

Religious Freedom and Private Enterprise

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Abstract

Economic and religious freedom overlap in markets, where people can and do act on their deeply held beliefs. This paper considers this overlap and argues that respect for religious liberty means respect for economic liberty and vice versa: markets are important material spaces, but they are also important moral spaces in which people's most deeply held beliefs manifest themselves. Respect for autonomy requires respect for economic and religious liberty.

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I. Introduction

How do religious and economic freedom overlap? In a 2006 keynote speech on faith and politics at the Call to Renewal conference's "Building a Covenant for a New America" conference, then-Illinois senator Barack Obama said:

Secularists are wrong when they ask believers to leave their religion at the door before entering the public square . . . indeed, the majority of Great Reformers in American history . . . were not only motivated by faith, but repeatedly used religious language to argue their cause. So to say men and women should not inject their 'personal morality' into public policy debates is a practical absurdity. Our law is by definition a codification of morality, much

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of it grounded in the Judeo-Christian ethic. (*New York Times* 2006)

People act on their deeply held beliefs in the voting booth. They also act on their deeply held beliefs in the marketplace. People express their beliefs through buying and selling: every purchase or sale is an act of approbation or disapprobation (Kalyvas and Katznelson 2001, p.566-67). The market is an important but sometimes overlooked space in which people act on and express their religious or political convictions—and the two are not always different.

Markets are more than material spaces. They are rhetorical and even spiritual places where we act on, reinforce, and even change our beliefs. The theme traces its roots at least to Adam Smith, who argued that in our every action we seek *sympathy* with other people and, ultimately, the approval of the “impartial spectator” and the “ideal man within the breast” (Smith [1790] 1981). The impartial spectator and the man in the breast are as well-equipped to evaluate our choices in the marketplace as they are to evaluate the other things we do. As Smith famously wrote, “(m)an naturally desires, not only to be loved, but to be lovely,” and markets are social spaces in which we can do lovely—and unlovely—things (Kalyvas and Katznelson 2001, p.552; Smith [1790] 1981).

What is “lovely” and what is “unlovely” often changes with time. What was formerly accepted (over-the-counter opiates) becomes forbidden, and what was formerly forbidden (gay marriage) becomes accepted, at least in some circles. Indeed, in the short time since Obama gave his 2006 speech, support for gay marriage has changed dramatically. In the 2008 presidential election, endorsing gay marriage would have been controversial. In the 2020 election, *not* endorsing gay marriage would be controversial. On other issues, the social consensus on right and wrong remains steadfast. We don’t expect cold-blooded murderers, for example, to be able to assemble a coalition of supporters from *any* part of the political or ideological spectrum.

The free market helps us resolve social questions. This leads us to the overlap between economic and religious freedom. Saravia (2019) explores the divergence between Pope Francis’s proposals to address inequality, economic theory, and empirical evidence. We address a similar theme by exploring how economic and religious liberty are important parts of a larger social conversation. Indeed, “(t)he higgling and bargaining of the market” to which Adam Smith refers is, in fact, a kind of conversation (Smith 1776). The conversation is frequently mundane chatter about costs and benefits as measured by market

prices and expressed in bids and asks. In other cases, however, the conversation touches the transcendent.

“Conscious capitalism,” for example, encourages people to look beyond financial costs and benefits and consider the larger social, political, or environmental ramifications of their plans, production, and purchases. The market is an ethical and rhetorical space, and economic liberty is inseparably bound up with freedom of political and social expression. It is also, we think, inseparably bound up with freedom of religious expression.

Economic and religious freedom are difficult, perhaps impossible, to separate. Respect for people’s religious freedom requires respect for their economic freedom, and when we respect people’s economic freedom, we respect their religious freedom as well. We explore this with particular application to the ways in which some Christians let their beliefs inform their buying and selling.

II. Liberty and Flourishing

Smith argued for “the obvious and simple system of natural liberty” and the “liberal plan of equality, liberty, and justice” in his effort to explain what makes societies prosper. In the late twentieth and early twenty-first centuries, a large body of empirical literature arose showing that economic freedom apparently leads to high incomes and other benefits—just as Smith predicted.¹

Pursuing truth is part of flourishing, and political, religious, and artistic freedom make it easier for people to pursue truth, test propositions, and express the strength of their convictions.² Economic liberty is underappreciated here, as well. Market exchange aligns production possibilities with people’s preferences, and their preferences also include beliefs about truth, justice, and righteousness.

