



# What's Wrong with Religious Establishment?

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## Abstract

Is it possible for a liberal society to have an established church? After outlining the conditions for liberal establishment, I take from David Hume a secular argument in its favour that points to the moderating effect of establishment on religious discourse and practice. I examine the claim that state support for religion violates liberal equality, and argue that, with respect to state-provided public goods generally, what matters is that the whole package should be of roughly equal benefit to each citizen; it is not required that every citizen should value each distinct good. I claim that religious establishment can have valuable effects for both believers and non-believers, and thereby count as a public good. I then examine the charge that establishment always conveys a message of disparagement to those outside the favoured church, making them into second-class citizens, as both Martha Nussbaum and Cécile Laborde have claimed. Understood as a claim about the experience of minority groups, however, it is unsupported by empirical evidence. Understood as an interpretative claim about the meaning of establishment, it fails to distinguish between privileging an institution and privileging the people attached to it. Finally, I point out that religious minorities may favour an established church as a shield against the pervasive secularism of most modern liberal societies.

**Keywords** Cécile Laborde · Established church · Liberalism · Martha Nussbaum · Public goods · Religion

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Cécile Laborde's discussion of religious establishment in *Liberalism's Religion* and elsewhere is characteristically nuanced. She nowhere dismisses out-of-hand the possibility that a state might grant a particular religion official recognition while still counting as a liberal state. Indeed, she goes on to provide a sketch of just such a state, calling it Divinitia and contrasting it with its less religion-friendly sister, Secularia.<sup>1</sup> Divinitia accommodates and supports religion in various ways that she spells out, while still on Laborde's view exemplifying a reasonable liberal conception of justice. As she puts it, 'there is more permissible variation in state-religion arrangements than many liberals have recognized'.<sup>2</sup> More specifically, she presents the US and the UK as two states that fall somewhere on the spectrum between Secularia and Divinitia considered as ideal types, and by implication accepts the particular form of establishment represented by the Church of England as one such permissible arrangement.

Yet, Laborde is willing to tolerate religious establishment only up to a point. She speaks elsewhere of 'the wrong of establishment' and makes it clear that in her eyes only symbolic establishment is permissible, i.e., ceremonial and other such forms of recognition that do not confer any material advantages on the favoured religion or its adherents. She says that her 'preferred conception of justice is closer to the progressive arrangements of Secularia', and when she gives examples of the circumstances in which state support of religion does not pose a threat to 'egalitarian citizenship', these are drawn from non-Western countries.<sup>3</sup> So, her embrace of establishment as a potentially liberal arrangement is lukewarm at best, and in particular she attaches considerable weight to an argument against it that has been popularised by hard-core opponents of establishment such as Martha Nussbaum.<sup>4</sup> This is the argument that, when the state establishes a particular religion, it cannot avoid demeaning those who do not subscribe to it, relegating them to the status of second-class citizens.

My aim in this article is twofold. First, I want to spell out the positive reasons why liberals may wish not merely to tolerate but positively to welcome having a particular religious institution supported by the state. Here, I share Laborde's view that any argument about establishment must have a contextual character; this one applies in circumstances in which the religion in question has historically been the religion of the majority of the society's inhabitants, and that majority also continues to wish to see it officially recognised. Second, I want to evaluate the liberal-egalitarian argument against establishment. In particular, I want to challenge the claim that

<sup>1</sup> Cécile Laborde, *Liberalism's Religion* (Cambridge, MA: Harvard University Press, 2017), pp. 150–159.

<sup>2</sup> Laborde, *Liberalism's Religion*, p. 151. As she puts it in an earlier essay, 'nothing in orthodox political liberalism prevents a religious majority from entrenching its symbols within the state, provided members of religious minorities are otherwise treated as free and equal citizens (according to principles of justice)' (Cécile Laborde, "Political Liberalism and Religion: On Separation and Establishment", *Journal of Political Philosophy*, 21 (1) (2013), p. 82).

<sup>3</sup> She refers specifically to the role played by religion in Madagascar and Senegal. See Laborde, *Liberalism's Religion*, p. 142.

