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IS RELIGION SPECIAL?
A QUESTION ON THE POSSIBILITY OF
SINGLING OUT RELIGION

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Is Religion Special?

A Question on the Possibility of Singling Out Religion

Domenico Melidoro

In the Preface to *Democratic Authority and the Separation of Church and State*,¹ Robert Audi maintains that this is “a short, highly readable book that both extends and refines the ideas developed in [his] earlier work” (p. vii)². Ethics, religion, politics, and the ways in which they interact and coexist within a liberal democratic framework are the issues the author debates in this work. In this commentary, far from giving an overall critical evaluation of the book, I will deal with a foundational issue that, in my opinion, is not satisfactorily addressed. The main questions I shall address are these: is religion somehow *special*? Can we single out religion and distinguish it from other moral, cultural, and political commitments? Does religion have some features that differentiate religious faith and beliefs from the emotional bond someone has for her favorite soccer

¹ Robert Audi, *Democratic Authority and the Separation of Church and State* (New York: Oxford University Press, 2011). Unless otherwise specified, parenthetical references refer to this text.

² *Religious Commitment and Secular Reasons* (Cambridge: Cambridge University Press, 2000) is the main earlier work in which Audi’s reflections on ethics, religion, and politics are systematically exposed.

team or from less trivial attachments? The answers to these questions have considerable practical and theoretical implications in liberal institutions. That is why plausible answers are due. In fact, if religion is *special* in some way, it deserves a special treatment from the state and should be respected in a distinct way. On the contrary, if we cannot single out religion from other deep or identity-related human commitments, it does not raise distinctive issues and we can handle it the same way we handle similar commitments. Further, as it will be clearer hereinafter, the answers to the questions listed above have direct implications on the general understanding of secularism.

As the following pages will try to show, Audi's answer to the question on the possibility of singling out religion is unclear and suffers from some weaknesses. I proceed as follows. In § I, I give a summary of two possible answers to the enquiry on the distinctive character of religion: the first denies whereas the second asserts the special nature of religion. The two positions will be rendered with reference to the current debate in political philosophy. In § II, I give an account of Audi's answer and try to show that it somehow oscillates between the two positions represented in § I, and that, in any case, the reasons supporting the alleged special character of religion are inadequate.

I

Cécile Laborde has put forward a clear account of the thesis according to which religion is not special.³ The position—that she calls *egalitarian theory of religious freedom*—has three premises. The first concerns the nature of religious freedom, the second is related to the possibility of exemption from general laws, and the last concerns the equal status of all citizens. Let us spend some more time analyzing each premise.

The first and the most relevant premise states that religious freedom does not deserve a distinct treatment because of its status. It is only a subcategory of more fundamental and general entitlements such as freedom of association, privacy, and free speech. For the advocates of the egalitarian theory of religious freedom, religion can matter to people for the depth characterizing religious commitments, but it is not uniquely distinctive. Conscience—understood as the human faculty for distinguishing the good from the bad or as the source of moral agency—is the supreme object of concern and respect. From this perspective, respect for the claims of conscience, whatever their content, is only derivative.

According to the second premise of the egalitarian theory, some exemptions from universally applicable laws are allowed, but are not granted due to the religious nature of a belief. Rather, the state has to equally respect all citizens and try to exempt them from general laws when their conscience suffers from unfair burdens imposed by such a belief. The exemptions should be admitted both in

³ Cécile Laborde, “Equal Liberty, Non-Establishment and Religious Freedom,” *Journal of Legal Theory*, forthcoming.

cases in which consciences are religiously oriented, and when they have a secular content.

The third and last premise maintains that the state has to acknowledge the equal civic status of citizens, has to be neutral towards its citizens, and (within certain limits) should not discriminate on the grounds of their choices, values, and lifestyles. This premise has immediate implications on some controversial issues in public policy. For instance, when financial public support is at stake, a religious group organizing activities of public interest should neither be penalized nor favored compared to another secular group.

Taking a stance that denies the possibility of singling out religion is significant because it has direct implications for the way secularism might be understood and accounted for. The egalitarian view just outlined paves the way for a broader notion of secularism. Religious diversity being nothing more than a dimension of normative diversity, the debate on secularism should be included in the broader discussion on how the state deals overall with diversity. In other words, as Charles Taylor has recently pointed out, secularism “has to do with the (correct) response of the democratic state to diversity”⁴ rather than, in a narrow sense, only with the relation between state and religion.

