

The Use of Civic Reason:

Religious Freedom, Secular Government, and the Duty of the Elected Official

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Abstract

As a cornerstone of western liberal democracy, religious freedom underwrites a multitude of historically valued civil liberties, including freedom of conscience and thought. These protected civil liberties extend to negative rights, which include non-governmental interference in a citizen's private life. To preserve and protect such important tenets of society and guarantee civil liberties, a secular and reason-based government is imperative. However, there currently exists a conflict in the United States as many elected officials warily or unreflectively occupy the intersection of religious freedom -- and, more widely, personal liberty -- and secular law.

The purpose of this paper is to argue that to properly safeguard not only secular government but wider civil liberties, including religious freedom, generally the right to practice or not practice a religion, elected and appointed public officials must accept restrictions on their religious rights while serving the public in office. This does not mean that these individuals must abandon their deeply held convictions, but it does mean that their judgment as it relates to political decision-making cannot be solely predicated or wholly reliant upon religious belief. Political decision-making, as a necessary part of public service, must be based on reason and critical thought, which includes careful intellectual reflection. In addition, these proposed self-imposed religious restrictions offer protection to personal liberty as a whole and are justified in their resulting preservation of others' religious rights.

The paper will be divided into six interconnected parts. Part One, "On The Importance of Religious Freedom," discusses the necessity for religious freedom within a liberal democracy. Specifically, it will discuss the characteristics of religion and religious freedom as it relates to and encompasses additional personal liberties such as free thought and expression. Part Two, "A

Case for Secular Government,” will implement Robert Audi’s libertarian, equality, and neutrality principles to demonstrate the need for a secular government to ensure wider protection of citizens’ rights. Additionally, Part Two will present an objection to secularism and highlight the history of religious influence in the United States. Part Three, “Special Obligations in the Workplace” will discuss the precedence set by varying occupations and their oaths and duties. Part Four, “Distinguishing Non-Religious and Anti-Religious” will define terms and discuss non-religious laws and practices in government. Part Five, “The Role of the Elected Official,” will seek to define the duty of elected and public officials, especially pertaining to their relationship and obligations to the Constitution as well as to the citizens they represent. Part Six, “Making the Argument,” will state and defend the thesis.

Part One: On the Importance of Religious Freedom

In *On the Presbyterians*, the 18th-century French writer and philosopher Voltaire muses on the impact of religion in society, ironically stating, “if one religion only were allowed in England, the Government would very possibly become arbitrary; if there were but two, the people would cut one another’s throats; but, as there are such a multitude, they all live happy, and in peace,” (Voltaire 218-19). Voltaire’s critique of forced institutionalized religion, and praise of plurality, points to the necessity of liberty as expressed through the availability of religious choice. Restriction of personal religious belief, especially when governmentally enforced, suffocates the liberty of the individual, resulting, as Voltaire described, in societal turmoil. Religious tolerance or acceptance of religious pluralism, however, leads to the possibility of societal peace,

especially when paired with free religious choice in an attempt to facilitate the multitude suggested by Voltaire. Religious freedom within the context of the United States of America was born out of a reverberation of the opposite in Anglican England, which can be described as a society founded on enforced dogmatic sectarianism. The consequences of an oppressive state or theocracy spurred the ardency for religious liberty in the American “colonies” and, later, created a path to religious pluralism as a tenet of a new nation.

The idea of religious freedom remains a cornerstone in the preservation of personal liberty in part due to the consequences of its guarantee. The characteristics of religious freedom stretch outward, beyond the scope of religion or religious belief itself, ultimately encompassing other liberties aligned with the basic philosophical principles of the Enlightenment. It is owed to such scope that the right to religious freedom is maintained as a pertinent, essential, and arguably natural right predicated on the person’s capacity for reason, especially as it relates to personal liberty and in the context of liberal democracy.

First among these other liberties of which religious freedom encompasses is freedom of thought, which corresponds directly to Immanuel Kant’s dictum concerning the centrality of reason (Caygill 353-4). Often lending itself to freedom of conscience, the idea of free thought or intellectual freedom is required if a society is to maintain liberty. The assurance of free thought, or, according to David Hume, freedom from superstition and religious dogmatism, especially the assurance of contrarian or counter-culture thought, challenges the establishment and tests the boundaries of censorship or governmental interference. Without this, the threads of personal liberty start to fray. There are fewer things more intrinsic to personhood than free-thinking, conscience, and self-determination.

