

Religious Conscience and the Private Market

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Abstract

I argue for a general account of when an appeal to religious conscience removes a legal obligation to render a private market service. Recent cases in the state courts and legislative bodies evince the need for a specific account of the success conditions for religious conscience objections to private market services where these obligations arise from anti-discrimination clauses. I begin with some conceptual clarifications and then proceed to examine cases and argue for a general account. On the account I propose a religious conscience objection succeeds if and only if the act is a sacramental kind according to a specific religion and it is not common knowledge that the specific religion is false. On my view appeal to common knowledge is crucial for fairly balancing the competing rights of religious autonomy and anti-discrimination.

Consider the following case.

Orthodox Baker An evangelical goes to an orthodox Jewish bakery and asks for a cake on which is written in Hebrew ‘The LORD is great’. However, the evangelical wants the words ‘The LORD’ to be written using the divine name, which may not be written down according to orthodox Judaism. The orthodox baker kindly explains that this violates his religious tradition and suggests three other bakers who may provide such a cake.¹

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¹The modern Rabbinic code *Mishnah Berurah* states:

It is forbidden to read the glorious and terrible name as it is written, as the sages said “He that pronounces the name as it is written has no portion in the world to come.” Therefore it must be read as if it were written ‘Adonai’. (Mishnah Berurah 5:2)

Ought the orthodox baker be liable under law to violate his religious tradition? I take it as a datum that any adequate theory of the success conditions for appeal to religious conscience must capture the judgment that **Orthodox Baker** is a successful case of such appeal. That is, in **Orthodox Baker** the baker ought not be subject to legal compulsion to write the divine name.

My goal in this paper is to argue for a general view about when a subject's appeal to religious conscience successfully removes a legal obligation to engage in a private market transaction. My theory about a religious conscience objection is restricted to putative obligations to engage in private market transactions. I do not consider religious conscience objections to local, state, or national duties that citizens may have because duties of citizenship may trump some religious conscience objections. For instance, a religious conscience objection to pay taxes is different in kind from a conscience objection to rendering a private service because a conscience objector to taxes significantly benefits from the use of tax revenue whether or not he pays. There is no similar benefit, though, by opting out of a private market service. The legal compulsion to render private services has been the subject of recent public debate centering on Arizona's bill SB 1062. This paper is *not* a defense of SB 1062; rather it is a philosophical attempt to formulate necessary and sufficient conditions for removing a putative legal obligation to render a paid service in the private market.

I defend the view that appeal to religious conscience succeeds if and only if the act is a sacramental kind according to a specific religion and it is not common knowledge that the specific religion is false. This view will no doubt seem too permissive to some and not permissive enough to others. But we do well as a culture when we openly debate controversial issues on the basis of evidence and argument and with respect for those with whom we have profound disagreements.

My account applies to both the *provider* and *recipient* of the private market service. I will follow the standard practice, though, by focusing on the provider of the service. A religious conscience objection should be symmetrical with respect to buyers and sellers. It is a curiosity of the current debate that rights of buyers are held up over the rights of sellers. My understanding of the current law is that it permits a buyer to refuse a service for *any* reason. A buyer, for instance, may be racist and refuse to purchase any private market service from someone of a different race. If a seller is faced with a racist customer the seller has no legal recourse to force the customer to procure his services. Sellers, however, have been treated differently under law. They may not refuse to provide service for *any* reason. A primary reason for this asymmetry is the state's interest in enforceable anti-discrimination policies. The state cannot enforce an anti-discrimination policy that is symmetrical with respect to buyers and sellers. Practical issues of enforceability focus on attention on the buyers,

but from a philosophical perspective we should be attentive to the symmetry between buyers and sellers. If buyers have a pro tanto right to refuse to purchase a service that conflicts with conscience then, unless there are strong reasons for asymmetrical treatment under law, a seller has the right to refuse to provide service that conflicts with conscience.

1 Conceptual Clarifications

I begin by making some distinctions. The issue before us is the question of the conditions under which a religious conscience objection removes a legal compulsion to provide a private service. A *legal obligation* is distinct from a *moral obligation*. One is morally obligated to speak truthfully to one's friends. If one does not speak truthfully to a friend, one's friend can be rightly offended and rightly complain that you ought to have told the truth. However, it does not follow from the fact that one has a moral obligation to speak the truth to one's friend that one also has a legal obligation to do so. A legal compulsion concerns the state and if one has a legal compulsion then the state has the right to impose loss of freedom or property upon any who violate legal obligations. In view of the connection between a legal obligation and susceptibility to loss of freedom or property, it is dubious that every moral obligation should be enshrined in law. It is not the case that every moral failure ought to be met with a loss of freedom or property.