To be a *person*, according to Arthur F. Holmes, is to be “a reflective being, a valuing being, and a responsible agent” (Holmes 1967, p. 93). Personhood entails liberty of conscience and moral agency. It also entails dignity and autonomy: to be responsible implies the right to experiment and to venture—and also to bear the consequences of being wrong. A reflective, valuing, responsible agent forms and acts on

¹ See Hall and Lawson (2014) and Lawson (2019) for surveys and summaries of the literature on economic freedom. Dawson and Seater (2013) study the growth-reducing effects of regulation. Carden (2019) offers a brief summary of evidence on economic freedom and growth.

² This is an important part of Deirdre McCloskey’s overall project (see McCloskey 2006, 2010, 2016, and Carden and McCloskey 2018).

beliefs and then receives and interprets the information and feedback those actions produce. To the extent that we believe in dignity and agency, we value and respect that liberty (Otteson 2019).

The beliefs one can hold and act on, as long as one is not interfering with another's freedom to do the same, are independent of whether those beliefs are true, false, or popular. Christians, for example, are promised that their core beliefs will *not* be popular, but the right to act on one's beliefs does not depend on whether those beliefs are popular. For one thing, today's radical ideas are tomorrow's mundane and unexamined assumptions. For another, the right to believe what one wants (or finds convincing) is part of moral agency. Grudem points out the necessity of moral agency and free choice within Christian theology in that humans "make willing choices that have real effects" (Grudem 1994, p. 331). Choice is necessary for any decision to have gravitas and meaning, and by respecting choice we respect in others the right to self-author (Otteson 2019, p. 72).

There is instrumental value in respecting people's right to hold unpopular or widely-believed-to-be-false ideas. First, light is the best solvent and these beliefs are easier to confront and (attempt to) refute when they are not formally proscribed. Second, unpopular ideas forced underground rather than examined and refuted can metastasize into violent political movements. Third, unpopular beliefs are sometimes true. History is littered with discarded hypotheses once believed to be true, and the current stock of knowledge contains a lot of propositions (about plate tectonics, for example) that were once thought to be absurd.

Fourth, one's willingness to bear a cost in order to act on a belief is informative. Someone buying organic, non-GMO tortilla chips is arguing, if only implicitly, that nonorganic and genetically modified crops are dangerous. She is doing so credibly, to the extent that she is bearing a cost to do so. Similarly, someone who boycotts (or "buycotts") Chick-fil-A because of the founders' stance on gay marriage is making a statement and exercising an important right: the liberty to act on their conscience. Restrictions on buying and selling limit this agency.

Expression of religious belief in buying and selling is not new. Many Christians do not work on Sunday out of the conviction that to do so violates the commandment to remember the sabbath and keep it holy. Observant Jews stick to strict rules about which foods are and are not kosher, and observant Muslims stick to strict rules about what is and is not halal. People around the world have a long and venerable

tradition of acting on their religious convictions through buying and selling—and in ways that are not always obviously connected to religious observance.

William Penn's ideas are useful here. In explaining the importance of moral agency, Penn wrote that a failure to respect religious liberty means "a Faith subject to as many Revolutions as the Powers that enact it" (Penn [1670] 2002, p. 87). Penn understood "liberty of conscience" to mean "not only a meer (sic) *Liberty of the Mind*, in believing or disbelief in this or that Principle or Doctrine, *but the Exercise of our selves in a visible Way of Worship, upon our believing it to be indispensably required at our Hands.*" To this point, it appears Penn is explaining the importance of liberty of conscience as a matter of serving God as one earnestly believes to be right—and with more than just intellectual or spiritual assent.