Without the freedom to think critically and independently, personal liberty is severely jeopardized. As Robert L. Calhoun argues “the primary roots of [man’s] need for intellectual freedom lie in the fundamental fact that he actually is free,” (Calhoun 26). In other words, thought is ingrained in the status of a person as a being with the capacity for reason. This freedom, as Calhoun explains, for man to be an “observer, inquirer, critic of his environment and of himself,” (Calhoun 26), permits the exploration and participation in varying disciplines of thought. Among these disciplines, which no doubt includes a myriad of philosophical convictions as evident through the diverse history of the discipline, is religious thought and practice.

The metaphysical, epistemic, and moral pondering brought about by and facilitated through religious thought is reflective of the exploratory nature of humankind. Such quests for understanding illustrate the real-world application of free thought, and should, therefore, be protected most ardently. As Calhoun concludes, “[intellectual freedom is] fundamentally a demand that artificial restraint of one sort or another shall not be permitted to contradict the primary reality of human existence,” (Calhoun 26). In other words, to restrict this exploration of humankind is to deny part of the essence of humanity.

The next right to be discussed in its connection to religious liberty is freedom of expression. Expression, the extension of thought into the observable realm, bridges together intellectual freedom and action. As Richard Moon explains, “An individual’s thoughts and feelings, and more generally her identity, are constituted in her expressive activities,” (Moon 20). This intimate connection between thought and expression, or otherwise put, the state of expression as putting thought into action, warrants an inclusion of freedom of expression in the rights granted

to intellectual freedom, as previously discussed. Naturally, as argued within the libertarian ethic, limitations of personal freedoms, such as expression and action, must only be implemented to protect from further gross violations of personal liberty. The same practice of rights restriction can be implemented in the sphere of religious freedom, just as it can be with related rights such as thought and expression, and will be explored in Part Four.

Finally, religious freedom bolsters the value of negative rights. As explained by Steven K. Green, the right to religious freedom in the United States exists as “a shield against government coercion, but one that does not place any affirmative obligations on the government,” (Green 1456). In other words, citizens are not entitled to any positive action from the government as it relates to their religious practice. Instead, the role of the government as it pertains to religious freedom is an obligation of noninterference with citizens’ religious exercise. The negative right encompassed within religious freedom, similar again to free thought and freedom of expression, ensures individuals are protected against undue burden or interference from government forces, which, if left unchecked, may slip into the same religiously oppressive state from which founding members sought to avoid. The “duties to forbear or refrain from interfering with persons' having the objects,” (Gewirth 322) that negative rights entail guarantee protection from unjust censorship or control.

One can find religious freedom at the heart of personal liberty itself. To understand why the right to religious freedom exists as the most fundamental of the personal liberties, one must examine what lies at the core of religious belief to make it so precious. At its purest essence, religious exercise the ability to relay one’s thoughts, morals, and customs to the world. Religious expression is the zenith at which personal belief meets outward exhibition. Without the free al-

lowance of religion, something that is at once so intimate and yet so performative, not only is free thought stifled, but freedom of exercise is bound, and, ultimately, liberty is lost.

Freedom of religion does not find its worth merely in its potentially positive societal benefits, as one might conclude from the argument Voltaire offered, but instead, its worth can be found through the words so eloquently written Brett G. Scharffs, that, “Freedom of thought, conscience, and belief—including freedom of religion—is the taproot of the tree of human rights ... Can we expect the leaves and branches to thrive, or even survive, if the roots are cut?” (Scharffs 962-964). Scharffs’ words echo the sentiment that without religious freedom, and the special guarantee that it brings that thought and expression will not be trampled nor unnecessarily restricted by outward and arbitrary power, the rest crumbles.

