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A Comparative Approach to Tax Exemption:
Differences between hospitals and religious institutions

Master's Thesis in Philosophy

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1. Introduction

In his paper *Hospital Tax Exemption: How did we get here?* Bruce McPherson (2012) presents his arguments for private hospitals receiving tax exemptions. He provides four compelling arguments for his view: two arguments based on results, one on benefits and the other on price ceilings, an argument from motivation and finally an argument from methodology. Hospitals receiving tax exemptions is common among modern states, yet there is a somewhat divisive discomfort with the notion of a private institution receiving a tax exemption. One specifically divisive example of this is the Patient Protection and Affordable Care Act (2010) in the United States, nicknamed Obamacare. The PPACA¹ afforded tax exemptions to businesses with more than 50 employees if they provided the employees with health insurance. This has been criticized a lot as unenforceable, as was shown by businesses preferring to abstain from giving the employees' health insurance and opting instead to pay an additional tax, as well as raising the income tax rate for individuals with income above 200,000\$. Thus, there is a reasonable impulse to reject the idea of giving tax exemptions to private institutions as a whole, however, I will avoid this by taking for granted hospitals as being excluded from this impulse as they serve a very important function in society which hopefully justifies these exemptions.

On the other hand, religious institutions have, to put it mildly, been prone to ask for exemptions. Tax exemptions are no different. Religious institutions and practitioners have been quite persistent over time in arguing for their respective congregation receiving exemptions. Most of the arguments they present refer to the importance of the service religious congregations and institutions provide for society as a whole. This service, be it spiritual, one of welfare, or both, should be recognized by the state as warranting exemptions purely on the basis of the religious nature of the congregation. One such case is that of the complex and often confusing relationship between the United States and religious congregations where “for generations, churches have been exempt from income taxes. What’s more, all 50 states and the District of Columbia give them a pass on property taxes too. Ever since our founding fathers, it’s hands-off for federal income taxes, property taxes and more.” (Wood 2015, 1).

¹ PPCPA is the abbreviation for the Patient Protection and Affordable Care Act.

The view I will be arguing against in this paper is one built on a comparison between religious institutions and hospitals. The idea is that they serve a “sufficiently similar” purpose. This view is based on what I have previously alluded to regarding the service religious practitioners attribute to their relative religious congregations, the “sufficient similarity” with hospitals as institutions as a whole, and a reliance on the notion of equality between secular and religious motivations for exemptions, what Kyle Swan calls “equal legal status”² (2018, 2). I will present a definition of the term sufficiently similar that I deem necessary for the comparison to survive being the basis of a later argument.

I will begin by providing some contextual knowledge regarding the debate, at least as much as I deem useful to the task at hand. This will consist of a discussion on egalitarian theories of justice as well as argument for exemptions given to religious communities in general. The purpose of this discussion is to narrow down the scope of the paper and avoid discussions that might push this paper away from the comparison into arguing about the legality of exemptions as a whole. Moreover, I wish to avoid presenting too much unnecessarily complicated information that, while relevant to debates on religious exemptions as a whole, is not relevant for the rather narrow focus of my paper. Then I will present the current situation in the United States as it will serve as a reference for specific legal difficulties that may arise. By situation I mean the current taxation laws with regards to hospitals and religious institutions. I will then present a formalized argument that the religious congregations might make, this will be the argument which I will be arguing against mainly. I will then present my description of what I believe “sufficient similarity” should refer to such that the comparison is justified and can be used to construct further arguments upon. Subsequently I shall highlight where I think that religious congregations fail to meet the standards to be sufficiently similar. This will consist of three arguments against the similarity. One argument from motivation, another from the utility of received exemptions, and finally an argument from the relationship with the state. I then conclude that the argument put forward by religious institutions does not succeed in reaching its goals. Finally, I will present some objections to my view that I believe will be potentially raised by an opponent and provide rebuttals in defense of my paper.

² I will use this terminology for the rest of the paper when I describe the equality between religious and secular motivations.

2: Background and Context

2.1: Egalitarianism and arguments for exemptions

In this section, I will provide some information regarding the difference between theories of justice and how it will affect the debate handled here, then I will turn my attention to justifying religious exemptions, albeit a rather diluted justification as it is perhaps more conducive to my paper. The reason for this justification is that I need to establish religious beliefs as legitimate reasons for asking for exemptions.

In this paper, I will handle the debate within an egalitarian viewpoint. I will not bring into mention the theories of justice that oppose giving tax exemptions as a matter of principle as that might lead me to rather unwanted discussions.

Egalitarianism is, in principle, the view that the material goods of the society should be allocated in ways that would serve all members of society. There are a number of egalitarian theories that differ in the ways they propose the allocation of the material goods. I will mention the most prominent ones, to which I will then attribute a shared attitude regarding the need for exemptions among these theories.

Firstly, I consider strict egalitarianism; the view that every citizen should have the same level of material goods, burdens and services. This view is one that regularly comes under a lot of criticism, yet for our intents and purposes, we will simply consider what proponents of strict egalitarianism look for in motivations, arguments and practical applications in the religious exemption's debates.

Secondly, I consider what is termed the Difference principle. It is a view championed by John Rawls that holds significant weight in debates on religious exemptions. For Rawls, "Social and economic inequalities are to satisfy two conditions: (a) They are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and (b), they are to be to the greatest benefit of the least advantaged members of society" (1999, 5-6). It is unique in that it prioritizes the least advantaged members of society in such a way as justifying giving them preferential treatment if it means their situation will become better off.

