

2 Embodied Religion and Liberal Society: the Obstacle of De Facto Established Religion

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Attempts to determine the proper place of religion in liberal society have played an important role in most of the significant political-philosophical theories of the later twentieth century. Strangely, in the midst of the debate there is little critical effort spent assessing the definition of religion. Usually, the primary topic of discussion is the relative robustness of the concept and ethic of liberalism. Inevitably, however, inasmuch as the concept of liberalism is defined, in part, by its relation to religion, the lack of adequate attention to the definition of religion obscures the discussion of liberalism itself. Today, I will argue (1) that a representative sample from debates on liberalism and religion reveal that participants have embraced a reductive definition of religion, and (2) that embracing a more adequate definition of religion entails embracing a more robust conception of the ethics of liberalism than has usually been assumed in contemporary debate. In the first part of the paper I will review the work of Robert Audi and Nicholas Wolterstorff on religion in liberal society, in the second part I will attempt to ferret out a definition of religion from the hints they provide, in the third part I will summarize contemporary criticisms of this conception of religion, in the conclusion I will explore the implications if one accepts a revised definition of religion in liberal society

I

Audi and Wolterstorff on Liberalism

For the purposes of today's presentation, Robert Audi and Nicholas Wolterstorff will serve as the representatives of the contemporary debate on religion in liberal society. I choose these representatives because while they represent different poles in the contemporary debate, each manifests the problem I wish to highlight.

Audi's argument begins with a morally substantive conception of liberalism. Liberal societies, he posits, are devoted to religious liberty. In large part to support the range of religious liberty, he proposes three principles to guide the activity of government in relation to religion. First, "the libertarian principle" which protects the freedom of religious expression. Second, "the equalitarian principle" which requires that a state ought not favor any particular religion. Official preference for a religion, Audi claims, will tend to lead to empowerment of that religion *visa vie* alternate religions, and as such, will curtail religious liberty. "Moreover," Audi writes "where a state establishes or prefers a given religion, we may anticipate (though it is perhaps not inevitable) that certain laws will significantly reflect the world view associated with that religion" (6).¹ Finally, Audi finds that liberal governments are also bound by a "neutrality principle" which prevents them from favoring religion(s) *per se* over non-religions.

Having established these limits on governmental action in a liberal society, Audi now turns to the obligations of the liberal citizen. While citizens in a liberal society have the right to offer and act upon any reasons they want in public debate, Audi claims that the virtuous liberal citizen will observe a set of limitations on her or his public activity. This is because liberalism, on Audi's account, entails a certain kind of respect for others as rational beings. Given the assumption of rationality of the other, the liberal prefers persuasion to coercion in all matters. "Thus, when there must be coercion, liberal democracies try to justify it in terms of considerations – such as public safety – that any rational adult citizen will find persuasive and can identify with" (16). According to Audi, given that not all rational adults agree on religious premises, this rules out grounding coercive laws via religious reasons. Thus, he claims, the good

¹ In text citations are from Robert Audi and Nicholas Wolterstorff, *Religion in the Public Square* (Lanham, MD: Rowman and Littlefield, 1997).

liberal citizen ought only support coercive policy if there is sufficiently motivating secular reason for her or him to do so.

Wolterstorff's position overlaps, but also significantly diverges from Audi's. While he significantly qualifies the equalitarian principle, Wolterstorff does affirm Audi's libertarian, equalitarian, and neutrality principle as proper limitations of Government action in a liberal society (149). The two diverge more radically on the question of whether the good liberal citizen ought to deploy and act upon religious reasons in the absence of sufficiently motivating secular reasons.

Wolterstorff's conception of liberalism also requires that citizens manifest respect for one another, but Wolterstorff is doubtful that such respect can be cashed out in terms of the deployment of secular reason. First, Wolterstorff doubts that there is any set of reasons (secular or religious) that are convincing to all rational adults within a liberal society. There just is no tradition and culture independent source for reasons. All reasons are "person relative." Second, on Wolterstorff's conception of liberalism, respect for others entails that we take these others seriously in all their particularity. Thus, it is a violation of liberalism itself to suggest that religious reasons cannot be sufficient motivators for support of public (even coercive) policy. Respect entails that I take you seriously, even if we ground our claims in different points of origin. The truly liberal society is one where there is no assumed common starting point.