Part Two: A Case for Secular Government

The idea of negative rights as a characteristic of religious freedom, as discussed in Part One, is not just an aspect of liberty that exists in theory, but rather takes form, like free thought and free expression, as something urged or required within the founding documents of the United States. In other words, the idea of negative rights as they pertain to religious liberty is put into action by way of the Establishment Clause. The First Amendment of the United States Constitution guarantees that, “Congress shall make no law respecting the establishment of religion, or prohibit the free exercise thereof...” (US Const. amend. I). Steven K. Green summarizes the guarantee by explaining, “The Establishment Clause is primarily for purpose of enhancing religious liberty writ large: ensuring religious equality; guaranteeing disentanglement of religion and

government; ensuring the legitimacy of the secular democratic order; and diffusing religious divisiveness,” (Green 1455). The one-sentence instruction ensures the United States government will not declare nor provide favor to one religion and vows to practice noninterference regarding the right of an individual to practice their religion.

However, by pledging both secular government and unalienable right to practice in the same breath, the First Amendment creates a substantial grey area where an individual’s religious practice may interfere with the existence of a secular government and vice versa. Instances of the conflict between religious freedom and secular government can be most evidently seen through many long-standing traditions and current existing cultures of the United States government itself, as individuals representing the government can be observed melding governmental duty with religious intention. Despite being problematic in that they entangle religion and government, some ceremonial uses of religion, such as swearing into public office using a religious text, seem to be protected as individual rights, so granted by the free exercise clause. However, other observable uses of religion such as religious language in government oaths, pledges, and mottos are blatant and glaring violations of the Establishment Clause. Giving sanction to such violations results in a slippery slope which, through their contradictions to secular government, ultimately impedes the rights of the citizens of the United States at large.

In *Liberal Democracy and the Place of Religion in Politics*, Robert Audi best presents the requirements for secular government and the preservation of personal liberty through his three-principle based approach. Together, Audi’s principles in favor of secular government not only provide ample protection of citizens from religious persecution but also illuminate the problems of non-regulation when dealing with religion and government. The libertarian principle, the first

of the three, ensures government tolerance of both religious beliefs as well as non-religious beliefs. Perhaps the most important principle, as it relates to the existence of a liberal democracy, the libertarian principles ensures, “Freedom of religious beliefs, understood to prohibit the state or anyone else inculcating religious beliefs in the general population,” (Audi 4). In other words, the tolerance-based libertarian principle restricts the government from forcing religious beliefs on to its citizens. On the other hand, it allows the freedom of worship or passing down of and participation in religious rituals, making the principle also restrict the government from impeding the religious beliefs of its citizens (Audi 5). In short, the government, under the libertarian principle, cannot either force religion onto citizens, nor take religion away. What the libertarian principle leaves out, however, is the restriction of the government itself to have a religious preference. So long as no action for or against a particular religion is directly taken, the government can harbor its own religious biases. Such a dilemma is assuaged using the equality principle, which recognizes the implications left by the libertarian principle, namely the pressure a citizen may experience to adhere to the beliefs of the government preferred religion, and the possibility of religious-reflecting laws to be passed (Audi 6). The final facet in the argument for secular government is the neutrality principle, which protects those who chose not to adhere to any religious beliefs. The principle, as explained by Audi, “Includes the freedom to reject religious views,” (Audi 6) in an attempt to protect citizens from the same trouble of persuasion or pressure as presented in the equality principle. In addition to its shared causes of the equality principle, the neutrality principle shields citizens from problems such as religiously affiliated groups dominating legislation, government polarization over religious matters, and possible criteria presented by the government as to what ‘counts’ as religious or nonreligious practice or beliefs (Audi 7-8).

Due to the implications of forced religion or nonreligion, as well as pressure and governmental bias, secular government and the implementation of Audi's three principles is the best way to protect citizens' freedoms.