And yet Penn is no anarchist or nihilist:

Yet we would be so understood to extend and justify the Lawfulness of our so meeting to worship God, as not to contrive, or abet any Contrivance destructive of the Government and Laws of the Land, tending to Matters of an external Nature, directly, or indirectly; but so far only, as it may refer to religious Matters, and a Life to come, and consequently wholly independent of the secular Affairs of this, wherein we are supposed to Transgress. (Penn [1670] 2002, p. 85-86)

It looks like Penn lets the camel's nose in under the tent by disavowing "any Contrivance destructive of the Government and Laws of the Land," but he notes that these are regarding "Matters of an external Nature." Are we to understand that conscience must yield when legislation is passed and when courts dictate? To state such would indeed mean people had "a Faith subject to as many Revolutions as the Powers that enact it."

III. Religious Liberty and Persuasion in Private Enterprise

Markets are important moral spaces. As Kalyvas and Katznelson put it, markets "are a central mechanism for social integration derived not from strategic self-interest but from the inexorable struggle by human agents for moral approbation" (Kalyvas and Katznelson 2001, p. 549). Moral agency means economic and religious liberty are connected. People are complex beings with many overlapping and interconnected social identities that can be expressed in social, spiritual, political, and commercial action—and a single action can have social, spiritual,

political, and commercial facets. For example, refusing to offer birth control coverage in a package of employment benefits is a commercial action in that it might screen for a particular type of employee. It is also a spiritual action to the extent that someone believes that to offer such coverage would be an affront to God.

Adam Smith pointed out that bids and asks in markets are attempts at persuasion. Griswold, in his discussion of Smith's work, writes that "Life in a market society is an ongoing exercise in rhetoric" (Griswold 1999, p. 297). Smith describes his famous "propensity to truck, barter, and exchange" as a product of our inclinations toward persuasion and the pursuit of sympathy. As he puts it in his *Lectures on Jurisprudence*,

If we should enquire into the principle in the human mind on which this disposition of trucking is founded, it is clearly the natural inclination every one has to persuade. The offering of a shilling, which to us appears to have so plain and simple a meaning, is in reality offering an argument to persuade one to do so and so as it is for his interest. Men always endeavor to persuade others to be of their opinion even when the matter is of no consequence to them . . . And in this manner everyone is practicing oratory on others thro the whole of his life. – You are uneasy whenever one differs from you, and you endeavor to persuade (Phim) (*si*) to be of your mind. (Smith [1763] 1981, p. 352)

Again, the oratory is sometimes mundane chatter about costs and benefits measured in money and transmitted by prices. Other times, the "oratory" touches the transcendent, as when someone buys, sells, or abstains on the basis of deeply held political, social, or religious convictions.

Competition, as Smith argued, is essential to economic progress, as it is through competition that we discover progressively better, progressively less-resource-intensive ways to satisfy our wants. Free and open competition in the marketplace also contributes to what Rauch (1995) calls "liberal science." Market tests of profit and loss are also crucial to economic progress, as McCloskey (2006, 2010, 2016) points out.

These tests are also tests of the sincerity and fidelity of the believer. One can look internally and examine the strength of one's own faith as measured by the willingness to bear a cost for it. Furthermore, one can appraise the degree to which others really believe what they are saying by observing the degree to which they are willing to bear a cost

for it—and bearing a cost is an important element of persuasion. To make it illegal to act in the marketplace based on one’s faith removes a crucial tool that one might use in trying to persuade others that he follows the “one true faith”—and they should, too.

While market competition is an obviously imperfect means of persuasion, it remains exactly that: a means of persuasion, and one among many. To legislate the beliefs that can or cannot be acted on peacefully and commercially is to circumvent the imperfect but still functional competitive marketplace of ideas. The prohibitors and “inquisitors,” however “kindly” they might be, face incentives that are not likely to be aligned with the pursuit of truth in the abstract or even with general prosperity.

Economic liberty is an important component of religious liberty because the alternatives are probably worse. Mokyr’s (2016) account of European economic development emphasizes intellectual and commercial liberty. The intellectuals, Mokyr notes, were part of a pan-European “republic of letters” with oppression and suppression held in check by political competition among European nobles. The system worked imperfectly, obviously, but it worked well enough that the culture of inquiry could flourish and ideas previously thought heretical could be tried by reason against theory and evidence so as to be found consistent or inconsistent with orthodoxy.