The position worked out by theorists such as Laborde is strongly objected, generally from a religiously oriented perspective, by those who want to stress that religion is a distinctive phenomenon and that, precisely for this reason,

⁴ Charles Taylor, “Why We Need a Radical Redefinition of Secularism”, in E. Mendieta e J. VanAntwerpen (edited by), *The Power of Religion in the Public Sphere* (New York: Columbia University Press, 2011), p. 36.

it raises special moral, political, and constitutional issues that have to be dealt with in special ways. From this point of view, religious freedom cannot be reduced to some higher ethical norms. Further, a religious belief is a *sui generis* belief, and its depth or capacity to structure personal identity fade into the background in comparison with its religious and transcendental nature. But what exactly makes religion so special? The answer is not easy, considering that metaphysical, moral, and psychological aspects are intertwined in any definition that holds religion special. I think that is worth to quote at length the following passage from a paper by Michael W. McConnell:

Religion is a special phenomenon, in part, because it plays such a wide variety of roles in human life: it is an institution, but it is more than that; it is an ideology or worldview, but it is more than that; it is a set of personal loyalties and locus of community, akin to family ties, but it is more than that; it is an aspect of identity, but it is more than that; it provides answers to questions of ultimate reality, and offers a connection to the transcendent; but it is more than that. Religion cannot be reduced to a subset of any larger category. In any particular context, religion may appear to be analogous to some other aspect of human activity - to another institution, worldview, personal loyalty, basis of personal identity, or answer to ultimate and transcendent questions. However, there is no other human phenomenon that combines all of these aspects; if there were such a concept, it would probably be viewed as a religion.⁵

McConnell's position stresses the multifaceted nature and uniqueness of religion. Another view, more complex because of its strong metaphysical assumptions, is offered by John Finnis. According to Finnis, religion is "the practical expression of, or response to, truths about human

⁵ Michael W. McConnell, "The Problem of Singling Out Religion," *De Paul Law Review*, 50 (2000): 1-47, p. 42.

society, about the persons who are a political community's members, and about the world in which any such community must take its place and find its ways and means."⁶ Thus, religion concerns fundamental truths about society, persons, and the world. It is neither an irrational phenomenon nor a matter of deep commitments. In Finnis' conception, all those theorists who object to these views are actually looking at religion from an external and belittling perspective.

Finnis and McConnell, of course, are not the only theorists in favor of the special nature of religion. There are other positions. For instance, some theorists focus on the fact that religion is particularly conducive to civil strife and that it deserves special consideration for prudential reasons. Others stress the special link between religion and the promotion of morality in society. Others again rely on the distinctive intensity and strength of religious commitment. Some others point at the unique role of religion in the process of identity construction, or the transcendent authority and extra-mundane obligations, which distinguish religions from other forms of association.⁷

The debate on the uniqueness of religion, as these remarks glimpse, is complex and these few pages do not aim at providing a comprehensive and exhaustive overview. Also, this is not the place for adjudicating among opposing understandings of religion. Presenting these two opposite views is only a preliminary step in the direction to better

⁶ John Finnis, "Does Free Exercise of Religion Deserve Constitutional Mention?" *The American Journal of Jurisprudence*, 54 (2009), p. 56.

⁷ For an updated and well reasoned discussion, see Gemma Cornelissen, "Belief-Based Exemptions: Are Religious Beliefs Special?" *Ratio Juris*, 25 (2012): 85-109.

appreciate and critically engage with Audi's position on the uniqueness of religion.

II

Audi's views on the possibility of singling out religion come out in the pages he devotes to the liberty principle and religious freedom. He writes that “there are historical reasons for special attention to religion in political philosophy. One is the enormous power that religions—and sometimes clergy as individuals—have had over the faithful” (p. 42). Religions threaten eternal damnation if people disrespect some rules. At the same time, religions reward people with heaven or some kind of eternal life if they are pious and virtuous. These are the main reasons behind religions' enormous motivating power. In fact, due to religious motivations or pushed by bloodthirsty religious leaders, people can kill or die.