Just as moral obligations do not imply legal obligations, so too *epistemic obligations* do not imply legal obligations. We have an epistemic obligation to believe in accord with our evidence. Sometimes we cannot help but believe something contrary to our evidence. One's evidence overwhelmingly indicates that flat earthism is false. Given all one has to go on, one should reject the view that the earth is flat. Yet suppose one believes that the earth is flat in spite of all the evidence. It does not follow that the one ought to be subject to legal liability for a failure to respect one's evidence. Being legally in the clear is compatible with being stupid, unreasonable, and ignorant.²

The distinction between, on the one hand, *legal compulsion*, and, on the other hand, *moral* and *epistemic compulsion* is important. The view of the religious conscience objection I defend is compatible with the religious conscience objector being held to account both morally and epistemically. That is to say, we may think that the religious conscience objector cannot sensibly take himself to be under an obligation

²This compatibility claim is true even if in some cases the law imposes penalties for some epistemic negligence. For example, a captain should know whether his ship is seaworthy.

not to perform some act because his reasoning is based on a false or unreasonable premise, or the religious conscience objector suffers a moral failing. In **Orthodox Baker** the baker takes himself to be religiously obligated not to write the divine name because his religious tradition explicitly forbids it. But such a justification may assume that there is some such divine being, and we may think that such a justification is unreasonable since it implies that there is such a being and that no reasonable person can believe that there is a morally perfect being after the horrors of Auschwitz. Even so, in view of the immense value of autonomy, respect for autonomy requires that we do not impose loss of freedom or property because of an intellectual disagreement. Respect for autonomy does not require that the person is morally or intellectually in the clear. If the orthodox baker is making interpersonal decisions on the basis of a firm belief in the God of Abraham, Isaac, and Jacob then the atheist can hold the orthodox baker to account both morally and epistemically for how the existence of such a being is compatible with the horrors of Auschwitz. But the state ought not take away the baker's business because of this putative moral and epistemic failing.

This leads to the final conceptual clarification. Respect for autonomy requires that the success conditions for the religious conscience objection not include a particular *hermeneutical* position regarding some sacred text. Suppose the orthodox baker derives his religious objection from a particular interpretative principle regarding the Hebrew Scriptures. And suppose a significant group of people opt for a different interpretative principle. Ought the state enshrine in law one interpretive principle of a sacred text over another? No. The state should allow, as much as possible, differences between hermeneutical views about how to understand some sacred text. Below I propose a limitation on when the state may discount some religious tradition. In general, though, the question of legal liability does not concern questions about the meaning of some religious text. This issue is of particular importance with respect to the debates within religious groups over the ethics of same-sex marriage. That debate is important but it concerns moral, epistemic, and interpretative issues. It is not relevant for determining the issue of legal compulsion. Similarly, discussions over the ethics of love are not relevant for determining legal obligation. Respect for autonomy requires that the state allows for as much latitude of legal freedom as possible given the other interest of the state. The general view I argue for is compatible with the successful religious conscience objector failing moral and epistemic norms.

2 Additional Cases

Orthodox Baker teaches us that there are legitimate religious conscience objections to providing a private market service. In **Orthodox Baker** the baker is within his legal rights to deny service for a request that violates his religious tradition. Consequently, any law that would hold the orthodox baker legally liable for refusing service is unjust.

Consider a different case.

Catholic Photographer A Catholic photographer receives a service request from a non-baptized couple to photograph their wedding ceremony. The Catholic photographer explains that she can do individual photographs but cannot in good conscience photograph the wedding. She explains that she believes that marriage is a sacramental act between two baptized individuals and she will only photograph a wedding that occurs within the confines of canon law within the Catholic Church. She suggests the names of three other photographers in the area who may provide an equally good service for this couple.

Ought the Catholic photographer be held legally liable for refusal of service? One difference between this case and **Orthodox Baker** is that the Orthodox baker can point to an explicit document in his religious tradition that forbids writing the divine name (see footnote 1 above). To my knowledge there is no explicit prohibition within Catholicism against photographing the wedding ceremonies among the non-baptized. The Catholic photographer in this case has made up her own mind that because of the sacramental nature of marriage she cannot in good faith photograph weddings between the non-baptized. In defense of her policy she points to *Codex Iuris Canonici* 1055 which reads:

The matrimonial covenant, by which a man and woman establish between themselves a partnership of the whole of life, is by its nature ordered toward the good of the spouses and the procreation and education of offspring; this covenant between baptized persons has been raised by Christ the Lord to the dignity of a sacrament.