<sup>4</sup> See especially Martha Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2008).

establishment inherently demeans those who don't adhere to the favoured religion. Although my primary target here is authors such as Nussbaum, I shall raise some doubts about the more subtle version advanced by Laborde, according to which even symbolic establishment is wrong 'if religious identity independently functions as a marker of social vulnerability and domination in the society in question, or if such establishment can reliably be predicted to increase the social salience of religious identity'.<sup>5</sup>

I want, therefore, to defend the legitimacy of 'liberal establishment', by which I mean an arrangement whereby the state recognises and supports a national church, but does so in a way that is consistent with liberal principles of political order. 'Church' here stands in for a religious institution of any kind, though the examples I have in mind are provided by the various forms of Christian establishment that continue to exist in several European states, including, of course, the United Kingdom.<sup>6</sup> So, the argument is meant to leave it as an open question which faith—Christian or otherwise—should be recognised in any particular country. I do, however, want to defend the possibility of having a single institution recognised as the national church, and not merely what is sometimes now referred to as 'multi-faith establishment', where a number of religious bodies would be granted equal recognition. The fact that establishment requires the state to privilege one particular confession at the expense of others is, of course, the reason that it is open to challenge on egalitarian grounds.

The liberal establishment that I aim to defend is constrained in a number of ways. First, there must be sufficient institutional separation between church and state, with each enjoying autonomy in its own sphere—clerics cannot dictate to politicians on lay questions, and politicians cannot dictate to clerics on religious questions. Second, there must be freedom of conscience and religious expression. Membership of the national church must be voluntary, and no disadvantages—economic, social, or political—should attach to individuals who choose not to belong. Every citizen must have an equal political status, with all of the rights and obligations that go along with this. Third, citizens are to be protected by anti-discrimination laws from any disadvantage they might suffer—in the labour market, say—as a result of not belonging to or identifying with the church in question. Nevertheless, the form of establishment I want to defend goes beyond merely symbolic recognition, where the church is given a ceremonial role in state inaugurations, funerals, and other events, and religious symbols may be displayed on public buildings, the national flag, etc. It may extend also to offering material support to the church, perhaps by helping to pay for the maintenance of church buildings, or by contributing to the salaries of priests. Here, the church and the spiritual service it provides is being treated as a public good that may qualify for support if it turns out that not enough of the good

<sup>5</sup> Laborde, *Liberalism's Religion*, p. 136.

<sup>6</sup> Within the UK, the relatively strong form of establishment enjoyed by the Church of England contrasts with the much weaker form manifested by the Church of Scotland, while the Anglican churches in Wales and Northern Ireland are fully independent of the state. This serves to underline that 'establishment' can mean a number of different things in practice.

will be provided by the voluntary contributions of parishioners. The aim is not to benefit the church's individual adherents, who will normally be expected to contribute financially to its upkeep, but to support the institution as such.

Finally I assume that church establishment is a matter for democratic debate, and that its justification depends upon the issue being revisited from time to time, with a vote to disestablish being a permanent possibility. In other words, I don't propose that the church's position should be given constitutional protection such that any changes to the status or form of establishment require the agreement of the church itself. This means that the argument I shall make should not be understood as an argument *for establishment* but rather an argument for the *possibility* of liberal establishment, assuming that there is ongoing popular support for such an institution.

The question, then, is whether the existence of an established church is consistent with liberal principles. One reason for thinking otherwise is that such an institution cannot be publicly justified—cannot be supported by reasons that are accessible to all citizens, whatever their personal religious convictions (or lack of them).<sup>7</sup> What is being presupposed here is that establishment can only be justified by reasons that are themselves religious. But this is not so. Of course, the most obvious way to defend establishment is to argue that having the church supported by the state will help to propagate and strengthen the true faith. But there can also be secular arguments for linking religion to the state by means of church establishment. Whether these arguments are finally convincing, they appear to pass the public reason test, and to have sufficient plausibility that they cannot be dismissed as merely a smokescreen behind which private reasons lurk.