In the United States specifically, ensuring the inalienable right to practice religion without the meddling or persecution by governmental forces allows for a religiously diverse state, with varying degrees of piety and a wide array of belief and non-belief systems. Some argue that as a result of such a pluralistic community, a need for broader representation is needed to ensure all members of the state own a role in their government, which includes the allowance of religious representation. Besides, one could argue, religious influence in the United States of America is not a new concept. It was the founder John Adams who stated "it is Religion and Morality alone, which can establish the Principles upon which Freedom can securely stand," (Huston). After the composition of the United States Constitution, " 'Many pious people' complained that the document had slighted God, for it contained 'no recognition of his mercies to us . . . or even of his existence,'" (Huston). Such criticism of the Constitution reflects a culture tightly wound with religious influence. In 1787, Benjamin Franklin suggested, "That the Convention begin each day's session with prayers," (Huston) however the motion was dismissed, not due to a recognition of possible inappropriateness to blend governmental duty with religious belief, but rather, "the Convention had no funds to pay local clergymen to act as chaplains," (Huston). Even in a modern context, the American public, although perhaps less pious than in the past, has remained predominantly observant in their religious affiliations.

A 2015 study by Pew Research finds that "The percentages who say they believe in God, pray daily and regularly go to church or other religious services all have declined modestly in

recent years,” however, the study also adds, “among the roughly three-quarters of U.S. adults who do claim a religion, there has been no discernible drop in most measures of religious commitment. Indeed, by some conventional measures, religiously affiliated Americans are, on average, even more devout than they were a few years ago,” (Travis 2016). In other words, despite the slight drop in religious affiliation among Americans, the level of observance among religiously affiliated Americans has not decreased. Such findings suggest that religion continues to remain an important identifying trait among many Americans. It would make sense then, given the religious makeup of the public and the demonstrated religious invocation within the political sphere by politicians and elected officials, to argue that many citizens look for politicians who, like they, place great importance on religious identity and practice. However, the allowance of religion into government is a slippery slope, leading to ethical implications which in turn disqualify the arguments for its presence. In order to maintain a fair and equal government and representation of its citizens, a secular government is needed.

Part Three: Special Obligations in the Workplace

Given the importance of rights protection, procedures must be put in place to protect individuals and their rights, especially in positions in which the individual is most vulnerable. Doctors, court testifiers, military personnel, judicial officers, and even businesspeople are under oath to uphold special obligations to those whom they serve. Typically, these oaths are preferred when individuals’ rights and liberties are most under the power of another. In other words, oaths are needed when someone has a strong influence or sway over the life of another individual.

These oaths, while they vary in their specificity, all promise the elimination of unjust bias and discrimination, ultimately making the oath-taker a somewhat neutral agent. A doctor is required to put aside arbitrary biases and prejudices while practicing medicine to protect the rights of patients against unjust discrimination. While some may oppose oaths, considering them to be something which “encourages self-importance and fuels paternalism,” (Sritharan et al. 2001) it is important to note that the power held by these professions, when left unchecked, could lead to a more severe paternalism than if no oath was put in place at all. By implementing an oath, specifically one that places special importance on, “Respect for patient autonomy, non-maleficence, beneficence, and justice,” (Sritharan et al. 2001), paternalism is determined to be outside the boundaries of what is acceptable. As a result of these well-defined parameters, unnecessary or inappropriate degrees of paternalism are identified to violate professional duty and ethical responsibility and is therefore easily reprimanded and corrected. Without such an oath, there is no commonly understood standard for questionable actions to be run against to determine their appropriateness.

In the court of law, it is assumed that everyone is equal. The phrase “justice is blind” is an ideal that not only guarantees that there be no unfair special treatment of citizens, but also promises no unjust discrimination based on race, creed, gender, or sexuality. In essence, oaths are used to map the contours of professional ethical responsibility and obligation, laying out clearly what is and is not appropriate for those with increased power over the rights of another. However, it is important to note that while oaths are often implemented when special obligations to protect individuals’ rights appear necessary, many of these oaths themselves are not legally binding. Instead, they are considered to be, “More a genuflection performed out of habit than a ceremony

sacred or significant to law,” (Michigan Law Review, 1977). Despite their lack of legal binding, oaths like the Hippocratic Oath remain necessary, as they affirm “the tradition of self-regulation of the medical profession regarding medical ethical standards” as well as “[sustain] institutions and Supreme Courts when they draw upon the commitments of medical as well as dental professionals” (Askitopoulou, et al. 2018). In other words, as symbolic or ceremonial as these oaths are, they play a large role in shaping, informing, and implementing the ethical obligations of professionals with increased power over the rights of others.

