

RESEARCH ARTICLE

## Appropriation, Opting Out, and the Common Good in Public Debates: An Analysis of Christian Ethical Arguments

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### Abstract

This article examines anti-mask protests in the United States in the context of the COVID-19 pandemic. Specifically, I look at the cultural (mis)appropriation of slogans by anti-mask protestors, such as “I can’t breathe” and “My body, my choice.” Noting that this is at first glance a bit of a puzzling phenomenon, I show that there is a relationship between the anti-mask protest, white Christian grievance politics, and the disintegration of the public sphere. Drawing on the work of Bonnie Honig, I argue that the anti-mask protests represent a mode of opting out of public engagement, hence opting out of the practice of using rational argumentation to explain why things ought to be a certain way, as well as listening to the reasons of others. Insofar as this has become a popular mode of engagement among a significant number of Americans, it needs to be understood in the language of foregoing responsibility for others in US pluralistic democracy. Indeed, further explication of the relationship between responsibility and freedom is absolutely necessary. I maintain that opting out is ethically untenable because of the nature of interdependence with others and the necessity of adhering to the rule of law. An ethic of reciprocity properly grounds an understanding of embodied freedom, resisting the extremes of grievance politics.

**Keywords:** Christian ethics; Bonnie Honig; Kelly Brown Douglas; public things; anti-mask protests; appropriation; United States Conference of Catholic Bishops

“I can’t breathe” is a political protest slogan that initially gained traction with the death of Eric Garner, a Black man who was suffocated to death by a police officer in Staten Island in 2014. Garner’s murder captivated a growing public awareness regarding the frequent use of violence against Black Americans by police and the brutal tactics of suffocation and strangulation that literally left Black people unable to breathe. This slogan has been used by Black Lives Matter activists to draw attention to racial injustice and police cruelty.

During the COVID-19 pandemic, protestors in the United States employed the slogan “I can’t breathe” to protest wearing of protective masks in places with government mask mandates. The protestors opposing mask mandates were mostly white people in public places, and they frequently criticized mask mandates in public schools specifically, threatening school boards and others to comply with their wishes. In one example, in Idaho, schoolchildren participated in the literal incineration of masks.<sup>1</sup>

<sup>1</sup> Sergio Olmos, “Mask Burning Rally in Idaho Fans Covid-19 Worries in Oregon,” OPB, March 8, 2021, <https://www.opb.org/article/2021/03/08/mask-burning-idaho-oregon-peoples-rights-far-right/>.



Another adjacent, and somewhat peculiar, appropriation of a slogan is that of anti-mask and anti-vaccine protestors using “My body, my choice” signs in public protest of government mandates. As “My body, my choice” has been a signature saying of the pro-choice movement, it is perplexing that those against vaccine mandates and mask mandates took it on as their own. In the context of these COVID-19 mitigation-related protests, the slogan functioned as a statement of bodily autonomy against perceived government overreach, without specifically invoking government protection of abortion rights.

Notably, these two slogans were first employed by historically underrepresented groups to demand the protection of their lives and related rights. Yet in anti-mask and anti-vaccine protests, people who historically had not suffered such deprivations of life and rights because of race and gender utilized these slogans to assert their rights and their freedom. In what follows, I attend to these particular dynamics of the public sphere and use them as a basis for reflection on debates about what bodily freedom entails to consider which, and whose, freedoms are being contested. How did anti-mask discourse during the pandemic come to signify more broadly a challenge to democratic pluralism and public life? I argue that the appropriation of these slogans is a critical feature of anti-masking discourse, in which the meaning of the protective mask is transformed from a symbol of mutual care to a symbol of intrusion and violence, and in some cases a kind of call to arms.

In *Stealing My Religion*, Elizabeth Bucar defines cultural and religious appropriation as “cases where individuals or entities of the dominant culture take from the culture of marginalized communities.”<sup>2</sup> Bucar argues that the harm of appropriation relies on existing power structures, and she focuses on cases in which appropriation of a practice further oppresses an already marginalized group. I extend her observation to argue that the hegemonic appropriation of these two slogans constitutes an attempt at erasing the historical struggles of the groups in question from public spaces. This appropriation of slogans obscures the lived reality and suffering of historically underrepresented groups.

My other line of inquiry tracks how this appropriation of slogans relates to the destruction of what philosopher Bonnie Honig calls “public things,” which Honig argues are essential to the health of pluralistic democratic deliberation.<sup>3</sup> The public things in question are masks (items of personal use), which acquired this status through public health discourse as well as through legal requirements for use in public. The ideological refusal to wear masks constitutes a form of what Honig calls “opting out.”<sup>4</sup> The practice of burning masks might constitute a literal privatization of health care—reduced to matter of individual will instead of collective deliberation. For Honig, privatization, through opting out of public things, weakens our ability to work together to withstand the growing undemocratic forces of corporatization and capitalism, and even fascism. Combined with the hegemonic appropriation of slogans, privatization in anti-mask discourses reveals something yet more pernicious—a concerted effort by antidemocratic groups to assert their control over public things and spaces.

### Masks as a Type of Public Thing

Honig, building on the work of Hannah Arendt, argues that democracy is constitutively dependent on public things. While Arendt focused on the dynamics of public space,<sup>5</sup> Honig

<sup>2</sup> Elizabeth Bucar, *Stealing My Religion: Not Just Any Cultural Appropriation* (Cambridge, MA: Harvard University, 2022), 5.

<sup>3</sup> Bonnie Honig, *Public Things: Democracy in Disrepair* (New York: Fordham University Press, 2017).

<sup>4</sup> Honig, *Public Things*, 33; see also Honig, xi–xiii.