Catholic photographer takes herself to be under a religious obligation with respect to weddings because of the sacramental nature of the union between husband and wife.

Does the difference between explicit, written prohibitions in **Orthodox Baker** and **Catholic Photographer** justify the state in holding the Catholic photographer

legally liable but not the Orthodox baker? I don't see that it does. Both cases concern a sacred act: either writing the divine name or participating in a marriage ceremony. The state should, within the confines laid down in the next section, allow for as much person freedom in the domain of the sacred as possible. The state, thus, should not compel the Catholic photographer to photograph a ceremony she has freely decided to not participate in. This is compatible with holding the Catholic photographer to account both morally and epistemically for her decision.

One objection to **Catholic Photographer** is that she is not *participating* in the marriage ceremony; rather she is a paid service provider. So, even though, her religious scruples may lead her to strongly object to a union between non-baptized individuals, since she is neither the wedding officiant or any other formal participant she has recourse to refuse to provide her services.

This objection is completely misguided. Participation conditions are influenced by the morality of the act. Suppose a photographer is asked to photograph a fraternity hazing ritual in which the pledges are forced to consume enough alcohol to kill a normal person and then are subjected to demeaning acts. It would be a poor defense of innocence for the photography to claim that she wasn't participating in the ceremony. In fact, if she did nothing to prevent this wrong we rightly hold her to account.

There is a general argument for a religious conscience objection in connection with freedom of speech.³ An open society legally permits people to assert claims that they may be morally or epistemically to blame for. An open society allows that legal permission is wider than moral and epistemic permission. A person may assert that the earth is flat or defend the permissibility of torture. Such a person is intellectually and morally accountable for her acts, but, insofar as she makes assertions in the private sector the state lacks a compelling interest in holding her legally accountable. Similarly, a person has a right to devote her time and energies as she sees fit in the private market in accord with law. A person may take up the hobby of photography and, after a while, expand into a business. Suppose her interest lies in photographing Catholic wedding ceremonies. If she is requested to photograph a birthday party she is within her legal rights to refuse. It is an unjust intrusion on private liberty to hold the photographer legally liable to expand her private business services in ways she does not desire to do so.⁴

We have before us two cases in which the state ought not hold a person legally

³I am indebted to Alex Pruss for the observations in this paragraph.

⁴This constraint on the state's proper authority is compatible with requirements arising from the tax code. E.g., if the photographer expands her business the state has the proper authority to hold her legally accountable to provide (e.g.,) proper working conditions for her employees.

liable to perform a private market service. Let us consider a third case that pushes in the opposing direction.

Baptist Baker A Baptist baker puts a sign in his bakery window that reads ‘no service for Catholics’. A priest enters the shop and orders a cake. The Baptist baker kindly explains that he has serious theological disagreements with Catholic theology and has decided that he will not serve any baked goods to Catholics. He suggests that there are three other bakeries in town that will offer baked goods to Catholics.

Is the Baptist baker legally liable for failure to provide service? My natural judgment is that Baptist baker ought to be legally liable for failure to provide service. There is no sacred act in the offing that he may center his objection around. Baking bread is not a sacramental act. His objection is to providing service to Catholics. His grounds for objecting have nothing to do with the act that he is asked to perform. Rather his objection is that he would be providing a service for someone with whom he has a profound disagreement. The act itself has no religious significance. This can be seen in that he would perform the same act—bake the cake—were he asked by a different person or by a priest in disguise.⁵

Baptist Baker highlights a case in which the state’s interest in anti-discrimination policies can undermine some religious conscience objections. While it is likely that Baptist baker will go out of business for making such a prohibitive policy, the state does have an interest in protecting the rights of minorities in the private market. Minorities can be harmed by persistent service denials in a private market and the state acts justly to prevent such policies. Yet the state also has a right to protect the free speech and religious autonomy of its citizens, especially those in the minority. My position on the religious conscience objection, developed in the proceeding section, balances these interests. In **Baptist Baker** the objected act is not a sacramental kind.