Consider, for example, the argument that David Hume, a notorious religious sceptic, offers in defence of religious establishment in his *History of England*. Reflecting on the circumstances in which the Church of England was established under Henry VIII, he points out that the professions can broadly be divided into two groups, those whose practice is individually beneficial to the recipients of their services and which are, therefore, best conducted through an economic market, and those that provide public goods, such as the armed forces and the judiciary, that accordingly must be paid for by the state. It might at first seem, says Hume, that the clergy belong in the first category, and it would be better to encourage them to be diligent by making their incomes depend on the generosity of their congregations. But, he continues, if we study the matter more closely, 'this interested diligence of the clergy is what every wise legislator will study to prevent'. Why? Because 'each ghostly practitioner, in order to render himself more precious and sacred in the eyes of his retainers, will inspire them with the most violent abhorrence of all other sects, and continually endeavor, by some novelty, to excite the languid devotion of his audience'. Hume had no opportunity to experience the behaviour of American tele-evangelists, but he anticipated it with remarkable foresight. The wise magistrate will, therefore,

<sup>7</sup> I do not, in fact, accept the premise that all valid political reasons are public reasons. However, it might be felt that the establishment of a church counts as what Rawlsians would call a 'constitutional essential', and must, therefore, be defended by appeal to reasons that are accessible to people outside of that confession.

find ‘that in reality the most decent and advantageous composition which he can make with the spiritual guides is to bribe their indolence, by assigning stated salaries to their profession, and rendering it superfluous for them to be further active than merely to prevent their flock from straying in quest of new pastures’. So, Hume concludes, ‘ecclesiastical establishments, though commonly they arose at first from religious views, prove in the end advantageous to the political interests of society’.<sup>8</sup>

You may disagree with Hume’s argument in the exact form that he presents it here, but I believe he sees something to which more recent debates on church establishment often seem blind, namely that religion is potentially a dangerous and destructive force that can tear a society apart. Church establishment can help to guard against this. In Hume’s hands, the claim is that a salaried clergy has no incentive to whip up religious enthusiasm and sectarian hatred among the people. We could build on this argument in a way that makes it more applicable to modern circumstances. Where a church is established, this makes its clerical members into public servants of a particular kind. They are given responsibilities towards all of those who fall within their geographical jurisdiction, whether or not they are active members of the church—the Church of England, for example, is legally bound to baptise, marry, and bury everyone who lives in the relevant parish.<sup>9</sup> This comes to the fore when some disaster—a big fire or a terrorist attack—strikes a town or village, and the church is the place where the community comes together to commemorate its loss. The need to carry out these responsibilities, and on occasion to incorporate people of different faiths into their rites, inevitably exercises a moderating discipline on at least the expressed beliefs of the clergy. Because they are expected to represent everyone, they cannot afford to state views that would put them starkly at odds with most of those whom they serve. The moderation shown by the Church of England when dealing with the issue of abortion, in contrast with the views expressed by non-established churches in the US, may illustrate this point. This also has the corollary that some of those within the established church may argue for disestablishment precisely on the grounds that this would free them to pursue their spiritual vocation without the impediment of being answerable to the public for their actions and opinions.<sup>10</sup>

Established churches by their very nature are likely to include within them people holding a variety of moral and political views, which then must be deliberated on and reconciled if the church is going to express its position on contemporary issues like armed conflict or gay rights. This isn’t going to be an easy task, as recent experience demonstrates, but there are incentives to search for compromise views so that the church can speak with a single voice. This gives it a particular kind of authority when it intervenes in political debate on questions of public policy—the

<sup>8</sup> All quotations from David Hume, *The History of England* (London: Frederick Warne and Co., 1884), Vol. III, p. 129.

<sup>9</sup> See Rex Ahdar and Ian Leigh, *Religious Freedom and the Liberal State*, 2nd ed. (Oxford: Oxford University Press, 2013), pp. 100–109.

<sup>10</sup> In the case of the Church of England, see, for example, Colin Buchanan, *Cut the Connection: Disestablishment and the Church of England* (London: Darton, Longman and Todd, 1994); and Theo Hobson, *Against Establishment: An Anglican Polemic* (London: Darton, Longman and Todd, 2003).

intervention can't be dismissed as merely sectarian in character, given the process through which the church has arrived at its stated position. A critic may ask whether a church ought to have moral authority of that kind. It might be said that it only has the right to speak on strictly religious issues, and that debate on matters of general public concern must be wholly secular in nature. But this would be a peculiar position to take in an open society where all manner of groups holding different world views feel free to comment on public affairs. An established church gives religion a significant voice in that debate, and one whose legitimacy is enhanced by the internal dynamics of establishment. That, presumably, is one of the reasons that members of other faiths are often in favour of continuing establishment, notwithstanding the fact that it may appear to place their own voices in a secondary position—a point to which I'll return later.