Thirdly, I consider what is commonly held as "luck egalitarianism". This is the view that any just distribution of resources will need to take into account the roles of luck and responsibility. The major concern that differentiates luck egalitarianism from other types of egalitarianism is both the acknowledgment of the need to rise above the significant difficulties that are a direct result of the luck of the individual; say for instance, someone's

race or the financial condition of his parents, in addition to arguing for a more substantial equality of opportunity principle, one that includes education, healthcare...

Finally, I consider desert-based principles for distribution of resources. The core commitment of these principles is a robust appeal to people receiving what they deserve because of their work.

I have listed these shallow definitions of egalitarian theories for a couple of goals I have in mind. First, since I want to work within an egalitarian framework, this framework must prioritize limiting opposing views and objections to ones that do not argue from non-egalitarian viewpoints. Since the topic is rather narrow, an argument, for instance, based on libertarian principle might oppose giving tax exemptions to anyone, therefore it is important not to be dragged so far away from the specificity of my argument. Perhaps what I need to make clear is that I am not looking for any theory of distributive justice bar that which allows tax exemptions to be justified. I mentioned the four main ones and they all accept the justification for tax exemptions, the remaining is a proof of religious exemptions.

I best do this by presenting an argument for religious exemptions which is acceptable by proponents of all four egalitarian theories. Second, it is helpful to give a unified argument that is acceptable for all these theories because it helps me move the discussion from overarching difficulties with the division of resources and therefore, I can stick to a specific understanding of the problems with tax exemptions.

The argument I will make is Jocelyn Maclure's argument for religious exemptions. The question Maclure is keen to answer is "Many wonder what, given the fact of reasonable moral pluralism, could justify granting a special status to religion. What can justify singling out religion in an age where religious life is one path amongst many?" (2018, 2). The answer he gives is that there is a special category of interests that humans have called "meaning-giving commitments and beliefs"³ that deserve special legal treatment. The argument proceeds as follows: first, meaning-giving commitments and beliefs are distinguished from other subjective preferences on the role they play in the agent's moral life. This means that any action that goes against one's meaning-giving beliefs and commitments is, in essence, a betrayal of one's self-respect. Second, religious belief belongs to this special category of interests. Third, the meaning-giving character of a commitment is a necessary but not sufficient condition for justifying legal

³ Meaning-giving beliefs and commitments, in Maclure's view, are a group of preferences which are special to the individual, so much that any action that goes against their meaning-giving beliefs and commitments would constitute a grave burden to the individual.

accommodations, rather the law must be unfair in that it puts pressure on the individual to act in opposition to their meaning-giving beliefs and commitments. Finally, we can conclude that there is a need for some legal accommodations in cases where the law is pressuring an individual to act against their meaning-giving beliefs and commitments.

Maclure's argument covers all grounds of meaning-giving beliefs and commitments without highlighting religious beliefs specifically. However, it is certainly Maclure's goal to argue for religious exemptions through arguing for legal exemptions of all meaning-giving beliefs and exemptions.

This argument is quite advantageous to my paper. It is one of the more widely accepted arguments for religious exemptions. It does not allow for a discussion of contentious topics like "unfair burdens" or "a higher spiritual level". But most importantly, it is basic enough to discourage me getting into much larger debates on religious exemptions as a whole.

2.2: Scope and limitations of the topic

The main concern of this paper is quite narrow. I am arguing against a view that is absent from the debate on tax exemptions for religious institutions, what might be better known as the institutional aspect of freedom of religion. The similarity argument is not one that has the capability to be extrapolated into a wider exercise of giving tax exemptions. This is entirely specific to the supposed sufficient similarity with hospitals.

Perhaps one point I should clarify is that I am avoiding taking a stance on whether religious institutions should receive tax exemptions in any case. I am specifically targeting the similarity argument; my argument does not prevent religious institutions asking for tax exemptions on other grounds. The conversation on tax exemptions for religious institutions is by no means a small one and there may very well be other arguments for giving tax exemptions to religious institutions, I will however only entertain the similarity argument. One possible approach that seems to be somewhat related is the idea of public or common good. This notion of public good, that which benefits society as a whole in contrast to the private good of individuals and sections of society. John Locke even goes further in promoting the idea that all laws are "to be directed to no other *end*, but the *Peace, Safety, and publick good* of the People" (1982, 353). Moreover, this can counteract a later look into measurement of religious thought and its effectiveness in promoting a society's public good. Consider the study done by Gharad Bryan, James J. Choi, Dean Karlan, they found

that there is a causal impact of religiosity such that an increase in religiosity causes an increase in income without any statistical decrease in other factors of everyday life such as total labor supply, consumption, food security or life satisfaction (2018, 12). Yet, I am only concerned with opposing the similarity argument and will be ignoring other examples of asking for tax exemptions for religious institutions.

Moreover, there are quite a number of limitations inherent to this paper. I am limited by having to take for granted the legality of tax exemptions for hospitals. This might also be a contentious topic; however, I will refrain from addressing it since the rather specific topic of my paper might be lost or overshadowed.