The role of the sacramental kinds is important for understanding the difference between **Orthodox Baker** and **Catholic Photographer** on the one hand and **Baptist Baker** on the other hand. In the first two cases, the service request is to perform or participate in an event that concerns a sacramental kind. In **Orthodox Baker** the sacramental kind is writing the divine name, which according Orthodox Judaism is deeply religiously significant. In **Catholic Photographer** the objection concerns the sacramental kind *marriage*. We may still think that the Catholic

⁵There are tricky issues with act individuation here. I assume that just as there are natural kinds and social kinds, there are sacramental kinds. I develop a theory of sacramental kinds in another paper.

photographer's appeal to the sacramental nature of marriage is epistemically irrational, but insofar as she is moved by religious conscience objections she should not be legally accountable for a refusal to participate. In **Baptist Baker**, though, there is no relevant sacramental kind. Baking a cake is not a sacramental kind according to Christian theology.

Let us consider a final case.

Seminole Sign Company A public debate rages over a sacred Seminole burial ground. One group of people want the land to be publicly protected and another group wants the land to be zoned for a shopping mall. There is one company in the area that makes signs and it is owned by a Seminole family. They receive a service request to create a large sign touting the virtues of a shopping mall. They deny this request.

Ought the Seminole sign company be held legally accountable to provide service in this case? My judgment is that they ought not be held legally accountable. In virtue of the religious significance of the burial ground, they are well within their rights to denial this service request even though it effectively diminishes the presence of the opposing proposal for the burial ground. The sign company has a right to decide the content of the signs they print. Some acts in the private market infringe on the religious convictions of others. These individuals ought not be held legally to account for opting out of a private market service. The owners of the Seminole sign company would be contributing to the defilement of sacred grounds.

3 An account

In the following I offer an account of when a religious conscience objection succeeds. From the previous section we learned that the religious conscience objection must be focused on a sacrament act. On my view it is crucial that the conscience objector is able to specify a sacramental kind that her action would infringe upon.

Let us start with the following account.

Sacred kind conscience objections An act falls under the religious conscience objection if and only if the act is of a sacramental kind according to a specific religion.

It's compatible with this account that there are many acts that satisfy the conditions but are, in fact, never objected to.

My account requires that the objection is to a type of *sacred* act. A sacred act is one that essentially requires religious terminology to describe. This condition rules out religious acts that are based on bad science. A conscience objection that, for example, proceeded on the claim that the earth was flat does not fall under this account since the specification does not use religious terminology. Moreover, the sacred act cannot mention particular people either by proper name (e.g., ‘John Doe’) or by demonstrative reference (e.g., ‘that guy’).⁶

This account is supported by inference to the best explanation from the relevant cases. It yields the correct verdicts in the cases under consideration. In each case the objected act concerns a sacramental kind. In **Orthodox Baker** the baker reasons that on account of the upmost sacredness of the divine name, I will never speak or write it. In **Catholic Photographer** the conscience objection may be formulated thusly: because of the sacramental nature of matrimony I will not participate in any wedding ceremony among non-baptized individuals. In **Seminole Sign Company** the conscience objection is that: because of the sacredness of this burial ground I will not print any sign advertising for it to be destroyed.

Baptist Baker is a probative case to think about for my account. Above I registered my judgement that in this case Baptist baker should be held legally liable to failure to provide service. This judgement was based on the ground that the general act of baking a cake is not a sacramental kind. But suppose Baptist Baker claims that baking a cake is a sacramental kind. What should we say to this response? Is the state in any position to discount the baker’s new justification? This is a crucial question because the state’s interest in anti-discrimination will, no doubt, conflict with some religious conscience objections. The state has an interest in formal justifications as much as possible. Is there a way forward, a way that preserves the core of religious conscience objections and yet gives the state legitimate grounds to dismiss certain religious conscience objections so that it may ensure anti-discrimination policies? I think there is.

The way forward is to acknowledge a legal role for *common knowledge*.⁷ Common knowledge is distinct from common opinion along several dimensions: it requires truth and evidence. A false opinion widely shared or a natural but groundless belief cannot be common knowledge. In the past it was common opinion that the planets

⁶There is a more general condition against mentioning particular people in the offing. The sacred act cannot be gerrymandered to pick up a particular person. Arguably, there’s some convoluted general description that uniquely picks up any particular person. The condition against mentioning particular people rules this out. An adequate discussion of this takes us far into issues in the philosophy of language and philosophy of science concerning natural kinds.

⁷See (Lewis 1969) for an analysis of common knowledge.

orbited the earth, but at that time, even though, it was commonly thought to be right it was not common knowledge.