<sup>5</sup> Hannah Arendt, *The Human Condition*, 2nd enlarged edition (Chicago: University of Chicago Press, 2018), chaps. 4–10.

devoted a lecture series to the import of public things for collective national identity. In the book based on the lectures, Honig maintains that public things—from the now-obscure telephone booth to public pools and public schools—help Americans resist the impulse to privatize. Public things are not only resources to be shared with other citizens: they are also collectively owned entities in which there is broad public investment.<sup>6</sup> I would add that public things serve a fundamentally relational purpose insofar as they establish a connection among diverse and disparate persons and communities through a sense of shared ownership and because they create conditions for encountering others in public.

According to Honig, the very existence of public things can help citizens overcome the force of neoliberalization that reduces the citizen-subject to the role of either profit creator or unwitting commodity.<sup>7</sup> In the consumer-based culture of the United States, people are taught from a young age to view their happiness as dependent on their ability to consume manufactured products. They (unwittingly) learn to objectify themselves through habits and patterns of consumption. People also simultaneously absorb the message that their sense of self-worth comes from the profits they create, ostensibly for the purpose of consumption, and not from their relationships with other people. Honig is critical of this neoliberal mode of subjectivity, as it interferes with the development of the citizen as a critically thinking member of a community.

Honig is acutely aware of the contested meaning of public things in the United States, particularly in terms of their accessibility to all. Many public things have been and continue to be sites of segregation, exploitation, and systemic racism. Racial segregation denied entire groups of people equal access to public things—swimming pools, drinking fountains, and public schools. Some public things, like lands and artifacts, have even been stolen from Native Americans. Public infrastructure is often constructed in a way that externalizes harms onto poor communities of color. Without downplaying this very serious history, Honig argues that the shared meaning with which public things are imbued is invaluable for democracy: “Without public things, we have nothing or not much to deliberate about, constellate around, or agonistically contest.”<sup>8</sup> Without common objects and ideas, Americans too easily fall prey to practices of privatization. Privatization often reinforces social and economic inequalities among Americans, and it is emblematic of a neoliberal mentality in which the economic needs of others outside of my immediate circle (the private sphere) disappear. Moreover, when we lack common objects and ideas, the number of opportunities for citizens to engage with one another constructively is diminished.

Public things, in Honig’s extrapolation of Arendt, help to furnish the common world and are among the necessary conditions of democracy. She stresses the importance of things that lend stability to the world: What are the scenes in which common life takes place? How do common objects help people organize and make sense of life together? Honig maintains that public things relate to democratic sovereignty, and that there is a fundamental relationship of public things to action in concert. When people hold in common things and spaces, they are more able to resist the abuse of government power, for example. Public things—which are symbolic of national identity and togetherness, in her argument—are worth fighting for.<sup>9</sup>

<sup>6</sup> Honig, *Public Things*, 4.

<sup>7</sup> Honig, *Public Things*, 17–19. Regarding critiques of the relationship between liberalism and capitalism, one of the most influential philosophical voices of the past century has been Alasdair MacIntyre, *After Virtue: A Study in Moral Virtue* (London: Bloomsbury Academic, 2013). MacIntyre often conflates the morality of liberal citizenship with practices of capitalism.

<sup>8</sup> Honig, *Public Things*, 5.

<sup>9</sup> Honig, *Public Things*, 85–98.

How are masks public things? A mask is not akin to a public statue that sits in an intersection, as it is for personal use. But as an item of agonistic contention, the mask—of the ubiquitous public mask mandates issued during COVID-19—is certainly a public thing.<sup>10</sup> One might attend to the mask's materiality: mask drives were conducted, people sewed masks for health care workers. That this kind of action occurred early in the pandemic, when institutions were shut down and people felt shut in, shows how masks constituted critical public things. Masks became a symbol of solidarity with others—particularly with the vulnerable and those who chose to put their lives on the line to help the sick. They also became the centerpiece of public discourse in communicating the reality of a deadly disease and the need to care for one another. For other citizens, the mask came to represent the antithesis of individual freedom and capitulation to a tyrannical government. In short, during the COVID-19 pandemic, the debate about masking morphed into a debate about identity, worldview, and in terms of ethics, what duties citizens owe one another.

The mask is the public thing in question, and the appropriation of slogans is a key part of anti-mask discourse. Do these anti-mask slogans indicate a vivid agonistic contest in which different values are on the table, or something else? As I argue below, the appropriation of these slogans falls under the broader pattern of rejecting democratic pluralism and opting out of public deliberation on the common good. The anti-mask discursive field of 2020 was characterized by mask burning, the appropriation of slogans, and the rhetoric of militia groups (and their political supporters) in targeting government officials who supported lockdowns.<sup>11</sup>

Although masks are the focal point of the contest, the appropriation of slogans in this context creates a false equivalency between the oppression of wearing a mask and the oppression of police brutality, for example. In effect, it conceals the history of actual violence done to Black bodies and women's bodies. In US political history, the nation has struggled to grant equality to all persons, despite the high-minded rhetoric of equality and freedom that pervades our most revered civic and legal documents. This agonistic contest takes place in public places, over and around public things (think of antiwar and civil rights protests of the last century, for example). Women, African Americans, Native Americans, LGBTQ+ persons, and more have taken to the streets to advocate for their rights, and to question unjust government oppression and coercion.

