

CONSERVATISM AND RELIGION

Religion is a key pillar in social order and the right ordering of the state requires government to recognize its proper role in regards to religious belief. This essay describes that role and explains why the state must not usurp or denigrate religious activities.

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James McClellan paraphrases Russell Kirk's first canon of conservatism as "a belief that a divine intent rules society as well as conscience."¹ Mr. McClellan notes: "Over the centuries, the Judeo-Christian tradition, because it promotes freedom, virtue, order and justice, has been a salutary influence on government."² Indeed, John Adams early asserted that religiously-derived morality was a prerequisite for a successful government under the Constitution.³ Alexis de Tocqueville said: "Religion, which, among Americans, never mixes directly in the government of society, should therefore be considered as the first of their political institutions; for if it does not give them a taste for freedom, it singularly facilitates their use of it."⁴

The right ordering of things is a preoccupation of conservatism (as in the term "constitutional order"). The place of religion in society and its proper role *vis a vis* the state is part of that ordering. So, it is appropriate to discuss that role, as it is understood in conservative thought.

There are various ways the state can relate to religion. A large segment of the ideologists hostile to the "permanent things"

suggest that the state should adopt an official anti-religion orthodoxy. Their precedent extends back to the French Revolution's anti-clericalism and Jean-Jacques Rousseau's proposal for a civil religion with a creed "determined by the sovereign," and from which the unbelieving would be "banished from the State, not as impious, but as unsociable."⁵

In the United States, this idea takes the form of hostility to any public display of religious expression and the state regulation of religious organizations. Thus, Catholic Charities of Massachusetts recently ended their practice of providing adoption placements because the state's anti-discrimination law required adoptive placements with same-sex couples, a practice that conflicted with the moral teachings of the Catholic Church.⁶ It is well to remember that when the Boy Scouts of America (not a religious organization but driven by moral considerations) won the right to continue to choose their own leaders unregulated by state anti-discrimination laws, they did so by only one vote of the U.S. Supreme Court. The dissent in that case believed the state could have decided that the Scouts'

leadership policy was not central to its mission and thus, could be discarded at the state's direction.⁷

As an example, in the recent Main Street Plaza controversy, the main plaintiff was a religious group whose position was that the government of Salt Lake City should be able to appropriate the property of another religious organization in order to use that property to allow individuals and groups to send messages conflicting with the teachings of the owning Church.⁸

A different, equally misguided understanding of the role of religion as it relates to the state is the view of religion as a "tool" to create good citizens or to advance some cause (such as environmentalism, "gay rights," a particular political party, or something else). Thus, some are thrilled to welcome religious people whose message is our responsibility to the physical environment but would blanch at listening to a religious message about our responsibility for our moral environment. Like the narrow-minded character in *A Passage to India*: "Ronny approved of religion as long as it endorsed the National Anthem, but he objected when it attempted to influence his life."⁹

In regards to this second view, it is true that those who are working to conform their lives to religiously-based moral values will be good citizens and productive members of a community. Ironically, however, this will only be true when religion provides a deeper and more permanent source of meaning for individuals rather than when religious imagery or language is used merely as a prop or cheerleader for a non-religious project. In other words, the conceit that intellectual or government elites can promote a religious belief (whose tenets they do not accept) in order to promote passivity or good citizenship in others is destined to fail because sincere religious belief is qualitatively different from "let's assume for our purposes" acceptance.

This might explain the weakness of religious denominations whose sole aim seems to be the promotion of various social causes only tenuously related to their doctrinal or theological roots.

The proper approach to religion in a conservative society involves a modest state that does not assert any transcendence on its own. Rather, it recognizes the reality that people shape their lives and commitments around their deep religious beliefs. Such a state is respectful of the prerogatives of religion and appropriately structures its laws and activities so as to allow religion to flourish without interference.

For instance, the tax exemption provided religious groups signals government's recognition of its own limitations in regards to matters of belief. It also indicates recognition of the unique social goods provided by religion (such as shaping individual behavior and transmitting values) and which cannot be provided by the state. This is also a practical necessity in a republic such as ours, which requires conscientious citizens but which also recognizes its inability to compel such conscientiousness.

Another example of the appropriate posture of the state toward religion is the religious autonomy doctrine that withholds jurisdiction from the government in matters of ecclesiastical policy. For instance, a recent Texas Supreme Court decision held that the state courts could not rule in a case where a parishioner challenged the disciplinary practices of her church.¹⁰

A state with a proper understanding of the role of religion in civil society is also not likely to treat the expression of religious belief as a uniquely disfavored activity.

In a great summation, Professor Bruce Frohnen discussed Edmund Burke's understanding of the role of religion and the essential threats to that understanding:

For Burke, “Man is by his constitution a religious animal.” By rejecting religion the French revolutionaries rejected a fundamental part of human nature. By establishing a state which was not religious, they set themselves up as the creators of a new human nature. Since there is no fundamental, uncorrupted nature of man that can exist completely divorced from institutions and circumstances (since art is man’s nature), to reject one, in this case religious, institution is to advocate its replacement by another. By rejecting their established church, the French revolutionaries necessarily set up an official ‘church’ of atheism. They established an institution that taught bad morals but that taught a certain set of morals, nonetheless.¹¹

Thus, “Government, for Burke, should support the more capable guardians of human nature: tradition, manners, prejudice, and the greatest embodiment of all three—religion.”¹² Yet again, the founder of modern conservatism provides a crucial guide.

As long as we can retain the understanding of religion as a key pillar of social order, scrupulously protecting its place and prerogatives, a core element of liberty will be preserved. If we cannot, we risk losing the most important contributor to a decent, civilized society and citizens.

ENDNOTES

1. James McClellan, *Our Conservative Constitution* 4 Benchmark 361, 364 (1987).
2. Id.
3. John Adams, *The Works of John Adams, Second President of the United States* 168 (Charles Francis Adams ed.,

Little, Brown & Co. 1854) (“Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”)

4. Alexis de Tocqueville, *Democracy in America* 280 (translated by Harvey C. Mansfield & Delba Winthrop, 2000).
5. Irving Babbitt, *Democracy and Leadership* 95 (1924).
6. Maggie Gallagher, “Banned in Boston,” *Weekly Standard* 20 (May 15, 2006).
7. *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000).
8. *Utah Gospel Mission v. Salt Lake City Corp.*, 425 F.3d 1249 (10th Cir. 2005).
9. E.M. Forster, *A Passage to India* 42 (1924, 1992).
10. *Westbrook v. Penley*, 2007 WL 1861168 (Tex. 2007).
11. Bruce Frohnen, *Virtue and the Promise of Conservatism* 48 (1993).
12. Ibid. at 63.

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