Perhaps most importantly, I will also refrain from commenting on religious exemptions overall. My argument for giving exemptions to religious groups is quite broad and basic while remaining focused on egalitarian theories of justice. It is why I have presented Jocelyn Maclure's account of religious exemptions, Maclure presents this account without making reference to loaded terms such as "unfair burdens". But I do run into the necessity of defining "meaning-giving beliefs and commitments". Overall, I believe Maclure's formalization of his argument for the importance of religious exemptions might serve my interests best among other formalizations.

3: Religious exemptions and taxation

In this chapter I will present the similarity argument, my notion of sufficient similarity and finally, some arguments for hospitals getting tax exemptions that I hope to have sufficiently incorporated in the terms for being sufficiently similar.

3.1: Similarity argument

The similarity argument is a formalization of certain views regarding neutrality and thus serves as an employed argument in debates about religious exemptions. Yet, I will give this argument in rather broad terms through which I hope to highlight the premise I attack while it still remains a plausible argument put forward by an opponent.

There is a number of institutions that are granted tax exemptions by modern states due to a number of factors: the service they provide, the regulation they undergo...etc. Here we will consider hospitals.

However, the state does not give tax exemptions to religious institutions that, while they may serve a function shared by other institutions, specifically function with the intent of furthering the collective interests of the religious doctrine. The best example of this would be the vast amount of land, schools, hospitals, churches, ...etc. that the catholic church possesses or manages in a number of countries.

The third premise is that we can compare between institutions, at least in terms of their relationship with the state, and if this comparison yields the conclusion that the two institutions are sufficiently similar, then we must conclude that the state has to treat them somewhat equally, Swan perhaps terms it best as both of them having “equal legal status” (2018, 2). Bearing in mind that any differential or specific treatment by the state with regards to one institution and not the other is the state in essence “punishing” one institution.

I will explain the notion of sufficient similarity in depth later on. For the time being, I think I can get away with avoiding going into a discussion on how there may be no two sufficiently similar institutions, as I do tend to it in a later part of the paper. Finally, the use of the word punishing is intentional as this argument’s aim is to highlight an unfair burden imposed by the state on religious institutions specifically.

The fourth premise, the controversial one and indeed the one I will be targeting, is that religious institutions are sufficiently similar to hospitals. This will be the main focus of the paper. I will clearly define the notion of sufficient similarity and then argue that it cannot

be applied in a comparison between hospitals and religious institutions. By arguing against this premise, I effectively refute the similarity argument as a whole since this is essentially the claim on which it all rests. The claim that hospitals and religious institutions are, not only comparable, but rather for intents and purposes similar enough in the eyes of the state that they require the state to provide equal treatment to both of them.

Finally, the argument concludes that there is an unfair burden being placed on religious institutions, that is that they do not receive tax exemptions.

3.2: Sufficient similarity

In this chapter, I will present my notion of sufficient similarity. Sufficient similarity is, mainly, a standard I set to which I deem the similarity between religious institutions and hospitals to merit giving religious institutions tax exemptions on the basis of comparing between them and religious institutions.

I will present the notion first, explaining the three conditions I think are needed for two such institutions to be sufficiently similar; at the same time, I justify the three conditions, and the scope of the notion, namely that it only extends to discussions around tax exemptions and not exemptions from other laws. Finally, I will give examples on how these conditions apply for hospitals but fail to extend their application to religious institutions, this will form a basis for my arguments later on.

For two institutions to be sufficiently similar, I premise that they share three conditions with regards to taxation. Firstly, they must work towards a specific goal that the state has a vested interest in promoting or endorsing. The reason for this is the result of the purpose of taxation. One of the most important purposes of taxation is to empower the state to act on its interests, interests that are almost always geared towards improving the lifestyle of the general populace⁴. Thus, to be even considered for a tax exemption, institutions should work towards a goal that the state can have a vested interest in promoting and, as such, justified in allowing the exemption.

This condition forms the basis for part of an argument against the sufficient similarity between hospitals and religious institutions. Hospitals work towards attaining and preserving the healthiest society possible at least physically and mentally, this is not the case with religious institutions. Religious institutions work towards attaining and

⁴ I am assuming here that there is no corruption in the state. I know this is not really all that realistic, however, my argument is one based on ideas and perhaps I can avoid the talk of corruption.

preserving the healthiest society as well, however, the idea of the healthiest society here changes. For religious institutions, the idea of the healthiest society will inherently include a spiritual aspect respective to the religion practiced by the institution. Religious schools will consider a curriculum that includes part of or all of the relative doctrine. Religious hospitals might refuse a medical practice that is discouraged by the respective doctrine, for example: religiously-affiliated hospitals not presenting the option of abortion for a complication faced that endangered the patient due to its religious affiliation⁵.

This forms the basis for part of the argument from relationship with the state. The argument is based on the principle of separation of church and state where the state cannot endorse or promote a certain religion or theory of consciousness. This means that whatever spiritual “baggage” religious institutions carry around in their goals cannot be endorsed or promoted by the state.

The second condition for sufficient similarity is for such institutions to act independently of any particular loyalty to an exclusionary body of thought. This might seem rather odd, but weird prose aside; the main reason for this condition is that institutions that are given a tax exemption cannot be exclusionary. Being exempt from paying taxes is equivalent to being partly financed through public money. Thus, the entirety of the population should be able to access and employ the use of the institution. Here is where we see a major difference and the basis for the argument from motivation I will employ later on in the paper.