Unsurprisingly, the most intense conflicts over masks have occurred regarding their use in public schools. Public schools are essential public spaces, where citizens learn to express themselves, and are thus also subject to contestation over questions of distributive justice—who receives public resources and how much. The public school is where young citizens learn historical narratives about the nation and are taught national values. Institutionally schools can also serve as spaces of resistance against exploitative capitalism, teaching children how to become citizens and not simply consumers. In reflecting upon why public schools have served as an inflection point in this debate, it is necessary to consider the way that public schools represent the heart of pluralistic democracy—people coming together from all backgrounds to learn and engage in a common project. Public schools have been the site of debates over desegregation, stretching back to the Civil Rights era. This is not to downplay the school zoning and other inequities in public education that abound for economically disadvantaged kids and, too often, children of

<sup>10</sup> Thanks to Silas Allard for this insight about masks specifically as public things and the way in which people mobilized around them to help others early in the pandemic. I am grateful for his clarifying editorial comments and suggestions throughout the editorial process.

<sup>11</sup> The plot to kidnap Governor Gretchen Whitmer of Michigan in 2020 is a good example of the violent direction of some anti-mask and anti-lockdown rhetoric and its effects.

color. The main point to emphasize is the symbolic capital of public education: it is a place for all people.<sup>12</sup>

Whether at a school board meeting or on the steps of the county courthouse, anti-masking protests and the appropriated slogans can be interpreted as a performance to redefine the public narrative around bodily suffering and government intrusion. The connection of these protests to white supremacist politics is not coincidental. Unlike forms of action in concert that contribute to the flourishing of human relationships and the strengthening of democracy, these performances of anti-masking resemble Honig's description of opting out of democracy. She maintains that it is the prerogative of citizens to protect public things and their use for all. The decision to opt out of protecting things of public value is a phenomenon occasioned by a kind of neoliberal attitude toward public things, and by extension, relationships with other citizens. Honig argues, "Opting out postulates a kind of membership in the public thing that is rooted in buy-in. Buy-in is a very different relationship to public things than the constitutive, enchanted affiliation and desire explored here [in this book]."<sup>13</sup> I take Honig to be saying that buy-in represents a consumer-based mode of interaction with public things and other people; whereas "enchanted affiliation" refers to a fundamentally relational, if not somewhat beautiful and mysterious, connection we have with public things and the others with whom we share them. For Honig, these relationships are not subject to free market dynamics of buying and selling, and thus should not be opted out of.

### Opting Out Meets White Grievance Politics

Opting out as a concurrent political strategy and mode of citizenship represents a twenty-first century phenomenon in US democracy. Opting out is distinct from the agonistic contest that signals healthy democratic debate. In agonistic contest, there exists a prior recognition that there is debate worth engaging in, and an interest in preserving an inherently pluralistic public space. Following Honig's point, opting out reflects the pernicious influence of capitalism on the construction of citizenship and moral agency.

Of special concern is the way that this neoliberal posturing toward the public sphere (through opting out) intersects with white identity politics. Shifting population demographics, combined with fewer economic opportunities, have created a situation in which many middle- and lower-class white people experience alienation and even despair regarding their place in US politics. This situation constitutes a social crisis, deserving of scholarly and political attention. It is noteworthy that the politics of white Christian nationalism, as I describe below, plays upon this alienation and fuels grievance. This combination of factors has given rise to these public performances of opting out, and elites can and have manipulated white grievance for political gain, with often disastrous consequences.

It is comprehensible that anti-mask protestors appropriate these slogans as a response to a political identity crisis, occasioned by a demographic shift. The historically white majority in the United States continues to shrink, a fact that has led a subset of white American elites like Donald Trump to actively politicize this demographic trend as a conspiracy of cultural and racial "replacement" by minority groups.<sup>14</sup> Robert P. Jones observes that because of this

<sup>12</sup> J. Aaron Simmons, "Public Reason, Public Schools, and Mask Mandates," *Hastings Bioethics Forum*, Hastings Center, September 8, 2021, <https://www.thehastingscenter.org/public-reason-public-schools-and-mask-mandates/>.

<sup>13</sup> Honig, *Public Things*, 33.

<sup>14</sup> An example of how such rhetoric emboldened white supremacists is the Unite the Right rally in Charlottesville, 2017. See Dara Lind, "Unite the Right, the Violent White Supremacist Rally in Charlottesville, Explained," *Vox*, August 14, 2017, <https://www.vox.com/2017/8/12/16138246/charlottesville-nazi-rally-right-uva>.

demographic change and the decline of the cultural influence of mainline Protestant and evangelical churches, many white Christian Americans feel profoundly anxious.<sup>15</sup> Jones stipulates that such anxiety has manifested itself in the phenomenon of “defensive offensives” in which “a formerly powerful majority recasts itself as a beleaguered minority in an attempt to preserve its particular social values.”<sup>16</sup> Jones’s observation raises a question about the relationship between a group’s desire to preserve its values and the desire to order or control the public sphere to maintain or promote such values. This desire had immediate consequences for the United States’ political parties, of course. Anthea Butler argues that since the year 2000, white evangelicals have supported a political platform that has embraced racism and racist fearmongering openly.<sup>17</sup>

As an ideology, white Christian nationalism supports the promotion of white male bodies in public spaces and the reordering of other bodies below them in a hierarchy. In some respects, we might view this as an effort to remake the body politic in a particular image that corresponds to a religious and national vision. Andrew Whitehead and Samuel L. Perry refer to the phenomenon of Christian nationalism as inclusive of “nativism, white supremacy, patriarchy, and heteronormativity, along with divine sanction for authoritarian control and militarism.”<sup>18</sup> In their quantitative study of Christian nationalism, Whitehead and Perry show that citizens who subscribe to this ideology tend to be drawn to a hierarchical order of society reflected in the founding practices of the United States. Whitehead and Perry argue that such views foment visions of divine militarism.<sup>19</sup>

