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EDITORIAL

The Freedom From Religion Foundation, by its very name, proposes for some Americans a controversial idea: religious freedom ought to include not just the freedom of individual worship that all who believe in religious liberty cheer for and the freedom from government's support of one religion over another, but also the right to be free from religious ideas and ideals and to live a secular life. This third freedom, too, is one of the central ideas of religious freedom.

These three values—the right of religious people to worship as each one sees fit, the duty of government not to support one religion over another, and the right of secular people not to worship at all—are central to religious freedom and central to the American model of community.

But, of course, these freedoms are in a three-sided tension. They are particularly in fiscal and symbolic tension with each other, even when practical tension can be diminished. A few examples suffice:

- Government frequently invokes God to support its social and political mission—from "in God we trust" on American coins to "one Nation under God" in the American Pledge of Allegiance to the Flag—seemingly making it difficult to be a "good citizen" and not a believer. This highlights the tensions between the second and third values.
- Government frequently enacts laws—maybe even neutral in appearance—that make observance of core tenants of any particular faith difficult or even impossible. From roads over Indian burial grounds to the absence of kosher food in prison, the community of the faithful who belong to a minority religion frequently feel that observance of their minority religion is intentionally made more difficult and complex. This highlights the tension between the first and second values.
- US society is filled with examples of private worship (sometimes even facilitated by government as an accommodation to individuals who wish to pray) that make it more difficult for people to comfortably exercise their right not to worship at all. From private prayer at a graduation or "the game" to prayer rooms at airports and other public places, we create a culture in which refusing to be part of a religious community is frowned on, highlighting the tension between the first and third values.

And yet, notwithstanding these obstacles, both freedom to worship and freedom from worship work fairly well in the United States. Indeed, for a Western democratic society with both a thriving religious and secular culture (rarer than it seems, if you think about it), the United States seems very well balanced in the area of religious freedom. We may be tempted to think that this balance is the special province of the US legal framework that combines robust protection of free exercise with a robust disestablishment regime. But is this view too narrow?

This issue of the *Journal of Law and Religion* is a rarity: each of the articles focuses on one aspect or another of religious freedom outside of the United States, by scholars based outside the United States.

"Napoleonic Freedom of Worship in Law and Art" by Israeli scholar Levi Cooper is virtually the first of its kind: it focuses on the relationship between law, religion, and art in the Napoleonic era. Artistic depictions of law and the relationship between law and religion are

understudied, and this article shows us the benefit such studies can provide. By focusing on artistic depictions of freedom of worship from two centuries ago, we get a bird's eye view of how the three-sided tension plays out in a different society and era.

In "Medical Referral for Abortion and Freedom of Conscience in Australian Law," Joanne Howe and Suzanne Le Mire at the University of Adelaide, Australia, focus on the difficulties another society has balancing the rights of people to reproductive freedom with the right of health care providers to decline to refer people for procedures that are contrary to their religious beliefs. This article allows us to closely look at a problem endemic to every society with religious and secular communities in it: when and how exemptions to secular law should be provided to the faithful.

Giovanni Maltese of the University of Heidelberg, Germany, focuses on a problem of religious freedom in the Philippines. His article, "Reproductive Politics and Populism: Pentecostal Religion and Hegemony in the Philippines," allows us to take a close look at the making of law in a society in which a dominant religion's entrenched political power is slowly being eroded in the face of religious diversification. The article highlights the dilemmas of a society with religious freedom but a weaker establishment clause jurisprudence.

Finally, "Varieties of Burden in Religious Accommodations" by Anna Su of the University of Toronto, Canada, most closely approaches the model with which American experts are comfortable. Comparing the United States Supreme Court, the European Court of Human Rights, and the Supreme Court of Canada, Su focuses on the burdens borne by religious individuals and societies when confronting statutory regulation that is unsympathetic to their religious orientation. In particular, the article highlights the delicate balance each society undergoes when it decides when and how religious communities ought to be treated by the legal system.

What the readers of the *Journal of Law and Religion* can see from these four articles is the value of competing approaches to religious freedom in diverse societies: one society (France in the Napoleonic era) was really a dictatorship, albeit one with progressive views of religious freedom. A second (Australia) is a common-law nation with robust abortion rights struggling to decide on a level of accommodation for religious dissenters in the arena of health law. A third society (Philippines) is overwhelmingly Catholic but guarantees religious accommodation through its constitution. Both Canada and Europe offer a window on how the difficulties of accommodation are understood in contemporary societies quite similar to our own but with very diverse models of religious accommodation and very different constitutional guarantees.

There is a narrowness undergirding the view of those in the United States who think that religious freedom can be protected only with a free exercise clause and a disestablishment clause. Sometimes we all assume that the way it is in our own society is the only way it can be. This issue helps remind us that this assumption is not correct.

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