Aside from claims of paternalism as addressed above, there exists little significant contention with the use of the Hippocratic oath or other professional oaths when used to symbolize a professional’s obligation to rights protection of the individuals they serve. While some situations may exist where there is friction between professional obligation and religious rights, especially in a medical context, there is no overwhelming vocal worry that these oaths and obligations will irrevocably decay the continuation of religious liberty, nor unduly burden the practice of religious individuals. Then again, not a doctor nor a lawyer set legislation; so while obligations regarding religious neutrality for them are seemingly uncontroversial, it is mainly on the merit of their incapability with the influence or dictation of how the citizens under their care express their religion or secularism. This is where oaths of office as they pertain to elected officials, especially legislators, earn special distinction, as religious rights are especially vulnerable in these contexts as compared to the context of other fields and professions previously mentioned.

Part Four: Distinguishing Non-Religious and Anti-Religious

There are valid concerns on both sides regarding religion and government. On one side, some citizens are concerned that the government will interfere with their religious practice— that is, a worry about the dismissal of their negative rights. On the other side, some citizens worry about the influence of religion within government, namely the enforcement of religious or religious-based rules and regulations upon them, ultimately repressing their right to secularity. When weighing these concerns against each other, it is clear to decipher the common ground: citizen concern regarding the burden of governmental influence on their individual liberties.

It is important to note here that the notion of *non-religious* does not imply *anti-religious*. Anti-religiosity would be enacting legislation which unnecessarily burdens religious rights -- that is, enact legislation barring religious practices which pose no threat to human rights and wellbeing. Protection against anti-religiosity in government was the goal of the Religious Freedom Restoration Act, known commonly as RFRA. Non-religiosity, however, approaches religion from a no-gain, no-loss standpoint. Recently, measures put in place restricting religious gatherings amid the COVID-19 pandemic have raised red flags among some, claiming they violate religious freedom. However, it must be stressed that religious restrictions which include prohibitions on gatherings or expression from elected officials in office, which will be discussed later on, are implemented not in an effort to suppress religiosity, but rather preserve societal health, safety, and wellbeing. Put in terms of a Libertarian ethic, the paternalism of the government in these contexts is justified as it ultimately preserves the rights and liberties of the individuals affected in the

long run. Put otherwise, stopping religious gatherings in times of pandemics shields practitioners and the wider net of society from harm. That is to say, the government is not necessarily anti-religious when it restricts religious freedom. Rather, it can restrict religious freedom with non-religious motivation.

‘How then,’ the question becomes, ‘can we ensure non-religious acts rather than anti-religious acts?’ One way to ensure the separation of church and state as promised by the Establishment Clause is respected is to implement what is referred to as The Lemon Test. A set of standards which determine an action’s adherence to the Establishment Clause, The Lemon Test -- named after the famed *Lemon v. Kurtzman* Supreme Court case -- has been implemented in several Supreme Court cases to ensure the adherence to the separation of church and state and the implementation of non-religious laws, legislation, and regulation. If proposed action or legislation is discordant with any one of the test’s three qualifying criteria, the action is deemed to be a failure and therefore a violation of the Establishment Clause. According to the Lemon Test, any proposed action or legislation must (Joseph, 2009):

1. have a clear secular purpose;
2. have a predominantly secular effect;
3. not foster excessive entanglement between government and religion.

By utilizing the criteria set out by the Lemon Test to determine appropriate relationship between church and state, non-religiously is achieved without venturing into anti-religiously, as the Test does not necessarily permit nor require any additional burdens on religion.