In seeking to distinguish Christian nationalism from other forms of religious practice, they note that Christian nationalism emphasizes fidelity to one’s religious faith and service in the military as primary virtues above, for example, environmental and economic stewardship. In the conclusion to their book, Whitehead and Perry offer a significant, and stark, assessment of Christian nationalism. They argue that those who embrace Christian nationalism are “seeking to retain or gain power in the public sphere ... Christian nationalism is, therefore, ultimately about privilege. It co-opts Christian language and iconography in order to cloak particular or social ends in moral and religious symbolism.”<sup>20</sup> The use of public things to help achieve this aim should not be overlooked—the appropriation of slogans, the burning of masks, and the presence of particular bodies asserting their power in public. The control of the public sphere, under the banner of Christian nationalism, entails a racialized, religious, and gendered hierarchy of persons. The alt-right rhetoric of “own the libs” involves triggering, humiliating, and dominating liberals.<sup>21</sup> Asserting dominance and control over one’s perceived enemies is a central goal of this ideology.

For a sizable minority of white Americans, Christian nationalism offers a way to make sense of the feeling of decline and a concomitant need to reclaim the public sphere for their own group. The feeling of cultural loss and, in many cases, the real or imagined decline of economic power, also drives a kind of hostility to those perceived as outsiders.<sup>22</sup> It is thus

<sup>15</sup> Robert P. Jones, *The End of White Christian America* (New York: Simon and Schuster, 2016), 40.

<sup>16</sup> Jones, *The End of White Christian America*, 44.

<sup>17</sup> Anthea Butler, *White Evangelical Racism: The Politics of Morality in America* (Chapel Hill: University of North Carolina, 2021).

<sup>18</sup> Andrew Whitehead and Samuel L. Perry, *Taking Back America for God: Christian Nationalism in the United States* (New York: Oxford University Press, 2020), 10.

<sup>19</sup> Whitehead and Perry, *Taking Back America for God*, 10.

<sup>20</sup> Whitehead and Perry, 153.

<sup>21</sup> An equivalent definition can be found in the Urban Dictionary. Urban Dictionary, s.v. “Own the Libs,” accessed March 10, 2023, <https://www.urbandictionary.com/define.php?term=Own%20the%20Libs>.

<sup>22</sup> For a comparison with demographic change and feelings of white displacement in Britain, see Paul Gilroy, *Postcolonial Melancholia* (New York: Columbia University Press, 2005). Gilroy describes postcolonial melancholia, a sense of cultural loss for the majority population that can manifest as rage directed at more vulnerable minority

important to conceptualize how the failure to grapple with the history of racial inequality serves as the backdrop for contemporary debates about public things and the public sphere.

A central question about public things is who has access to these things and to the spaces in which they are on display—and who, by virtue of historical inequality, is denied such access. Keeping in mind the intersection of the neoliberal, individualist opt-out and white grievance politics, we gain a clearer picture of the complexity of anti-mask slogan appropriation. The person who feels entitled to opt out of public health measures, such as the mask mandate, and who goes as far as participating in public mask-burning is not simply motivated to act by a sense of herself as a consumer per se. Such actions become more intelligible when placed in a framework of white grievance and a political ideology that is intolerant of other views (and other bodies). The neoliberal model of citizen as consumer encourages a certain kind of withdrawal into the private sphere and a certain disregard for public things, which Honig finds inimical to democratic engagement. When we attend to the overlapping influence of white grievance politics, we encounter a competing goal of remaking the public sphere through the destruction of public things. Thus, withdrawal into privatization, on the one hand, and a desire to dominate the public through a religious-racial hierarchy, on the other, are mutually reinforcing tendencies that currently animate these anti-masking performances. Both actions effectively “opt-out” of participation in pluralist democracy.

### “My Body, My Choice” and the Obfuscation of Individual Liberty

Considering the influence of white evangelicalism on the contemporary US politics of opting out, it is critical to address the anti-abortion and anti-LGBTQ movements, which have since the 1970s galvanized evangelical political activism.<sup>23</sup> Anti-feminist politics has been a uniting feature of some of the disparate groups that have formed the US conservative base since the 1960s. It is no coincidence that the “My body, my choice” slogan appeared in the circles of anti-mask protests. In June of 2022 with the *Dobbs v. Jackson Women’s Health Organization* case, the Supreme Court of the United States officially overturned *Roe v. Wade*, ending almost fifty years of the constitutional right to abortion.<sup>24</sup> The impact of this decision will continue to unfold and reverberate in the lives of millions of people, but below I examine only the relationship between the appropriation of “pro-choice” rhetoric and opting out and a few methods that Christian conservatives have used to resist laws which contradict their views about gender and gender hierarchy in public and private spaces.

Since the 1970s—notably, coinciding with the 1973 *Roe* decision—debate in the United States about the role of religion in the public sphere has centered on whether liberal and secular dynamics of the public sphere unfairly constrain religion and religious groups. Several Anglo-American philosophers took up this question of religion’s place in the public sphere—albeit not foregrounding abortion, a person’s right to bodily autonomy, or a constitutional right to privacy.<sup>25</sup> The crux of the debate was the type of reasons we give

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groups. For another perspective on the US context, see Carol Anderson, *White Rage: The Unspoken Truth of our Racial Divide* (New York: Bloomsbury USA, 2016).

<sup>23</sup> Butler, *White Evangelical Racism*, 57–95.

<sup>24</sup> *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2248 (2022); *Roe v. Wade*, 410 U. S. 113, 707 (1973).