Common knowledge is a special kind of knowledge in that it is universally shared by all participants. It is common knowledge that in America one drives on the right hand side of the street. This is true; there are adequate grounds for it, and it is believed. Moreover, it is not just that one person or a small group of people know this; *everyone* knows this. Furthermore, it is not simply known but everyone knows that everyone knows it.

Common knowledge is important for social life because it provides the basis for coordinating shared action. This feature of common knowledge is compatible with the fact that there are some people who, at some times, do not know to drive on the right side of the road. Young children and the drunk fail to know this. This shows that common knowledge is compatible with small pockets of failed knowledge, if the failed knowledge is easily correctable. Common knowledge is much stronger than a judgment about popular opinion or popular knowledge. Common knowledge functions as both a description—everyone knows and knows that they know, and regulative ideal: the small pockets of failed knowledge must be corrected. To the extent that there are enduring small pockets of failed knowledge this pushes back against the putative common knowledge being the genuine article.

The state may appeal to common knowledge to discount some religious conscience objections. If it is common knowledge that the conscience objector reasons from a false premise *and* allowing the objection to go through would undermine the state's anti-discrimination policies then the state may deny the conscience objector.

In support of this consider the case of the numerologist grocer.

Numerologist Grocer A numerologist grocer is an adherent of the religion of 3. This religion is rooted in Pythagorean mysticism. The number 3 is held up as an ideal number, being the first odd prime. Among other requirements, the religion of 3 holds that every third business opportunity is sacred and ought not be entered into because of the pristine nature of thirds. A person goes to the numerologist grocer to buy his week's food. Numerologist grocer denies this customer service, explaining that the religion of 3 requires that he cannot enter into this business transition.

In this case there is a religious tradition that specifies a sacred act and it is the basis of a religious conscience objection. But the religious tradition applied is known to be false. The religion of 3 is such that everyone knows that is false, everyone knows that everyone knows it is false, and so on. Because it is common knowledge

that the religion of 3 is false, the state may rule out conscience objections based on such appeals when it conflicts with reasonable anti-discrimination laws.

To capture the role of common knowledge in religious conscience objections we must add that the religious tradition applied to is such that it is not common knowledge that it is false. The appeal to common knowledge for the purpose of law is important for balancing the dual goals of religious autonomy and anti-discrimination. The state ought not discriminate unfairly against minority groups and yet this should reflect epistemic disagreements within communities.

The role of common knowledge in the law and especially with respect to religious conscience objections raise a number of important questions that are beyond the scope of this paper. One issue is how the state ought to codify common knowledge. Common knowledge changes over time, but a defeasible guide to common knowledge in the realm of religion is what counts as a contemporary religious tradition. Catholicism is certainly a contemporary religious traditions and so policies that explicitly suppose the Catholic tradition is false ought to force a person to engage in a practice market practice. Is Scientology a contemporary religious tradition? The answer is not clear cut, but I suppose that to the extent it requires claims that are known to be false—E.g., Xenu, the leader of the Galactic Federation, sent billions of people to earth 75 million years ago—then it does not meet the condition of a live religious tradition. But if it some religious traditions are not commonly known to be false, it may be that a person invoking such a tradition can be held intellectually and morally to account.

This gives us the following account.

Sacred kind conscience objections' An act falls under the religious conscience objection if and only if the act is of a sacramental kind according to a specific religion and that religion is not such that it is common knowledge that it is false.

More colloquially, the idea is that an act falls under the religious conscience objection if and only if the act is of a sacramental kind according to live religious tradition. The notion of a 'live religious tradition' is one that is not known to be false.

4 Objection: Religious conscience permits a segregated private market

An important objection to religious conscience objections is that it undermines the state's interest in anti-discrimination laws. In particular, the objection is that my account would permit a segregated private market. Is this a good objection? It bears observing the obvious. The private market is already segregated on the basis of religious practices. One does not go to a Halal deli and ask for pork. One does not go to a Christian bookstore and ask for a copy of *The God Delusion*. The state does have an interest that the private market is subject to law: weights and measures must conform to universal standards, theft and dishonest representation and so on are legally punishable. The objection that religious conscience allows for a segregated private market may be giving a positive spin: private business can grow around different religious communities.