However, non-religiosity in government has not been so easily achieved, especially as it related to the matter of oaths of office. Choosing to swear into public office on a religious text

has been a long practiced tradition among public officials, however, when an individual takes public office, they promise to act as a representation of the United States government, which, as per the Establishment Clause, is to remain secular and provide no unequal support to one religion over another. Using a religious text to make such a promise fails The Lemon Test, thus showing conflict with the Establishment Clause, as the individual is entangling religious belief with governmental duty. Despite conflicting with the Establishment Clause, choosing to swear into office on a religious text is a free exercise of one's religious beliefs. However, it could be debated that an individual's religious rights should be restricted when they are actively representing a secular government to preserve the integrity of the Establishment Clause, and should be able to freely practice their religion outside of the parameters of governmental duty. This argument will be revisited later on, in "Making the Argument". Although the conflict may be resolved when distinctions between citizens and embodiments of the government are put in place, the issue of the Establishment Clause violation persists. The public office oath is a contradiction within itself. The oath states, "I will support and defend the Constitution of the United States...So help me God," (5 US Code). The mere mention of God within the oath to uphold the Constitution displays not only a favor towards an establishment of religion but also marries religious belief with governmental duty.

Part Five: The Role of the Elected Official

For the purpose of this argument, the term "elected official" will be used to mean a public and/or government official who has either been elected or appointed into public office and acts on behalf of the government or any of its parts. The role of the elected official exists in two folds.

First, the elected official must uphold their oath of office, which includes specific obligations regarding the Constitution of the United States. Secondly, the elected official must uphold special obligations to accurately represent, serve, and/or protect the citizens under their representation and responsibility.

Before taking office, elected officials are required to swear an oath of office. Although the wording of oaths may differ to more accurately describe or fit a specific office or state, all oaths most strongly share a resemblance with the following;

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God (5 U.S. Code § 3331).

To support, defend, bear true faith and allegiance to the Constitution of the United States, such as the promise made by public servants as they are sworn into their role. The capacity of their job may differ, however, each public official is held to the same Constitution prioritizing promise. Part of the essence of their job, then, is a common mission to uphold and safeguard the values those of which the Constitution sets forth. How can this goal be achieved? The Constitution, after all, is no actual living thing. That is, the Constitution exists as a lifeless, uncommunicative piece of paper, an artifact of writing that cannot express itself without a reader in a modern context. Instead, as a remedy to the issue of relying on a self-defenseless thing to defend itself, public officials are deployed to take up the task. This leads to a new question, how can officials best defend the Constitution? Perhaps most obviously, to defend the Constitution, officials must first

undergo a process to learn the Constitution, as one, of course, cannot adequately defend something without knowledge of that which they are defending. Through the course of learning and understanding the Constitution, officials subsequently acquire deep knowledge of the document. As a result, public officials can transform into an embodiment of the Constitution. Called to serve to its defense, public officials act as living surrogates of the Constitution, able to defend it against attacks, and carry out duties in accordance with its values and instruction. Only through this close connection and frame of mind, can officials be in the correct position to defend the Constitution, and the oath they have taken truly be kept.

The public officials' obligations to the citizens they serve follows directly from the obligations they have to the Constitution. If the Constitution's objective is to protect and serve the individuals under its domain, then its surrogates have an obligation to do the same, as per their responsibility to advance and carry out the rights promised by the Constitution. "The ideal of American democracy assumes that a special relationship should exist between public servants and citizens. Stated briefly, it is the belief that all public administration must rest upon, and be guided by, the moral truths embodied in the enabling documents of our national foundation," (Fredrickson, Hart 548).

Making the Argument

Given the obligations of elected officials, it has been determined that one of the essential missions of government and politicians is to accurately represent its citizens, to ensure the country ultimately lies within the people's hands. Citizens may look to politicians who most resemble them and their peers to feel confident that their best interests will be met. Whether it be similar

gender, sexual identity, class, race, or moral beliefs, representatives and elected leaders should reflect the communities from which they came. So if it is desired, or even encouraged, for politicians to embody the people they serve, why are religious beliefs not accounted for? It could be argued that the exclusion of religious groups in government representation is discriminatory, and bars equal representation of all citizens. As Nicholas Wolterstorff remarks, “The liberal position-restraint of religious reasons-appears to be in flagrant conflict with the Idea of liberal democracy,” (Wolterstorff 77). Despite warnings of so-to-speak religious monopolization in government, the reality is that the diverse religious landscape of the United States provides an opportunity for multiple religions to be represented equally, or close enough to where no religion is overridden by another. Besides, as Wolterstorff argues, even if religious reasons for political positions are barred, it still manages to happen, only now, “when [people] get together in discussion and debate, they conceal that these are their reasons; instead, they offer reasons derived from the independent source.” (Wolterstorff 78). The requirement for citizens to conceal their religious motivations in their political opinions, as well as disallowing religious influence into governments, seems to act as a form of religious persecution. The prohibition of citizens and their governmental representatives to freely exercise their religious beliefs or act upon their religious motivations is a contradiction to the ideals of liberal democracy and the founding principles of the United States itself.