II Audi and Wolterstorff on Religion

Given that the topic of debate between Audi and Wolterstorff concerns the place of religion in liberal public discourse, one might expect them at some point to define religion. After all, both have agreed that, whatever a liberal society is, it is bound not to establish or enforce

religion. If such is the case, it would be worth determining exactly what it is that the state should avoid enforcing. A robust discussion of the topic, however, is notably absent.

Neither Audi nor Wolterstorff is unaware that there are points at which it will not be clear whether some reason or practice is religious. Audi notes that one of the problems with government support for “religion” (in violation of the neutrality principle) would be that the government would be empowered to define religion, and thus would be able to influence different groups to shape their organization and practice to correlate with the official definition (8). He also notes that there may be “considerable difficulty in determining whether a reason one has for doing or believing something is secular” (48). As he notes: “A religious consideration viewed from inside a religious tradition to which one belongs, need have no theological identifying marks and easily seems to be second nature (or perhaps a dictate of purely natural law)” (48). To correct for misperception, Audi suggests that one appeal to clear cases of distinction between religious and secular reasons and to “outsiders” for guidance. Wolterstorff too recognizes that defining religion can be problematic. As he notes, amongst liberals “there is, as one would expect, considerable divergence among the members of the family as to how religious reasons are to be identified, with the consequence that a reason that is disallowed as religious on one proposal is permitted as non-religious on another” (75).

Still, neither of the two directly take up the problem of defining religion. This would not, I believe, be a problem if the concept of religion were a point of little debate. But such is not the case. Indeed, as I shall review below, a broad number of scholars have suggested that the assumed conception of religion in the West is deeply flawed.

Before continuing on to that point, however, it is worthwhile stopping to investigate what Audi and Wolterstorff treat as religion. Exploring examples of religion they take to be clear, we can say something more about what they take religion to be.

What we find in Wolterstorff's writing is extremely sparse as concerns paradigmatic examples of religion. An "established church," he writes, "is as incompatible with the idea of liberal democracy as anything could possibly be" (149). Further, he finds that it would be illiberal to require religious affiliation as a condition for voting rights (76). This suggests that religion is manifest in particular institutions, and that religion is the kind of thing with which one can be publicly affiliated. Such does not provide much to go on in formulating a definition of religion.

Wolterstorff is similarly hard to pin down on the definition of religious reasons. Unlike Audi, Wolterstorff has no interest in distinguishing some independent set of "secular reasons" and, indeed, is skeptical that it is possible on Audi's account to know whether one's reasons are properly secular or not. Most people, Wolterstorff posits, are not aware of the "path" by which they accepted particular claims. As such, they do not know whether or not, for instance, their belief that abortion is wrong was arrived at via their belief that God condemns the practice. This is to say, they are unable to determine whether their claims are religiously grounded or not. However, even given his reservations, Wolterstorff does seem to grant that it is, in principle, possible to distinguish between secular and religious sources for the grounding of principles. On this account, Kantianism, utilitarianism, and intuitionism appear to function as non-religious sources for knowledge of one's obligations. Here, Wolterstorff seems to accept Audi's definition of secular reason. (162-163).

Since Wolterstorff does not provide much in terms of a positive account of religion, and since he does not explicitly protest against Audi's comments in this direction, I shall assume that, where not explicitly contradicting, the two agree. As it turns out, Audi's comments help to fill out the picture in which we are interested.

A good place to start here is in Audi's discussion of obligation. Audi distinguishes between the *ground* and *content* of an obligation:

An obligation can have religious grounds without having religious content, such as theological or liturgical content. This is illustrated by the non-theological commandments among the Ten, for instance the prohibition of bearing false witness: here a principle with secular content is presented as based on religious grounds (11).

Below this quote, Audi identifies the obligation to contribute to charity and the obligation not to murder as other obligations whose content is not religious, while their grounding may be. At times, he seems to suppose that "moral principles" constitute non-religious content (13, 27). In contrast, he suggests that an obligation "to engage in certain rituals" does have religious content, and in the above quotation he notes that "theological or liturgical content" is paradigmatic of religious content. These comments suggest that religious content paradigmatically concerns ritual and religious belief.

For religious grounding, Audi cites five possible sources: scripture, non-scriptural authorities (esp. clergy), tradition, religious experience, and natural theology (10). Elsewhere he suggests what appear to be non-religious sources of obligation: the "duty of fidelity" (in keeping a promise), appeals to the security of society, and appeal to the pure natural law (13, 16, 27, 48). More broadly, again we find the language of morality as the alternative to religious, when Audi treats "moral reasons" as apparently non-religious grounding for obligations (13).

