup>24</sup> Of course, we would continue our firm insistence that it is inappropriate for biblical rules to be imposed, as a matter of law, outside the believing community.<sup>25</sup> Moreover, we would

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21. Larry Cata Backer, *Religion as the Language of Discourse of Same Sex Marriage*, 30 CAP. U. L. REV. 221, 247 (2002).

22. These include the Unitarian Universalists, the United Church of Christ, the Episcopal Church, and the Union of American Hebrew Congregations. *Id.* at 249. Not surprisingly, this process has not always gone smoothly. For instance, after the Episcopal Church ordained Gene Robinson as its first openly gay bishop, numerous individuals, local congregations, and entire dioceses defected from the church.

23. Among these, Cata Backer cites Dignity/USA, SDA Kinship International, and the Universal Fellowship of Metropolitan Community Churches. *Id.* at 256. Another example is the Unity Fellowship Church of Christ (UFCC), which was founded in 1982 by and for African American gays and lesbians and is now a national network of churches. See UFCC, <http://www.unityfellowshipchurchmovement.org/> (last visited Sept. 27, 2010).

24. This is not meant as a blanket assertion that religious organizations should be exempt from all laws forbidding discrimination on the basis of sexual orientation. The question of the validity of such exemptions is beyond the scope of this essay.

25. It is encouraging to note that increasing numbers of young, conservative Christians may be accepting that distinction, coming to see same-sex sex as one among many lifestyle choices, rather than a sin. See Charles Haney, *The Litmus Test*, CHRISTIANITY TODAY, Nov. 2009, at 17 ("[Y]oung evangelicals increasingly see homosexuality 'not as an issue of sexual morality, but as an issue of justice, dignity, or tolerance.'").

continue our tradition of vigorous debate with each other; no practice or policy should be held immune from critique simply because it is arguably "religious." In fact, most critical theorists might treat conservative religious leaders of any race as major sources of oppressive ideology with whom no compromise or common ground is possible. However, more positive engagement is possible for those of us who appreciate some aspects of conservative religious systems and who welcome the anti-poverty work that some conservatives have begun.

As Critical Race Theorists, our evaluative touchstone must always be whether our teaching, writing, and activism contribute to the dismantling of racial hierarchy and other forms of subordination. How far will exploration of religious ideas or coalition efforts with religious conservatives advance those objectives? God knows. It is clear, however, that there are prerequisites to the realization of whatever potential there is. Competence in all aspects of this work would require a scholar/activist to add religion to the mix of race, gender, class, sexuality, and the other dimensions that we analyze. Some of us will go further, arguing theology as persons seeking a right relationship with God. Let us proceed!