Economic liberty brings resources and production possibilities into line with consumers’ preferences. This requires sound commercial judgment, of course, but as people act largely to secure others’ sympathy, it requires more than just judgment about what is and what is not profitable. Profits and losses are informative, but they are not decisive. Many projects may be profitable but immoral. Many other projects may be unprofitable but moral, even morally obligatory. Respect for others’ agency requires that, as far as possible, we refrain from making those choices on others’ behalf and allow them the liberty to testify to their beliefs in the marketplace as well as in the cathedral or temple.

To prohibit people from acting on their religious beliefs fragments the human person. Instead of an integrated whole, the person stripped of economic and religious freedom is a collection of different selves that might be at odds with one another: one self singing in the choir on Sunday morning, another self baking cakes or taking photographs on Monday morning, legally barred from exercising his or her deepest

convictions about what *marriage* means.³ There is no logical reason these selves should be segregated, internally or externally. In proscribing certain conscience-informed actions we create alienation, which Gronbacher (1998) defines as “a lost capacity for self-realization” such that someone who is socially alienated “is unable to develop an authentic way of life.”

One could object that the baker or photographer discriminating against a same-sex couple planning a wedding (such as in the *Masterpiece Cakeshop v. Colorado Civil Rights Commission* case) is infringing upon the couple’s “capacity for self-realization” and their ability “to develop an authentic way of life.” There is some merit to this position; however, while a baker’s refusal to bake a cake for a same-sex wedding might be offensive to some, it is not criminal—nor does it absolutely deprive someone of cake given that the markets for bakers and other wedding vendors are extremely competitive.

The freedom to believe as one’s conscience dictates comes with a certain responsibility: one must live consistently within that worldview to which they subscribe. It seems reasonable that if a person holds a conviction dear, then he or she should live by that conviction—or should be willing to reevaluate that conviction if it no longer fits one’s values as he or she moves through life. In this way, freedom to act on religious beliefs in the marketplace opens a social conversation that can challenge and refine beliefs. According to the Christian theologian Wayne Grudem, Christian practice demands that adherents defend the right of others to hold differing beliefs. Any belief system must be given ample opportunity to rise or fall on its own merits and veracity. The Baptist Faith and Message, to use one example, includes this statement on Religious Liberty:

God alone is Lord of the conscience, and He has left it free from the doctrines and commandments of men which are contrary to His Word or not contained in it. Church and state should be separate. The state owes to every church protection and full freedom in the pursuit of its spiritual ends. In providing for such freedom no ecclesiastical group or denomination should be favored by the state more than others. Civil government being ordained of God, it is the duty of Christians to render loyal obedience thereto in all things not contrary to the revealed will of God. The church should not resort to the civil power to carry on its work. The gospel of Christ contemplates spiritual means alone for the pursuit of its ends. The state has no right to impose penalties for religious opinions of any

³ See Klein (2012) for more on this.

kind. The state has no right to impose taxes for the support of any form of religion. A free church in a free state is the Christian ideal, and this implies the right of free and unhindered access to God on the part of all men, and the right to form and propagate opinions in the sphere of religion without interference by the civil power.⁴

Grudem thinks the Christian faith is up to the challenge of religious liberty: “The Christian faith can stand on its own two feet and compete very well in the market-place of ideas in any society and in any culture, provided it has the freedom to do so,” Grudem writes (1994, p. 893).

IV. Employment, Identity, and Diversity

Over time, products come to be cloaked in meaning and the goods on offer come to have different definitions as buying, selling, and refraining from each takes on more meaning. Georgetown and Notre Dame are not just in the business of selling education. They are in the business of selling Catholic education; Whole Foods does not merely sell groceries but groceries tied to health and conscious capitalism. With sufficient time and sufficient willingness by consumers to pay for variety, markets can generate arrays of goods and services with all sorts of meanings attached. Examples include “made in the USA” advertisements and variations on the phrase “fair trade.” Markets seem to develop ever further to cater to consumers’ willingness to express values and find meaning in their buying and selling. In an episode of *The Simpsons*, Marge tells Lisa, “We can’t afford to shop at any store that has a philosophy.” With rising incomes, more and more of us can.