<sup>25</sup> It is notable that those engaged in debates about reason and religion in the public sphere, at least within this strand of Anglo-American philosophy, primarily identified as white and male: Michael Sandel, Alasdair MacIntyre, and John Rawls, to name a few. Rawls mentions abortion in one of his later works, *Political Liberalism*, in a footnote under the section “The Idea of Public Reason.” John Rawls, *Political Liberalism*, expanded ed. (New York: Columbia University Press, 2005), 243n32. He writes that considering the three political values of respect for human life, ordered reproduction of political society over time, and the equality of women as citizens, the last value is of

one another and/or owe one another for choosing a course of action in politics, with questions about the legitimacy of the democratic secular state in the background.

While the limits of religious expression in the public sphere and conflict over incommensurable values remain significant and unresolved issues in the US culture today, the typical means by which Americans engage such conflict since the 1970s have changed: the nature of the discourse has been fundamentally altered by a severely polarized political climate. The effort to publicly debate constraints on religious speech and expression has been eclipsed by the efforts of some religious groups and actors—including individuals, institutions, and corporations—to opt out of the debate altogether, often using the mechanism of law to achieve their goals.

The dynamics of the opt-out strategy have best been highlighted by arguments in the last decade for religious freedom by the United States Conference of Catholic Bishops (USCCB) and white evangelical groups, such as the Alliance Defending Freedom. A few of these arguments have come as legal cases before the Supreme Court. Some of the most visible arguments in this regard pertain to issues of contraception and sexual orientation. These groups' resistance to the requirement of contraceptive coverage in the Affordable Care Act and to laws pertaining to marriage equality furnish important examples of opting out.

In "Our First, Most Cherished Liberty," which was published after the Affordable Care Act mandated employer contraceptive coverage, the USCCB argued that the law required Catholics to adhere to unjust laws by covering the costs of artificial contraception, which is an action in conflict with the magisterium's teaching.<sup>26</sup> In the USCCB's logic, the secular state is a powerful competitor with the church for power over the hearts and minds of the faithful on this matter. This description neglects the reality of the state as comprised of diverse citizens who exercise their will through voting. In viewing this law as the secular state's unjust coercion of Catholics and Catholic institutions, the USCCB portrays the Catholic Church as a persecuted minority. By interpreting the Catholic Church's role in this way, the USCCB creates a situation in which opting out of the law—rather than engaging in spirited public debate about the ethics of contraception—is seen as a viable path. The tone and substance of these recent religious liberty arguments resemble the opt-out strategy that Honig so deftly describes.

Cathleen Kaveny articulates these concerns in an argument related to what she calls the "new religious liberty plaintiffs," focusing on some Catholic bishops and evangelicals.<sup>27</sup> In a divergence from past religious liberty plaintiffs, members of this new group are not politically quiescent nor powerless minorities. Frequently, they do not seek mere exemption from the law: they instead want to reform the law to align better with their views. They do this with the knowledge that they have sufficient power to influence the political system. In the process, Kaveny argues, these new plaintiffs employ tactics of emotivism instead of offering reasons. In a notable link to Honig's description of opting out, they also adopt a kind of radical individualism regarding rights, ignoring Catholic teachings on the importance of

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primary importance in the first trimester when deciding about abortion. Further, Rawls states that "any comprehensive doctrine that leads to a balance of political values excluding that duly qualified right in the first trimester is to that extent unreasonable, and depending on the details of its formulation, it may also be cruel and oppressive." Rawls, *Political Liberalism*, 234–35.

<sup>26</sup> United States Conference of Catholic Bishops Ad Hoc Committee for Religious Liberty, "Our First, Most Cherished Liberty," March 2021, <https://www.usccb.org/committees/religious-liberty/our-first-most-cherished-liberty#:~:text=We%20are%20Catholics,is%20ours%20as%20American%20citizens>. See also Paul VI, *Humanae Vitae* [Encyclical on human life] (1968), [https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae.html](https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html).

<sup>27</sup> Cathleen Kaveny, "The Ironies of the New Religious Liberty Litigation," *Daedalus* 149, no. 3 (2020): 72–86.

the common good and duties to others. (In light of this, the language of “My body, my choice” in the anti-mask protest seems particularly ironic.)

Indeed, regarding how “My body, my choice” plays out in anti-mask protests, I have two observations. First, we ought to note the absurdity of the notion that being forced to wear a mask in a public place is equivalent to being forced to carry a pregnancy against one’s will. Second, religious liberty discourse has been co-opted as a tool of right-wing evangelical and Catholic groups to achieve a political agenda which includes asserting a hierarchy of bodies of citizens— a patriarchal, white-dominated hierarchy. Religious liberty is in this context understood less as an individual right to be protected by the government, and more as a right of institutions within the state to exercise their power and their concomitant hierarchical vision of gender and race for society.<sup>28</sup> This observation supports the insights of Butler and Jones about the ascendancy of white Christian nationalism as a legal and political ideology.<sup>29</sup>

While in several respects this position on liberty ironically renders any notion of individual “choice” moot, it also lays the groundwork for challenging state authorities who are not aligned with the religious-hierarchical vision of these institutions. In this light, public protests about mask mandates not only signal disagreement with a state policy perceived as unjust but also level a challenge to the legitimacy of the secular state and the ideology of religious pluralism more generally. In anti-mask discourse and related opting-out tactics, we must consider whether the desire to be exempt from the democratic norms and laws translates into action that might result in the subversion of the processes of democracy. Such action is less about creating space for an alternate form of religious expression (for example, protecting free exercise) and more about asserting political domination. Religious pluralism allows people to express their ideas and identities through speech and other practices without fear of persecution. The opt-out strategy is especially pernicious for public trust and the existence of religious pluralism as a public good.