The second reason pertains to the depth of religious commitments and beliefs and to the ways in which they relate to personal identity. Audi talks about *protection of identity principle*: “the deeper a set of commitments is in a person, and the closer it comes to determining that person's sense of identity, the stronger the case for protecting the expression of those commitments tends to be” (p. 42). Audi specifies that this principle is not biased against non-religious commitments. In fact, secular as well religious commitments can have a fundamental role in shaping personal identities. However, Audi contends, “few if any non-religious kinds of commitments combine the depth and contribution to the sense of identity that go with

many (though not all) of the kinds of religious commitments” (p. 42-43).

Thus, it would seem that Audi belongs to the group of those, like McConnel and Finnis, claiming that religion is somehow special. The two reasons Audi mentions distinguish religion from other human phenomena. Thus, if this holds, religious beliefs and commitments deserve special protection because of their unique nature. However, at the same time, the non-discrimination against secular commitments seems to push Audi towards the position of those according to which religion is not special. If secular commitments can be equivalent to religious ones in shaping personal identity, there is no reason at all for deeming religion special. Rather than the intrinsic nature of a belief, what does matter is its intensity, its depth, and how it weighs against the overall constitution of a person’s identity. As far as intensity and depth are concerned, religious and secular commitments are perfectly analogous. However—and here a further complication enters the scene—it is difficult to find a non-religious commitment that is able to play the role of a religious one.

So, one might ask, does Audi fall in the group of those distinguishing religion from other phenomena, or is he closer to what Laborde would label egalitarian theorists of religious freedom? I argue that Audi’s belonging to the first group is objectionable because his arguments in support of the uniqueness are weak. In fact, “the enormous power that religions—and sometimes clergy as individuals—have had over the faithful” (p. 42) hardly is something that distinguishes religion from other forces shaping human conduct. Ethnic belonging, and history is full of tragic examples, can have the same force in convincing people to

kill other people or even to die in order to protect their ethnic group. The argument about the role of religion in shaping identity is weak as well. As Cornelissen argues, “not every intensely felt belief is religious. A person may intensely object to serving in the army because of a deeply felt but non-religious moral belief that war is wrong, or indeed, because of an enduring abhorrence for physical exercise.”⁸

Is this enough for including Audi in the group of the egalitarian theorists of religious freedom? As I said a few lines back, the non-discrimination against secular commitments and the acknowledgment that non-religious beliefs can have an equivalent role to that of religious ones, would seem to move Audi towards the group of those who deny any special status to religion. However, the scope of this claim is strongly debunked a few lines later, where Audi remarks that religious commitments are somehow unique: “few if any non-religious kinds of commitments combine the depth and contribution to the sense of identity that go with many (though not all) of the kinds of religious commitments” (pp. 42-43).

As one might see now, Audi’s stance on the uniqueness of religion is neither clear nor well argued. Perhaps Audi could reply that there is no need to choose between the position asserting the special nature of religion and the one denying its uniqueness.⁹ In other words, given that the first view does not categorically rule out the second, Audi does

⁸ Gemma Cornelissen, “Belief-Based Exemptions: Are Religious Beliefs Special?,” cit., p. 90. See also Sonu Bedi, “What is so Special About Religion? The Dilemma of Religious Exemptions,” *Journal of Political Philosophy*, 15 (2007): 235-249.

⁹ Michele Bocchiola pushed me to consider this possible reply.

not need to choose either alternative, as maintained in the previous section. Were this reply plausible, it then would be possible to combine the best of each position. On this perspective, Audi, although not explicitly, might be trying to vindicate a *third way*. But, I wonder, is this argumentative strategy workable? Can religion be at the same time special and not special? A positive answer to this question would imply that religion deserves and does not deserve a special treatment and a special concern from the state at the same time. Could Audi explain away this apparent contradiction? And, if there were such a third way, what could its practical implications possibly be, for instance, for public policies or constitutional practice? Considering the oddity of this *third way* and the consequences resulting from its acceptance, the burden of the proof falls on those defending it.

III

As these last remarks show, the discussion can become more and more complex. Greater clarity and effort on a major foundational issue such as the special character of religion would have contributed to strengthen Audi's new fundamental contribution to the philosophical debate on ethics, religion, and politics. And I hope Audi could address this issue, helping us to better understand his take on the way a liberal state should treat religions.

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If you need to cite this article, please use the following format:

Melidoro, Domenico, “*Is Religion Special? A question on the Possibility of Singling Out Religion,*” *Philosophy and Public Issues (New Series)*, Vol. 3, No. 2 (2013), 27-36, edited by S. Maffettone, G. Pellegrino and M. Bocchiola