My defense of a religious conscience objection is formed within the background of a firm commitment to a basic liberty principle. John Rawls states the principle thusly: "each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others."⁸ The liberty principle rules out various historical practices that denied basic liberties to groups of people. Even if one attempts to defend denials of basic liberties on religious grounds, the liberty principle does not permit the permissibility of such defenses. Moreover, my specific account is concerned exclusively with religious conscience objections to private market services. These are services a seller provides to a buyer. The range of cases that concern my account are therefore distinct from the basic liberties that any just society must guarantee to its members.

Yet even within a firm commitment to the liberty principles, my account may permit religious exemptions that support unjust practices.⁹ One does not have to look far into the past to see troublesome cases. The segregated private market in America from 1865 to 1965 is one such case. Business owners routinely refused service to Americans of African descent. Some attempted to defend this practice by appeal to the bible, claiming that the bible supports the separation of the races. While the textual support for that claim is slim, it is a regrettable fact that people did offer religiously based justifications for unjust business practices.¹⁰

Does my account imply that religiously motivated segregationist business owners could successfully remove a legal obligation to provide equal service? The commit-

⁸(Rawls 1999, 52)

⁹Thanks to William Wainwright for forcefully pressing this objection.

¹⁰See (Noll 2008)

ments of my specific account are not clear in this case. First, the account requires that there is a sacramental kind that forms the basis of the objection. Defending segregationist business practices on the basis of a generic reference to the separation of races does not engage a sacramental kind. Kwame Appiah observes some racist doctrines—extrinsic racism—are defended on the basis of bad science, appealing to a ‘racial essence.’¹¹ These kind of objections couched in religious terminology do not gain any shelter from my account because there is no sacramental kind in the vicinity. Moreover, even if, there were some sacramental kind in the offing in defense of extrinsic racism it relies on bad science, science that is known to be false. So the common knowledge condition provides extra protection against dubious religious traditions. It is worth observing that the vast majority of Christian groups strongly condemned segregationist practices, arguing, in part, that it was inconsistent with revealed religion. It is compatible with a justification being commonly known to be false that some people to offer it as a legal defense. My account renders the verdict that in such cases no religious conscience objection may succeed.

There are adequate grounds then thinking that my account can handle difficult cases. It substantially requires that the objected act has a religiously universal specification and moreover that the specification does not essentially depend on premises that are commonly known to be false. Yet there is even the possibility of a more difficult case: those conditions are met but the business practice discriminates against persons that a majority of people know should not be discriminated against. A case like this can arise with majority knowledge is not shared by all. On my view, a successful religious conscience objection should imply such a difficult case because of the strong interest in protecting both minority views and religious autonomy. Yet it is troubling nonetheless.

What may we say to ameliorate this concern? The first observation is that legal action in the context of failures of common knowledge create tensions in society between those in power and those subjected to power. If an open society permitted simple majority knowledge to impose legal requirements then those in the minority are disenfranchised from sharing the basis for legal obligations. The requirement of common knowledge prevents this. Second, the presence of common knowledge is immensely valuable and we should make every effort to ensure that knowledge is broadcast as widely as possible. If the majority knows then this knowledge can be dispersed. Given the value of common knowledge, there is a moral requirement to broadcast this knowledge. Third, the effort to ensure common knowledge follows from a principle of priority for the worse off. Some epistemic communities are better than others. When there are differences in epistemic communities, those who are

¹¹See (Appiah 1990)

better off are morally obligated to disperse their knowledge to the worse off. Finally, to the extent the minority view is protected under law, that does not shelter such a view from market forces. The law does not impose obligations on buyers to procure services from minority groups. If the vast majority think that this troubling minority is in obvious failure of a moral or intellectual norm then they have the full recourse to private market action to impose their views.

The core concern with my account is the possibility of enduring epistemically vicious community. Suppose the virtuous communities have made every effort to broadcast knowledge to the vicious community. Should virtuous communities be prevented from coordinated action in the private market by the conditions of a sound religious conscience objection? My view is that insofar as the liberty principle is upheld then my account does specify a sufficient condition for removing a legal obligation from providing a private market service. That there is no legal obligation is compatible with economic action against such business practices. We should be wary of resolving every private market dispute at the level of law.

5 Conclusion

Respect for autonomy requires that the state allow for diverse opinions, even when that diversity leads to a failing in moral or epistemic norms. I've argued for a general view according to which the religious conscience objection succeeds. If the religious act is universally specifiable using religious terminology, does not mention particular persons, and derives from a religious tradition for which is it not common knowledge that it is false, then the religious conscience objection removes any legal obligation to render a private service.

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