There are fears about employers forcing their views on employees, some of whom might find themselves “coerced by circumstance” into a particular line of work. This is where economic freedom is most essential. In a free market, people can search for combinations of wages, benefits, and perks that facilitate cooperation between employees and employers. In some cases, these might include contraceptive coverage or health benefits for same-sex partners. In others, it might include the understanding that the employee does not work on Sundays. The value of economic liberty in this regard is not that it will cause us to converge on the “right” combination of wages, benefits, and so on, but that it allows us to experiment with and discover arrangements that make cooperation most attractive.

⁴ Baptist Faith and Message. Online: <http://www.sbc.net/bfm2000/bfm2000.asp>, last accessed March 19, 2020.

Corporate culture and convictions embody the kinds of “local knowledge” Hayek (1945) emphasized. The particular circumstances of time and place in the corporate world concern the ways of doing things and the ability to navigate social capital networks within the context of a firm’s owners’ goals and its employees’ goals. Employment legislation presuming to bar people from considering certain “irrelevant” factors reduces the amount of useful knowledge people can bring to their decisions about where to work or whom to hire. Such an approach assumes that skills are interchangeable and workers with a given skill set are interchangeable—that cultural mores and religious beliefs are irrelevant to the jobs at hand.

However, employers and employees might wish to discriminate on the basis of culture or religion because they wish to distinguish between those who buy in to a corporate culture and those who do not. Religious universities, for example, require a degree of buy-in and “mission fit” for faculty and staff. One might oppose corporate culture formation at a more foundational level, arguing that all firm operations should be free of religious influence. This, however, limits people’s ability to exercise moral agency and autonomy.

Local knowledge is imperative for a competitive market that allows not just thousands but millions of flowers to bloom, and it creates opportunities for people to join with one another in the pursuit of mutual goals informed by conscience—mutual goals that others might find distasteful or even offensive, but mutual goals nonetheless. Competition means that these arrangements are constantly subjected to market tests, and those firms and workers that markets find most attractive are those that stick. This process cannot occur without autonomous religious expression.

V. Conclusion

How do economic and religious liberty overlap? At first glance, it looks like the commercial realm and the spiritual realm don’t have anything to do with one another: how someone prays, for example, is unlikely to be related to their ability to bake cake, cook chicken, or draw demand curves. We argue, however, that there is a closer relationship between economic and religious liberty than might be apparent. Markets are social and moral spaces in which we write our own stories, shape our own identities, and express our belief-informed preferences. We are, as Smith points out, “practicing oratory” in markets in that we are trying to convince people to help us live by our preferred lights. Respecting economic and religious liberty respects people as

independent and responsible agents, and markets are important spaces in which people are able to act on and articulate their most deeply and sincerely held beliefs.

We argue that scholars of economic and religious liberty should take a more expansive view of the relationship between one's spiritual and commercial actions. Very often, the good itself is only a small part of the overall transaction. A cup of coffee or a chicken sandwich offers more than just the coffee or the chicken *per se*. Offers to buy these products are invitations to affirm or alter one's identity—and to enter into “fellow feeling” with the goods' purveyors.

This raises the prospect of market power allowing merchants driven by spiritual or political convictions to foist their beliefs on others who may not share them. This is one of the major concerns in debates about the Masterpiece Cake Shop and Hobby Lobby cases. It is difficult to conclude that either firm imposes strenuous burdens on those with whom they do not wish to do business on terms they find disagreeable. There are a lot of places to buy wedding cakes, and there are a lot of places to work.

Restricting people's ability to act on their convictions in the marketplace limits, ultimately, the range of possibilities and the ways in which people can express themselves. What should “Catholic” higher education mean if not that colleges and universities have the right to conduct business and adopt policies in accordance with widely understood Catholic beliefs? Particularly given the range of substitutes for Catholic higher education, it is hard to believe that mandating health coverage that goes against core Catholic teaching does much to increase the well-being of those who think themselves the victims of unjust discrimination, yet it imposes a major burden on those who object—specifically, by requiring people to do things that they believe, in the depths of their souls, to be transgressions against the will and requirements of an almighty God.

Whether this is or is not true is beside the point. People express the strength of their beliefs with the written and spoken word, and we see no reason to think they should be prohibited from expressing their beliefs in the marketplace through the terms to which they are or are not willing to agree. A society that embraces pluralism and diversity, in any case, will be one that tolerates people's right to hold views that many find repugnant or false.

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