Hospitals function within the domain of science and bioethics. Two fields of thought that promote an approach to medicine by which there is no theoretical reason to reject the treatment of someone. Moreover, any anecdotal reason not to treat a patient, i.e. finances, is the subject of tax exemptions. The exemptions are an attempt to limit such reasons in an effort to become fully inclusionary. On the other hand, religious institutions act in accordance with their respective religions. This translates to acting in manners only justifiable through a religious lens. Moreover, the motivation for asking for exemptions from paying taxes is to be able to exercise their religion. This allows for actions that are inherently exclusionary. For example; a religious school being exempt from paying taxes might be able to finance theological studies and research, but due to the nature of the church’s religious constraints, only men are allowed to become priests and conduct such studies while women are excluded.

⁵ Tamesha Means v. United States Conference of Catholic Bishops, [2015].

This condition forms the basis for the argument for motivation. I argue that the differences in motivations between religious institutions and hospitals is problematic.

Finally, the third condition is that such institutions are regulated in a manner as to ensure that the exemptions from laws cannot be redirected to a corruption of the original purpose. This needs further explanation. An institution being given an exemption from paying taxes must have some justification for the exemption. The state has to ensure that the justification for the tax exemption is being addressed through the tax exemption. Thus, there is a need for the state to apply regulations on these institutions in order to ensure there is no corruption of the original purpose. This condition will form the basis of the other part of the argument from relationship with the state.

Hospitals are subject to heavy regulations by the state. The reason for this regulation is not the result of hospitals asking for tax exemptions, rather the importance of their function. Yet, this does not disqualify hospitals from asking for tax exemptions, rather it serves as another reason to justify giving hospitals tax exemptions. This is not the case for religious institutions. Religious institutions are not regulated by the state, and thus there is no guarantee that there is no redirection of the tax exemption to a corruption of the original purpose. The argument from relationship with the state will highlight this, and then I will argue that the relationship between the state and religious institutions will disprove any attempt at meeting this condition.

The conditions I have presented above, if met, would compel me to acknowledge the sufficient similarity between hospitals and religious institutions as well as the defeat of this paper. It is these conditions that I will primarily be arguing against later on in the third chapter and proving the inability of religious institutions to meet these conditions with respect to hospitals will essentially fulfill the topic of the paper.

3.3: Taxation

In this chapter, I will be presenting some information about taxation, religious institutions and hospitals. I will be focusing specifically on the United States as it is accessible to most readers. That being said, it will not be a deep discussion into taxation. I will present justification for one of my previous statements on how receiving tax exemptions is akin to being financed by the state. I will then provide reasons for hospitals receiving tax exemptions by referring to Bruce McPherson's *Hospital tax exemptions: How*

did we get here? Finally, I will try to show that these reasons are represented in my notion of sufficient similarity.

Firstly, I begin with the previous statement that I believe needs justification, that getting tax exemptions is akin to being financed by the state. Well, this is perhaps easiest shown through government bonds since it is a very common way to give tax exemptions. I will give the example of the US treasury assessed in 2019 “Tax exemption of United States bonds, preventing imposition of taxes by states and subordinate divisions, forces the latter respectively to raise their revenues from sources which they may lawfully reach, in a word, to exact higher rates from items that are taxable; and this in substance constitutes a tax inuring to the benefit of the federal treasury in lower interest payments or larger proceeds from bond sales. Contrariwise, the exemption from federal taxation of income from state and municipal bonds shift the weight of the escaped taxes to the taxable incomes.” (Rosewater 2019, 52-53).

In the previous example, we can see that the tax exemptions given for government bonds, in the case that the government wants to promote the purchase of government bonds, have to be paid back from taxable incomes. This is quite useful to my paper as it is general enough not to specify what type of taxable income or what type of taxes specifically, but remains to the point that if we take the net amount of taxable income that the government relies on, then this will be the main source of resources needed to afford tax exemptions to institutions.

Secondly, I will present McPherson’s reasons for hospitals receiving tax exemptions. He gives four reasons which I shall go through, relating each to my conditions for sufficient similarity.

The first one he gives is “In releasing the report, the AHA argued that “communities themselves are in the best position to determine whether the benefits provided by their local hospitals match their needs and aspirations.” (McPherson 2012, 194). This is one of the main ideas behind the second condition, the second condition being that the institutions act independently of any particular loyalty to an exclusionary body of thought. This is not a straightforward correlation though, so I’ll explain my reasoning subsequently. The idea that communities are the optimal judges of the benefits provided by hospitals requires those communities to act in accordance to their best interests. That is why there is a focus by McPherson on their needs and aspirations. This means that the ideas that these communities advocate for and use as their moral foundations and limitations dictate what services they expect from hospitals. Now, this cannot work with any exclusionary body of thought since

it is the view of the whole community, and even in a homogenous community, the need for inclusion in medical services is always present.

The second one is “If it doesn’t make sense to measure a hospital’s quality performance in terms of the resources invested in quality rather than in terms of quality results, why should assessment of community benefit performance be any different?” (McPherson 2012, 194). This falls under the third condition. The assessment of community benefit by performance is directly a result of excellent regulation in which we can judge the effectiveness of tax exemptions and can make sure that they weren’t diverted to a corruption of the original purpose. This means that accountability is existent as a result of the hospital’s practices and use of the tax exemptions.