While Honig trains her focus on public things and relatedly public space, there exists a connection to opting out of public debate and argumentation. In this way, there is a thread connecting diffuse anti-masking protests and the aggrieved legal politics of the USCCB and Alliance Defending Freedom (ADF) on the contraceptive mandate and anti-choice rhetoric. Within each group we see an ideological strand of American individualism and exceptionalism, paired with white Christian grievance over a political order that appears out of reach (or realistically, increasingly within reach with each passing year).

### Opting Out and Rewriting the Narrative of Suffering

The neoliberal opt-out culture of political withdrawal intersects with the ideology of white grievance dominance politics, and the convergence of these two distinct political orientations has had significant negative implications for gender and racial (in)justice in the United States. One manifestation of this confluence is the emergence of appropriated slogans in anti-mask protests. The appropriation of slogans constitutes an attempt at making invisible the historical struggles of the groups in question. Below I focus on what is at stake in such erasure: rewriting the narrative of whose suffering is visible and whose lives matter in public understanding and memory. Using the work of womanist theologian Kelly Brown Douglas, I examine the ways that the rejection of pluralism is visible in efforts to exclude, or erase, nonwhite others from public space. Building upon Douglas’s incisive analysis of racism in the

<sup>28</sup> Shannon Dunn, “The End of Religious Liberty? Institutional Sovereignty and the Question of Social Justice,” *Journal of Religion* 96, no. 4 (2016): 488–505.

<sup>29</sup> Butler, *White Evangelical Racism*; Jones, *End of White Christian America*.

United States,<sup>30</sup> I maintain that the appropriation of slogans demarcates whose bodies belong in public and whose do not. Moreover, the ability to take up public space is correlated to the speech one can produce in public, which has specific connections to the anti-mask protests.

In *Stand Your Ground: Black Bodies and the Justice of God*, Douglas begins by analyzing the discursive norms around the death of Trayvon Martin, a Black teenager who was unjustly shot to death in 2012 by an armed citizen—who was later acquitted under Florida’s Stand Your Ground law. Douglas recounts a broad history of white supremacy that led to the acquittal of Trayvon Martin’s murderer, a history that continues to generate white complacency vis-à-vis the murder of Black people. Specifically, she argues that whiteness in US history is defined as cherished property, and as such is afforded certain rights, like the right to exclude. Douglas maintains, “This right to exclude inexorably gives way to other fundamental rights—the right to claim land and the right to stake out space.”<sup>31</sup> Blackness has been defined as the antithesis of whiteness, and the opposite of cherished means chattel. The paradigmatic example is the way the Black body was constructed in the system of chattel slavery. She notes that to be chattel is to be deprived of the right to possess your own body. Freedom is, therefore, “not a right that [B]lack women and men are entitled to by their very chattel condition.”<sup>32</sup>

The Black body, in this interpretive framework, could never be defined as cherished property. During slavery, the Black body had some value as a commodity to be used by others. After emancipation, Douglas argues that although the Black body may have been legally emancipated from slavery, the structures of white governance and the norms of white discourse have continued to resist recognition of Black freedom. In such a frame of thinking, “Free black bodies thus possess something that does not belong to them. *Free black bodies have essentially intruded upon the white space.*”<sup>33</sup> Moreover, she explains how the “castle doctrine” was expanded in 2004 to include the defense of one’s personal space (particularly if one is a white person) in addition to one’s home space. Douglas states, “It, in effect, allowed for the protection of white space, which is whatever space white bodies inhabit. The white body becomes essentially a mobile castle.”<sup>34</sup>

This point relates to Honig’s argument regarding how different bodies are permitted to occupy public space. Honig explains, “Talk of public things ... immediately calls to mind which of the demos’ bodies are policed in public venues and which are assumed to belong there. American streets are open to free use by some citizens, but when frequented by others those same streets quickly turn into sites of surveillance or control.”<sup>35</sup> Throughout US history, even the most public of spaces and things have been neither equally available nor protected for all.

Douglas’s particular attention to public space and who is allowed to inhabit such space unproblematically is critical for this analysis. In the late spring and summer of 2020, many states shut down businesses to avoid a public health catastrophe. This situation drove public protests against government shutdowns and government overreach more generally. (The right to protest a government policy publicly is not something to take for granted, as governments could, and have, used public health measures to curtail liberties.) Some of these protests represented broad economic concerns, such as the loss of jobs due

<sup>30</sup> Kelly Brown Douglas, *Stand Your Ground: Black Bodies and the Justice of God* (Maryknoll: Orbis, 2015).

<sup>31</sup> Douglas, *Stand Your Ground*, 30.

<sup>32</sup> Douglas, 39.

<sup>33</sup> Douglas, 45 (my emphasis).

<sup>34</sup> Douglas, 70.

<sup>35</sup> Honig, *Public Things*, 25.

to shutdowns, but they also reflected the rise of conspiracy theories and distrust of governments.

The matter of who is permitted to occupy public spaces in protest—and not just the issue in question—is of great relevance here. Thomas Carothers and Benjamin Press describe different types of anti-lockdown protestors that showed up in public spaces around the world during the first six months of the pandemic.<sup>36</sup> They identify a type of protestor driven by disinformation and conspiracy, which reflects political polarization and a deep distrust even of democracy. Broadly speaking in the US context, very few people questioned the right of the anti-lockdown protestors to inhabit public squares and to position themselves in front of county courthouses.