Despite arguments for religious presence in government, the points made by Audi in favor of secular government still stand as valid and successfully counter the above objections. First, just as a non-religious or differently aligned representative cannot prohibit a citizen from practicing their beliefs, a religious representative cannot “[inculcate] religious beliefs in the gen-

eral population,” (Audi 4). In other words, the purpose of a secular or religiously neutral representative is not to restrict religious exercise, however, a representative whose actions are steeped in religious motivation would ultimately impede the right to belief or non-belief, directly violating Audi’s neutrality principle. It should be emphasized here that a religious individual and a religiously neutral representative are not mutually exclusive. An elected official who is religious in their personal life is or should be able to act in religiously neutral motivation while in the official capacity of their job. This practice of objectivity is not so far divorced from other instances where objectivity is required, such as an umpire calling balls and strikes, to be considered unrealistic or unattainable. Secondly, despite the presence of a religiously diverse community, the mere election of a religious representative in the government entangles the two so much that governmental decisions would no longer be based on reason and rationality, but rather run the risk of being based in belief or dogma, which would ultimately result in religious bias and inculcation of religious beliefs in the general public. Finally, the freedom of religious exercise allows the practice of worship, beliefs, and rituals, so long as it “[does] not violate certain basic moral rights,” (Audi 5). Such moral rights include the right to freedom from religion, freedom from imposed beliefs, or the assurance of negative rights. In this way, the exclusion of religion from government is not a violation of free exercise, nor a practice of religious persecution, as the allowance of religion into government bears the great risk of violation of others’ rights to be free from government-enforced belief systems. Due to the slippery slope and implications of religion into government, the best way to protect fair and equal treatment and representation of all citizens is to have a secular government. The question now turns back to the aforementioned contention between the Establishment Clause and the right to free exercise.

The idea of negative rights, as discussed in Part One, is not absolute. Instead, rights may be restricted or controlled so long as such restrictions further preserve personal liberties in the long run, or protect the rights of others whose liberties may otherwise be impeded if no restriction exists. In the case of an elected official, it has been demonstrated both by way of secular government and official obligations, that to most effectively uphold the Constitution is to ensure the rights of citizens are protected through a secular government and non-religiously motivated action. Hana van Ooijen explains the state of religious rights as it pertains to elected officials, stating, “As an individual, a public official can rely on religious freedom. His right to manifest religion or belief though is not unlimited; it can be subject to limitations,” (van Ooijen 79). For an elected official to fulfill their obligations to the Constitution and the citizens they serve, they must be willing to restrict their religious rights while in the official capacity of their jobs. Although officials should restrict their religious rights while representing a secular government to preserve the integrity of the Establishment Clause, it should not be assumed that they would then not be able to freely practice their religion outside of the parameters of governmental duty. Put simply, to separate religion from government, individuals who are in public office, and thus embodiments of the Constitution, should only exercise their religious beliefs outside the confines of work, as doing so will eliminate the entanglement of religion and government, thus creating less conflict with the Establishment Clause, as well as most accurately promoting the values of the Constitution of which they serve.

As previously stated, elected officials are not required to abandon their personal religious views during their tenure in office. They can be concerned about religious perspectives, especially the protection of the religious freedoms of the people they represent. However, in the govern-

mental acts of the office, which include writing legislation or creating policies or municipal codes, the elected or public officials must make judgments predicated on reason. A rationale of “because the Bible says so,” for instance, is not a sufficient basis for a law, policy, or code. The officeholder must rely on data or well-reasoned arguments to guide her or his political decision-making. If this is not the standard for governance, then it is each religion’s set of beliefs against another in an unending conflict over theological dominance.

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