The third is “a quantitative standard or threshold would tend to reduce community benefit to an accounting exercise, distracting nonprofit hospitals from the critical work of continuously improving how they plan, implement, and evaluate the progress and results of their community benefit programs.” (McPherson 2012, 194). This is one of the main ideas behind the first condition, the first condition being that the two institutions work towards a specific goal that the state has a vested interest in promoting. This means that allowing tax exemptions would free up the hospitals to work in tandem with the humanitarian interests and goals of hospitals as opposed to the more business side of things. Moreover, the state providing tax exemptions is in fact empowering the hospitals to act on the interests of the community and deprioritizing running hospitals as business ventures.

The fourth is “a quantitative standard or floor for tax exemption would likely become, in practice, the ceiling for many or most nonprofit hospitals” (McPherson 2012, 194). This argument is one which does not relate to the conditions of sufficient similarity. However, it is present in both of the institutions I consider. What I mean by this is that proposing tax exemptions that aren’t sufficient for these hospitals to reach their goals of treating everyone without regard for their financial situation, social status... This, in fact, translated to religious institutions as well. They claim that tax exemptions are important in that they allow them to reach their goals without caring for financial situation, social status... However, as I will hope to prove in the next section, they do not really succeed in it.

4: Arguments against the comparison

This chapter I will present three arguments that serve the purpose of proving why religious institutions and hospitals are not sufficiently similar. The three arguments are not dependent on each other, nor do they carry on into arguing against religious exemptions as a whole, but rather stick with arguing against sufficient similarity.

4.1: Argument from utility of received exemptions

The first argument against religious institutions and hospitals being sufficiently similar is what I term the argument from received exemptions. It will consist of looking at two different institutions that operate under two different religious bodies of thought. I will then proceed to show that sufficient similarity with hospitals only works if all religious institutions are sufficiently similar to hospitals since if they are not, we risk the state prioritizing one religious' body of thought over the other.

Consider two different religious bodies of thought, say for instance Buddhism and Christianity. Each of these two religions have their own institutions that seek to provide services for the general public while operating under the doctrine of the relative religion. Let us assume that Christian institutions had proven their sufficient similarity to hospitals and have subsequently received the sought-after tax exemptions. Unless the Buddhist institutions also receive similar tax exemptions, then the state is giving preferential treatment to one religion over the other. However, Buddhist institutions almost completely consist of either temples or universities. This means that we are forced to either concede to universities being sufficiently similar to hospitals, or we are forced to abandon the notion of sufficient similarity as a whole ergo Christian institutions cannot receive tax exemptions based on sufficient similarity. The alternative would be for Buddhist institutions not to receive tax exemptions. However, this is also not advantageous to us. Since we are working within an egalitarian framework, this means that we cannot accept the state prioritizing one religious' group over the others. Thus, there is an impasse if we are to provide religious institutions with tax exemptions based on sufficient similarities with hospitals.

4.2: Arguments from motivation

The second argument I will make is what I call my argument from motivation. This is an argument attacking specifically the second condition for sufficient similarity: acting independently of any particular loyalty to an exclusionary body of thought.

My argument is as follows: First, religious institutions want exemptions from laws that obstruct their ability to practice their religion. Second, the ability of a group to practice their religion is specific to them in that the exemption is only geared towards them. Given these two premises, we can conclude that the ability of religious institution to practice its function under a religious doctrine is inherently exclusionary. Moreover, these religious institutions cannot act independently of their religious doctrine, an exclusionary body of thought to which they are very loyal.

This might be somewhat contentious regarding judging religious doctrines as exclusionary, but I do not need to make too harsh a case for this exclusion. Take for example Christian institutions; there are members of the church itself, namely women, that are excluded from becoming priests not because of a proven inefficiency or other reason regarding women and their ability to perform the duties of a priest, rather it is a direct result of uncompromising loyalty to the doctrine of Christianity itself.

This is perhaps best visualized in what feminist philosophers Christie Hartley and Lori Watson attack in their paper *Political Liberalism and Religious Exemptions*. They present the case in the United States where “claims to self-governance of religious institutions and doctrines conflict with fundamental liberal, democratic principles. Presently in the United States churches are permitted a “ministerial exemption” that excuses them from certain sex discrimination laws” (Hartley and Watson 2018, 14). Later on, in that paper, they make the case that the state can attempt to coerce religious institutions into acting in a more inclusive manner by challenging the tax exemptions the state gives to religious institutions. This I mention rather fleetingly to show that I perhaps have some allies even though they do not present a flushed-out version of their ideas.

4.3: Argument from relationship with the state

The third argument, which I dub the argument from relationship with the state, is essentially one in which I argue that the unique relationship between religions and the state drives religious institutions away from sufficient similarity with hospitals. All modern political liberalist states have the separation of church and state as one of the most important foundations with regards to their legal system. This separation entails that the state cannot promote one religion over the others, neither can the state interfere in the affairs of religious thought.

This results in contention with two conditions of sufficient similarity. The first condition as well as the third. Let us consider the first one initially.

The first condition states that these institutions work towards a specific goal that the state has a vested interest in promoting or endorsing. The obstacle here is clear, the state cannot promote or endorse religious institution goals without breaching separation of church and state. Moreover, the state cannot make any such promotion towards any theory of consciousness.

One counter argument might be that the goals of religious institutions might not be religious, say a catholic school. However, there are two problems with this rebuttal. One problem is that even if the goal is education, it is education within a specific religious framework, also a goal the state cannot endorse for the same reason. Another problem is that if the goal is not religious, then the discussion becomes one of sufficient similarity between two private institutions that might qualify for tax exemptions on basis other than religious.