Around the same time as the anti-lockdown protests, Americans witnessed viral video images of the traumatic killing of George Floyd by police in Minneapolis, an event that led to mass protests in major US cities and galvanized support for the Black Lives Matter movement. Perhaps feelings of helplessness about the pandemic combined with fresh and highly incontrovertible information about racial injustice awakened many white people to the threats Black Americans faced by merely existing, or by *just being embodied in public spaces*. In any case, the mixture of political instability and outrage was potent enough to reignite discussions about race in a way that drew thousands of bodies into public spaces in solidarity. These protests gave energy to renewed debates over certain public things such as Confederate statues and public school curricula, particularly the teaching of what came to be loosely termed critical race theory. Arguments about these contested public things—and the real or imagined harm they might cause—remain ongoing. Moreover, they serve as a potent reminder that this question of whose bodies get to be represented in public, and how the history of embodiment is narrated in public memory, animate politics in ways that require further analysis and clarification.

As the Black Lives Matter movement received more sympathetic attention from some white people, there was already a backlash forming. Sometimes it came directly from Christian authorities, as was the case with Spokane bishop Thomas Daly, who rebuked the Eastern Washington CEO of Catholic Charities, Rob McCann, for calling out institutional racism in the Catholic Church. McCann produced a candid video wherein he articulated support for the Black Lives Matter movement and acknowledged his own and his institution's internalized racism.<sup>37</sup> Bishop Daly replied by arguing that McCann made unfair accusations against whites within the Catholic Church and further implied that the Black Lives Matter movement had to atone for its violence.<sup>38</sup>

Bishop Daly's response offers a good example of the Stand Your Ground culture, which exists to obscure the reality of white racism in US life. One tactic seems to primarily involve deflection and projection of one's own sins onto other groups and helps the white subject to avoid confrontation with racism in the United States and the fact that they may bear some direct or indirect responsibility for that racism. These anti-mask protestors are asserting

<sup>36</sup> Benjamin Press and Thomas Carothers, "The Global Rise in Anti-Lockdown Protests—and What to Do about It," *World Politics Review*, October 15, 2020, <https://www.worldpoliticsreview.com/articles/29137/amid-the-covid-19-pandemic-protest-movements-challenge-lockdowns-worldwide>.

<sup>37</sup> Daisy Zavala, "Catholic Charities CEO Releases Video in Support of Black Lives Matter Movement, Condemning Racism," *Spokesman Review*, June 24, 2020, <https://www.spokesman.com/stories/2020/jun/24/catholic-charities-ceo-releases-video-in-support-o/>.

<sup>38</sup> Thomas Daly, "Statement on Catholic Charities Eastern Washington, the Church and Racism," Catholic Diocese of Spokane, July 5, 2020 (archival version from Internet Archive), <https://web.archive.org/web/20221004001214/https://www.dioceseofspokane.org/news/statement-on-catholic-charities-eastern-washington-the-church-and-racism>; see also, Sarah Salvadore, "Spokane Bishop Criticizes Catholic Charities' Leader on Racism Comments," *National Catholic Reporter Online*, July 7, 2020, <https://www.ncronline.org/news/people/spokane-bishop-criticizes-catholic-charities-leader-racism-comments>.

their right to inhabit public space in a way they perceive as unencumbered—that is, freely. Why that freedom matters so much needs to be contextualized: these assertions in public space are taking place in the backdrop of a renewed racial reckoning.

It is not far-fetched to argue that anti-mask protestors have played an important role in this deflection and projection—by recentering white bodies alongside ideals of autonomy and liberty, while at the same time downplaying the civil rights struggles of other groups. Furthermore, such performances of grievance are weaponized by antidemocratic political groups to achieve their nefarious ends. After the Donald Trump presidency and the storming of the US Capitol on January 6, 2021, this is hardly a shocking statement. I draw attention, however, to the recentering of whiteness (and white masculinity) in these public expressions of grievance and the message of opting out of public health measures and its diminishment of the project of the common good.

### Reciprocity as an Antidote to Opting Out

The convergence of opt-out culture and an ideology that seeks to remake the public sphere according to a vision of white Christian nationalism, submits a formidable challenge for a viable pluralistic public sphere. In response, conscientious scholars of ethics and law should articulate not only a defense of the pluralistic and agonistic public sphere—fraught as it may be—but argue for definitions of freedom in ways that are persuasive and just, or persuasive because they are just. We must conceptualize freedom within the context of contested histories of embodiment and belonging.

One way to do this is to advance a relational understanding of publicity that is centered on reciprocity. Reciprocity is connected to Honig's description of enchantment, the mysterious and beautiful relationship that Americans have with one another with and through public things. Reciprocity is what differentiates the agonistic contest in public from the practice of opting-out because it entails a basic regard for the other. In politics, it grounds recognition of a shared fate despite real social and embodied differences that facilitate inequalities. As a principle, it is reflected in the late Jesuit John Courtney Murray's argument for religious freedom as a human right.<sup>39</sup> Kaveny argues that the principle of reciprocity undergirds adherence to the rule of law, in which we agree to be governed by laws we view as legitimate.<sup>40</sup> For both Kaveny and Murray, Americans who adhere to this ideal are required to make relatively small sacrifices regarding their personal political preferences to help guarantee the freedom of all. Religious freedom cannot be defined as immunity from the law or that which entails disregard for the liberties of others; rather, freedom is a complex phenomenon that holds in tension individual conscience, the teachings of a religious or philosophical tradition, and the political necessity of reciprocity. This view of freedom should inform a vision of the public sphere that is inclusive, generative of reason giving and taking, and a place in which the most vulnerable can be seen and heard. The public sphere can thus be a place of possibility in Arendt's sense.<sup>41</sup>

Focusing on reciprocity allows us to conceptualize religious freedom—along with other forms of freedom—in ways that resist domination and circumscription by grievance politics and the neoliberal temptation to opt out. The task involves deconstructing theological and ethical paradigms of embodiment and representation that enshrine gendered and racialized body/soul dualisms. As feminist theologian Margaret Farley has argued, “dualisms breed

<sup>39</sup> John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (Kansas City: Sheed and Ward, 2005), 27–39. “Civility dies with the death of dialogue.” Murray, *We Hold These Truths*, 31.