We may be able to go farther here both in elucidating the concept of "religious belief" and of religious grounding by looking at how Audi distinguishes "secular reason." As he writes:

I am taking a secular reason as roughly one whose normative force, i.e., its status as a *prima facie* justificatory element, does not evidentially depend on the existence of God (or on denying it) or on theological considerations, or on the pronouncements of a person or institution *qua* religious authority (26).

The clear implication of this definition is that a reason is religious if it is evidentially dependent on the existence of God, or on reasoning about God. Less helpful, due to circularity, is the last statement inasmuch as it defines secular reason in terms of an absence of dependence on the pronouncements of “religious authority.”

Given this, what can be said about Audi’s paradigmatic account of religion? Religion here is understood as opposed to “morality,” both in content and grounding. Religion is primarily about belief and ritual. Other concerns, while they may be grounded in religious reasons, are not religious in content. Reasons are clearly religious when they depend evidentially upon the existence of God or theological concerns (thus, again emphasizing the significance of belief in this conception of religion).

III The Problem of “Religion”

As I noted earlier, relying upon common intuitions about religion would be acceptable if it were the case that the concept of religion were relatively uncontested. As it happens, however, common conceptions of religion have come in for quite a wide range of criticism in contemporary scholarship, and most scholars who have investigated the question have found that the common intuitions of western audiences ought to be challenged rather than assumed. These arguments are especially important in the present context inasmuch as the concept of religion that comes in for critique parallels quite neatly the concept that I have drawn from the hints provided by Wolterstorff and Audi.

That “religion” is a problematic category should not surprise anyone who has had an introductory course in religion. There are fundamental conflicts between common intuitions

about, on the one hand, how we populate lists of world religions (e.g. Buddhism, Confucianism, Hinduism, Judaism, etc.), and the elements one expects to find in a religion (e.g. belief in the existence of God, hierarchical social structure, revealed scriptures, etc.). According to the critics of the concept of “religion” such intuitive conflicts are predictable given the origins of the concept.

According to the critique of “religion,” the concept of religion is a relatively recent invention. Further, the concept “religion” functions to distort the social, embodied reality it is meant to represent. The Latin term *religio* began as a name for the network of obligations that constituted social relations in the classic world. If the modern concept of religion continued in this vein it would make sense to locate religion as the way in which people live their whole lives in response to a vision of the world. In practice, however, the modern concept of religion ends up reducing this reality. Religion becomes identified narrowly with a set of rituals. Religion becomes narrowed to a set of beliefs. Religion becomes a private issue. Religion is reduced from being *a* culture to being, at most, *an aspect* of culture, or possibly just a personal opinion.

The development of the modern conception of religion reached its culmination in the works of John Locke, who deeply influenced the founding fathers and documents of the United States. Locke’s religion comes to exist in distinction from “nonreligious” issues such as “politics, economics, and other so called secular aspects of a culture.”² Unfortunately, in producing this notion of religion, Locke was not drawing on a broad study of global cultures. Rather, he was applying an image drawn from Western, especially Christian, especially Protestant, especially Lutheran, sources. Luther, in part in his effort to protect himself from the political threat represented by the joining of Papal and Imperial power, had advocated a radical

² Kevin Schilbrack, “Religions: Are There Any” *The Journal of the American Academy of Religion* 78.4 (2010), 1127.

reduction of ecclesial power, had construed Christianity as a matter of personal belief and relationship with God, and had construed ritual practice as beyond the proper sphere of control of temporal authorities.

This may have been a useful political strategy, but it is a poor source for an adequate definition of religion. Indeed, as most scholars today recognize, no religion has ever functioned in quite the way that Locke suggested. Historically “religion” was inseparable from culture more generally. Globally, it continues to be impossible to distinguish religion from morality, politics, economics, etc. Even in contemporary western society religions function not primarily as private systems of belief, but as subcultures. Religions are constituted by constellations of belief, practices, mores, etc.