The third condition states that the institutions should be regulated by the state in such a manner as to ensure the tax exemptions aren't redirected to a corruption of the original purpose. This is perhaps the strongest part of the argument. Consider hospitals first, hospitals are heavily regulated by the state. The state's regulation extends to all facets of operations of hospitals. This means that when the state awards the hospital with a tax exemptions, there is considerable proof or evidence that the hospitals are not redirecting this tax exemption to a corruption of the original purpose of the tax exemption. On the other hand, religious institutions are not regulated by the state. Moreover, any attempt by the state to regulate religious institutions would run a really high risk of contravening with the doctrine of separation of church and state. This means that there is another, potentially impossible, argument to be made in which the state can regulate religious institution while reconciling with the separation of church and state doctrine. Thus, there is no guarantee that any tax exemptions received aren't redirected to a corruption of the original purpose, say an exemption from paying taxes on music equipment for a religious choir being used to finance the refurbishing of other parts of the congregation.

5: Objections and replies

This chapter will consist of some of the objections or criticisms that I expect will be put forth against this paper, and then I shall attempt to answer all of them in as best a manner as I can.

5.1: Comparison between an institute and a multitude of institutions

The first objection I want to tackle is that the comparison here is between one institution or entity, namely hospitals, and a multitude of entities. Religious institutions are diverse, and it seems quite disingenuous to argue against the similarity between hospitals and religious schools for example. Would it not be a more consistent argument to make if the comparison was restricted to hospitals and religiously financed hospitals or medical centers?

This is a matter of scope of the argument and thereby not a threat to the main claim overall. The main claim is that religious institutions cannot rely on drawing parallels to other non-religious institutions that are exempt from paying taxes in order to justify gaining tax exemptions themselves. This means that the choice of arguing against the comparison with hospitals is simply a ‘‘path of least resistance’’ approach. While a ‘‘closer’’ type of institutions would be non-profits, hospitals provide a much-needed comfort in discussions due to them being largely uniform with regards to legislation and tax exemption. Non-profits are not nearly so uniform or indeed united in motivations, regulations or even if the state gives them any tax exemption. This means that employing them as the example instead of hospitals would yield a much broader generalization of non-profits in order to account for their differences and thereby a comparison that is too general and non-pragmatic overall. Moreover, any such generalization can be potentially reached through examining hospitals as well.

5.2: Hospitals can also be exclusionary

This objection is essentially an attempt at proving that hospitals do act within a framework that can be an exclusionary body of thought. If this is proved, then we can attack the definition of sufficient similarity. I will provide an example subsequently to make clearer sense of the objection.

Consider this example, a patient is admitted where she has lost a huge amount of blood. Unbeknownst to the hospital, this woman is a member of the Jehovah’s witness’s

congregation and subscribes to its specific faith. This means that she will not consent to the transfusion of blood she desperately needs. This means that the hospital does in fact act with loyalty to a particularly exclusionary body of thought.

My reply to this objection will be in the form of a *modus tollens* argument. I argue that the body of thought here, namely contemporary bioethics and medicine, is not an exclusionary one itself, at least not in the same manner of exclusion that is present in religion. Let us suppose that the body of thought is exclusionary in a way that is satisfactory to the objection. This means that it does not allow patients that do not also subscribe to the tenants of the body of thought. The hospital here does not reject the patient, rather gives her the choice of treating her through blood transfusion or treating her without the transfusion of blood. This means that it does allow patients that do not subscribe to the tenants of the body of thought, here the transfusion of blood. Thus, the body of thought cannot be exclusionary in the same manner of exclusion that is present in religion. Moreover, due to the commitment of the hospitals to the Universal Declaration of Human Rights, this means that it will respect the autonomy of a patient of herself and will seek consent with any treatment. This means that such cases, ones where the exclusion is the result of a difference of opinion, will always be approached in the same manner as this one.

5.3: Political Neutrality

Political neutrality is the idea that the state should act in a neutral fashion towards all theories of conscience. This, in practice, means that the state cannot chose one theory of consciousness to support over the other. This idea is perhaps best presented by Andrew Koppelman in his paper *Neutrality and the religion analogy* “Disestablishment of religion entails a kind of neutrality towards certain contested conceptions of the good. The state may not favor one religion over another. It also may not take a position on contested theological propositions.” (2018, 1).

We have briefly touched upon a notion similar to this in the beginning of the paper in which I presented Swan’s notion of equal legal status. I will explain Swan’s ideas on equal legal status regarding exemptions, then I will give an objection based on Swan’s ideas.

Swan is interested in achieving equal legal status between exemptions based on religion motivations and those based on secular motivations. Equal legal status requires Swan to admit that the state can endorse certain actions done for religious reasons.

Moreover, it would go against the notion of political neutrality for the state not to endorse these actions since it would be akin to the state giving preferential treatment to secular theories of conscience.

But how does this go against the notion of sufficient similarity? Bear in mind I will not discuss Swan's argument itself but rather take for granted its validity.

Well, if we concede that it is not necessary for there to be a divide between religious and secular motivations in the eyes of the state; then the first condition, that of working towards a goal that the state has a vested interest in promoting, becomes more acceptable. Moreover, there is also leniency across the third condition as well as the state gains the ability to regulate religious institutions albeit not nearly to the extensiveness and complexity of the regulation hospitals are under. Thus, two of the necessary conditions for sufficient similarity are under pressure.