<sup>40</sup> Kaveny, “The Ironies of the New Religious Liberty Litigation,” 81.

<sup>41</sup> Arendt, *The Human Condition*, 12–16.

hierarchies.”<sup>42</sup> In articulating an inclusive vision of the public sphere, we must understand how Christian theological and political arguments have relegated some bodies to the margins while centering others.<sup>43</sup> It will take serious and dedicated efforts to divest whiteness of its status as cherished property. Engaging in deconstructive analysis is one expression of reciprocity or of being willing to excavate histories of oppression for the sake of including others, especially those whose bodies have been oppressed and underrepresented in the public sphere.

The appropriation of slogans by the anti-mask movement and the recent debates about religious liberty have the effect of misrecognizing and misconstruing who is the most vulnerable and who needs representation in the public sphere. If the common world is a place where people are seen and heard,<sup>44</sup> the past few years have vividly illustrated that a lack of political representation is correlated with increased embodied vulnerability. Whether it is George Floyd, Eric Garner, or refugees and other migrants seeking the basic protection of the law to survive, these examples of lives cut off indict political systems of representation that claim to be based on equality. In the face of this reality, some would rather dispense with the notion of the public sphere because it will always fall short of the ideals of inclusivity and equality, noting that Black and Brown people often pay the highest cost. Their bodies, in the distorted logic of white supremacy, become acceptable sacrifices for the freedoms of others. In anti-mask discourse, additional vulnerable bodies—those who are elderly or immunocompromised, for example—also serve in this role.

The idea of freedom as a zero-sum game, which insists that some bodies have a right to be seen and heard in the public sphere always at the expense of others, is grounded in white supremacist ideology. This version of freedom is ironically a product of the very history that this ideology desperately wants to avoid confronting—the history of slavery, colonialism, genocide, and other acts of violent suppression. In contrast, to define religious freedom as specifically embodied freedom is to acknowledge that matters of conscience and free expression are bound up with embodied (mis)representation and histories of domination, erasure, and survival. Defining freedom in this way also signals the necessity of reciprocity as a condition for true freedom.

Anti-mask demonstrations, while calling some attention to the dimension of embodiment in relation to freedom, cast white people’s bodies as the victims of government tyranny and oppression. I do not wish to downplay the real suffering that some white people, particularly because of economic marginalization and lack of opportunity, have experienced. But this collective suffering has not been caused by the actions of Black people or the rise of the feminist movement, nor for that matter by policies allowing for more inclusive rights for immigrants and refugees. The appropriation of slogans obfuscates the issues of whose bodies and whose freedoms are most at risk, and crucially, which ideological positions pose the greatest risk for others’ embodied freedom. The act of mask burning is an act of destroying the public thing so there can be no agonistic contest and no ability to engage the precarious and yet critical public space where people struggle to be seen and heard, and where an ethic of reciprocity permits room for difference.

The fundamental misrecognition of the source of one’s suffering in white supremacist politics is made possible by the politics of grievance. The politics of grievance dictate a certain negative response to the government—and one that conceptualizes—but fails to

<sup>42</sup> Margaret Farley, *Just Love: A Framework for Christian Sexual Ethics* (New York: Continuum International, 2008), 113.

<sup>43</sup> For more on this, see Kelly Brown Douglas, “It’s All about the Blues: The Black Female Body and Womanist God-Talk,” in *Feminism, Sexuality, and the Return of Religion*, ed. Linda Martín Alcoff and John D. Caputo (Bloomington: Indiana University Press, 2011), 103–23.

<sup>44</sup> Arendt, *The Human Condition*, 50–67, esp. 57.

address the source of the grievance.<sup>45</sup> In this case, the real grief is the sense of loss experienced by a subset of white Americans. It is important to identify and explain how anti-mask protestors attempt to call attention to their own suffering and discontent, the reality of which I do not deny, by usurping the political slogans of Black Lives Matter and thereby eliding the history of injustices faced by Blacks in the United States. It is therefore unjust for anti-masking white people to use the slogan “I can’t breathe” in ways that trivialize the systemic suffering and death of Black persons.

If engagement in the public sphere is going to avoid the vicious extremes of domination of others, on the one hand, and retreat on the other, an ethic based in reciprocity offers a way forward. Acts of social solidarity play a central role in citizens’ moral agency. In the interest of making reciprocity possible, citizens have an imperative to invest their time and resources into public places and public things. The public sphere as an inclusive space has been under attack by forces of radical individualism, the excesses of capitalism, and fear fomented by racism and sexism. While the assaults on the public sphere we are witnessing are not entirely novel, the challenges of the present age need to be met with the strong conviction that solidarity is possible and necessary, that we have much to learn from those who are different, and that the most vulnerable among us deserve an opportunity to flourish.

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<sup>45</sup> There is a compelling argument that economic insecurity and the myth of meritocracy contribute disproportionately to white grievance. See, for example, Daniel Markovits, *The Meritocracy Trap: How America’s Foundational Myth Feeds Inequality, Dismantles the Middle Class, and Devours the Elite* (New York: Penguin, 2019).

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