Contemporary scholars who have focused on the definition of religion have tended to move in one of two directions at this point. Some decide that the category of religion is unhelpful, and ought to be abandoned. Others attempt to reformulate a definition of religion that might be able to take account of the criticisms that have been raised. Let us, for the purposes of argument at least, follow the latter group. What would a more adequate account of religion look like? One philosopher sympathetic to the project of renovating the concept of religion puts it thus:

Those who use the label ‘religion’ have to make it clear that a set of practices and beliefs may be a religion not only if it lacks a belief in God, a Bible, or a Sabbath, but also, more radically, even if it has not been articulated as a system, does not have a distinct community, makes dances more central to membership than creeds, and is inseparable from the public life of the culture.³

³ Kevin Schilbrack, “Religions: Are There Any?” 1130-1131.

IV Revisioning Liberalism

If this analysis of the concept of religion is correct, proposals such as Audi's and Wolterstorff's cannot stand. Audi's distinctions between religious and secular grounding and content collapse under the weight of an understanding of religion as a form of culture. The grounding of a claim seems to be religious, not due to its evidential dependence upon the existence of God, etc., but due to its place and function within a religious culture. The religious content of a claim cannot be established by assessing whether or not it directly concerns religious belief, ritual or religious institutions. Rather, the content must be assessed by whether or not it is distinctive to this particular form of culture.

Inevitably, such a shift in conceiving of religion leads to a shift in conceiving of liberalism. I will conclude by pointing out one area in which this shift has implications for conceiving of the ethics of liberalism: the establishment of religion.

Let us assume that Audi and Wolterstorff are right in supporting the "equalitarian principle," which prohibits the establishment and enforcement of religion in liberal society. What happens if the religion that liberal society is prohibited in establishing is something different from what Audi and Wolterstorff supposed?

So long as religion is conceived primarily as concerning beliefs about God, ritual practices and explicitly religious institutions, avoiding the establishment of religion is relatively easy to understand. A religion is established if the government requires religious confessions, forces participation in ritual practices, or somehow favors religious institutions or a religious institution.

If, however, religion is conceived as a culture or subculture the situation becomes more complicated. We cannot determine whether a particular law has "religious" content simply by

looking at whether it supports religious institutions or requires religious belief or participation in ritual. The question of establishment becomes one about whether a law enforces a particular culture.

Take, for instance, the question of Blue Laws in the United States. Blue Laws often required that businesses close on Sunday, or in less ambitious forms, required that alcohol not be sold on Sundays. In the United States, many Blue Laws have been allowed to stand under the argument that they serve a “secular purpose” (advocating rest for the health of the person), and do not enforce ritual practice, religious belief, etc. However, if religion is conceived in broader terms as a culture or subculture, it becomes clear that Blue Laws are a manifestation of a particular religious culture. This is especially the case when the Blue Laws in question regulate access to alcohol on Sundays, a concern typical of Protestant (as opposed to Roman Catholic) culture.

The revision of the definition of religion also has implications for the ethic of the liberal citizen. Support for Audi’s suggestion that the liberal citizen must have sufficiently motivating secular reasoning may be diminished if we understand religion as a culture. Since religion is not seen as so uniquely tied to belief, it is not clear that Audi’s requirement is properly framed. Indeed, in the light of the redefinition of religion, the focus of the debate between Wolterstorff and Audi seems misplaced. Respect for others in liberal society should not be expressed so much in terms of respect for reasons as in terms of respect for cultures as wholes.

If this is correct, the citizen of a liberal society does seem to have a kind of obligation arising from respect for other citizens that neither Audi nor Wolterstorff suggest. So as to avoid supporting the de facto establishment of religion, the good citizen should never support a policy

if that policy is not supported by citizens who represent other subcultures in the society. This is necessary in order to avoid a tyranny of the majority religion.

Imagine that there is a society in which 54% of the population is United Methodist, and where 46% is Roman Catholic. Imagine further that United Methodist culture strictly opposes the consumption of alcohol. (There need be no scriptural warrant for this, nor any magisterial pronouncement on the matter in order, on my account, to make it a religious requirement). Finally, imagine that Roman Catholic culture has no reservations about the consumption of alcohol. In this imagined context the good United Methodist Citizen of the liberal society ought, on my account, refrain from supporting laws banning alcohol from the society. To support such laws would be to support the establishment of United Methodist Culture for the society, and thus the establishment of religion.

V Conclusion

If my argument here is correct, there is much work to be done in revisiting classical arguments about religion in liberal society. I have only begun in my last section to lay out some of the implications that the re-evaluation of religion and the revisioning of liberalism would have. Indeed, it is not entirely clear to me what all of the implications of such a shift would be. I invite you to think with me on this subject, or to challenge the whole project now.