To this I present a reply to each of the conditions. First, regarding the third condition, I put to the objection that while the state does gain the ability to regulate religious institutions, it is not enough to ensure that the exemptions aren't redirected to a corruption of the original purpose. The regulation Swan has in mind is not nearly as extensive as need be. Rather Swan only justifies endorsement, and by extension state coercion, through appealing to political neutrality regarding theories of conscience. This entails a certain "level" of regulation by the state that is enough to guarantee that exemptions aren't redirected to a corruption of the original purpose.

Second, regarding the first condition, this is essentially what Swan is arguing for in his paper *How should we treat Religion?* For Swan, the state goes against political neutrality when it shows a conservative nature of action in promoting religious ideas but is accommodating of secular ideas. He gives the example of student clubs in public schools where a vegan club might be tolerated or encouraged but the same is not true for a bible club. But how does this relate to sufficient similarity?

Well, the first condition does not allow for two institutions to be sufficiently similar without both of them working towards a goal which the state has a vested interest in promoting. Building on Swan's ideas, religious institutions may make the case that their goals are promoted by the state. However, this does not extend to goals such as the encouragement of religious belief or the refusal of services that contradict the teaching of the religious doctrine. In fact, the goals that Swan might accept as endorsable by the state are simply services the members of the religious communities can have access to. For example, Swan is fine with a bible club in public school, however, he has issues with this

club if it was advertised for nonreligious students or students who prescribe to other religions. This means that the state can only support such goals if they are to improve the services religious institution members take advantage of. This is not enough for them being sufficient similarity since the goals of a hospital can extend to a better service for patients or the general populace.

5.4: Sufficient similarity is unrealistic

One argument that might appeal to my opposition is that I put forth an unrealistic set of conditions to be met. That it is unrealistic to talk about similarities between two different institutions, and that there is no real-life example which can help cement my observations or be applied to this debate.

I will begin my response by saying that this criticism is not at all unfounded. It can very well be the case that sufficient similarity is an absurd notion to present, after all, it is not entirely clear how I can prove two institutions are sufficiently similar even if there are two sufficiently similar institutions. What I mean here is that if we take an example of two sufficiently similar institutions, say for example institution A and institution B, then, even if I know they are sufficiently similar, I cannot prove it or indeed prove the application of my three conditions. After all, what the state has a vested interest in promoting may vary wildly depending on what a new election cycle might present. Moreover, there might not be a foolproof way of regulation that ensures these exemptions aren't redirected to a corruption of the original purpose. I will henceforth in this section concede that sufficient similarity might be unrealistic.

But does this refute my whole argument? I hold that it does not, rather this just enforces my main overall argument.

Sufficient similarity is not a notion which I defined for the purpose of applying it to other further debates or any real-life examples. It is simply a name given to the combination of the three conditions listed above. If it is unrealistic, then the similarity argument itself becomes unsustainable. This means that while my argument fails on itself, what it sets out to do, argue against the similarity argument, it achieves.

5.5: Mill's view on motivation

This final objection is one regarding the motivation of the state as opposed to the motivation of hospitals and religious institutions. For this objection, I will begin by

presenting the ideas of John Stuart Mill regarding authoritative and non-authoritative interventions. This will provide the basis for the objection, which is that the first condition of the sufficient similarity notion is not needed since tax exemptions are the state's way of enforcing a sense of non-authoritative intervention, and these are based on the state's motivation rather than the goals of the institutions. Finally, I will reply to this by essentially doubling down on my first condition through saying that the state's motivation is not independent of the goals of the institutions that are given tax exemptions.

Regarding Mill, in his book *Principles of Political Economy*, he presents government intervention as being implemented in two different ways. Authoritative and non-authoritative. Authoritative intervention is the state creating monopolies in economic sectors for instance banking. Non-authoritative is the one we will be looking at. Mill describes it "There is another kind of intervention which is not authoritative: when a government, instead of issuing a command and enforcing it by penalties, adopts the course so seldom resorted to by governments, and of which such important use might be made, that of giving advice and promulgating information; or when, leaving individuals free to use their own means of pursuing any object of general interest, the government, not meddling with them, but not trusting the object solely to their care, establishes, side by side with their arrangements, an agency of its own for a like purpose." (2004, 279-280).

Now, if we assume that the state, when it awards tax exemptions to institutions such as hospitals, is acting in a manner which can be called non-authoritative intervention. This means that it is the state's motivation to promote certain institutions over others, be it in the same field or as an alternative service to a more common one. Therefore, there is no need for the first condition of the sufficient similarity notion.

This objection, in my opinion, turns a blind eye to a sort of "synergy" between the motivations of the state and the goals of institutions. If we force institutions to acknowledge, and indeed work towards, goals which the state has a vested interest in promoting, then it is inevitable that these goals would help in materializing the motivations of the state. Let us consider a situation where the state wants companies to provide healthcare coverage for its employees. The state offers tax exemptions for such companies as incentives for changing the contracts of its employees. The objection holds that, in this case, the state's motivations are entirely its own. The state's motivations are not based on the companies' actions, but rather the state's own interest in providing the best lifestyle for its citizens. However, the reply I am giving holds that the state's interest in providing the best lifestyle for its citizens is not only upheld by institutions working towards goals that

include healthcare for the employees, but also having a goal the state has a vested interest in promoting is advantageous as it avoids further intervention by the state.

6: Conclusion

In this paper, I have set out to argue against the similarity' argument. The similarity argument is put forth in order to give religious institutions tax exemptions by comparing them to hospitals. This assumes that hospitals are given tax exemptions and are justifiably given these exemptions.

I work in an egalitarian framework. I mention some of the main egalitarian theories, however, my intention is not to adopt one but rather to present a generalized egalitarian viewpoint in which tax exemptions is not a controversial topic. Then, I give what I consider a basic argument for religious exemptions. These are exemptions from laws due to the fact that they are based on religious motivations. I give Maclure's argument for religious exemptions as it is quite general and is perhaps well established in debates on religious exemptions.

Then I present the formalized version of the similarity' argument. In it, the third and fourth premise say that hospitals and religious institutions are sufficiently similar, and therefore should be afforded equal legal status. This will serve as the basis for my argument. I will first attempt to give a description of what I believe is enough for two institutions to be sufficiently similar with regards to tax exemptions. This will consist of three conditions that have to be met in order to give them equal legal status and, subsequently, tax exemptions.

I present the three conditions without judging if religious institutions and hospitals meet them. The point here is to set up my rebuttal of the similarity argument and in order to avoid any claims of being biased against religious institutions, I supplement my conditions by relating them to the debate on hospitals receiving tax exemptions.

After that, I present three objections to the similarity' argument. The first argument is essentially one in which I highlight the difficulties in following through with what the similarity argument asks. Essentially, I make the case that presenting religious institutions with tax exemptions cannot be consistent with fundamental policies of modern liberal states, mainly that of political neutrality in dealing with different religious beliefs.

The second is my argument from motivation in which I look at the motivation of religious institutions when they ask for religious exemptions. I do this since it correlates with the inherent exclusive nature of the tax exemptions they receive. People who do not subscribe to this religion cannot gain from these tax exemptions which makes them

exclusive to practicing members and that goes against a condition of the description of sufficient similarity.

The third relies on the relationship between religious institutions and the state, and it is this relationship that I use in order to show that religious institutions lack the ability to have a much more integrated relationship with the state, a relationship in which regulation is key. This means that the doctrine of separation of church and state incentivizes us to not give religious institutions tax exemptions.

Finally, I look at five objections that I believe can be raised against my paper and attempt to give them some sufficient replies. First, I consider the objection that I am comparing one institution, hospitals, to a number or type of institutions, religious institutions. I answer this through pointing out that looking at hospitals is simply a “path of least resistance” approach and that it is simply one example of a non-religious institution.

Second, I consider the idea that hospitals can also be exclusionary. This is based on the idea that some people might object to certain treatments provided by the hospitals. I refute this by providing some clarity on what I mean by exclusionary. The exclusion of religious institution is something internal to the religious doctrine or body of work, while the accusation given that hospitals’ treatment may not be accepted by some patients and therefore exclusionary is not internal to hospitals but to the beliefs of the disgruntled patients.

Third, I consider the idea that due to political neutrality, not giving them tax exemptions would go against some of Kyle Swan’s ideas regarding political neutrality. These ideas I take for granted, so the state is allowed to interfere and in some very basic cases advocate for religious goals; specifically, when not supporting religious goals would go against the neutrality that the state has to maintain between religious beliefs and secular beliefs. From this point, an objection could be raised that the state is fine with regulation as well. I argue against this by referring to Swan’s views that while they do call for some promotion for religious goals when secular goals are similarly promoted, but not for the imposition of religious goals on people who do not practice it in ways which secular goals are. Summarized, it is not enough to justify regulation or the same level of promotion.

Fourth, the objection is that sufficient similarity, as a concept, is way too stringent and not realistic. I reply to this by saying that the notion of sufficient similarity is not a concept by itself, but rather a description of what I would deem enough to merit giving tax exemptions to religious institutions. This means that if it is too stringent or realistic, then

the whole concept behind the similarity' argument is unrealistic, and it is an objection that supports my argument as opposed to going against it.

Fifth, I generalize John Stuart Mill's definition of nonauthoritative intervention. From this, the objection moves the focus onto the state's own motivations. This means that there is no need for the first condition for sufficient similarity, that the state has to have a vested interest in the goal of the institutions. I reply to this that while it may be logically valid to do that, it is not advantageous in the long run. This disincentivizes institutions from matching their goals to the state when asking for exemptions. Tax exemptions become a matter of the state's motivations and therefore any talk of burdens or religious exemptions is undermined by the state's own motivations and eventually actions.

In this paper, I have shown that the similarity' argument does not hold well when analyzed further and presented with criticism. The idea that tax exemptions can be argued for based on the comparison between two institutions might seem like a practical approach by the state, however I hope I have done enough to dissuade any pursuit of it as a reasonable approach.

Abstract:

I study the position of religious institutions in matters of exemptions from paying taxes, the position is that religious institutions must be exempted from paying taxes in much of the same manner to hospitals since they are sufficiently similar with regard to taxation and legal status. I consider what might be required for this “sufficient similarity” to merit this equal legal status and resulting equal treatment by the state. I provide some justification of the tax exemptions hospitals receive and relate them to the three requirements for sufficient similarity. I then present three arguments against the three conditions of sufficient similarity. Lastly, I consider some objections to the conditions of sufficient similarity and the paper as a whole, I then provide some replies to these objections as best I can.

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