I have suggested, then, that in a society where many citizens continue to hold religious beliefs, there are prudential reasons for wanting to channel these beliefs through an established church whose effect will be to moderate religious extremism of one sort or another. An argument of this kind ought to be acceptable to liberals, assuming that its empirical premises are true. So, the question becomes whether these potentially benign consequences of establishment are trumped by principles of equal treatment that condemn any preferential treatment of different faiths by the state.

At this point, we must recognise that behind the specific question I'm raising about liberal establishment lies a more basic question about liberalism itself as a political theory. That more basic question can be formulated as follows: should we understand liberalism as a deontic theory that treats certain abstract principles, typically principles of freedom and equality, as axiomatic, and then approaches questions of policy by asking what these principles require or permit, and what they rule out? Or, should we understand it more sociologically, as a theory about how a liberal society is possible at all—how a society whose members have sharply opposing personal beliefs and views about the good life can remain both free and stable and not split up or dissolve into violent conflict?<sup>11</sup> The two perspectives will come apart if it turns out, empirically, that the practices, institutions, and cultural commitments that enable liberal societies to remain in good working order require departures from the abstract principles that deontic-minded liberals regard as definitive of liberalism. The practical dilemmas that result can be seen in a number of policy areas. Think, for example, of the institution of hereditary monarchy, which seems almost certain to fail when tested against liberal principles of freedom and equality, but might nevertheless be an important source of social unity in a society divided along lines of race, class, and culture. Or think of the practice of liberal education and the question of whether it must remain neutral on questions of the good life, and

<sup>11</sup> I set aside here the question of whether liberalism has not only sociological but also philosophical preconditions, in the sense that it must be supported by a worldview of a certain kind that can answer questions that liberalism itself leaves in abeyance. For an argument that Christian establishment can and does play this kind of supporting role, see Nigel Biggar, "Why the establishment of the Church of England is Good for a Liberal Society" in Mark Chapman, Judith Maltby, and William Whyte (eds.), *The Established Church: Past, Present and Future* (London: T and T Clark, 2011).

aim simply to develop critical reasoning powers, or whether it may also legitimately aim to encourage the upcoming generation to identify positively with their political community.<sup>12</sup> I believe that church establishment raises similar issues. In each case, the right approach is to draw from both perspectives, and, faced with some institution or practice that appears to have a solidarity-inducing or stabilising function but to contravene liberal-egalitarian principles, ask how serious the contravention really is, and then if it appears to be serious look at what institutional or policy changes might be made to mitigate it.

Having sketched the case that a liberal might advance, from a secular starting point, in favour of religious establishment, I now turn to consider the case against. This comes in a number of versions, some of them helpfully disentangled in the fourth chapter of *Liberalism's Religion*. I will deal swiftly with a first argument of this kind, which is that establishment infringes the religious freedom of those who don't belong to the church.<sup>13</sup> However, so long as we are clear that what is up for debate is *liberal* establishment as defined above, this is clearly a non-starter. No one is obliged to join the national church, and no one suffers any penalty from not being affiliated with it, since non-discrimination laws are strictly enforced. The church cannot legislate or otherwise compel people to observe its teachings. It might perhaps be said that if the state recognises a particular religion and, for example, allows religious symbols to appear in public places, people lack the freedom to avoid encountering them in their daily lives. But that argument has little or no merit. No one can claim the right to live in a religion-free society any more than they can claim the right to live in a football-free society. Anyone who moves around in public space is liable to be confronted with sights and sounds that they might prefer not to experience, whether these are church bells or billboards displaying pictures of scantily clad women advertising perfume. What people can rightfully claim is the freedom to form their own beliefs, to choose which if any church they want to join, or to start up, and to suffer no external penalties as a result of their choices.

A more plausible starting point for a critique of establishment is that it violates liberal principles of equality by conferring an unfair advantage on those who belong to the established church. Recall that I aim to defend more than just symbolic establishment; I also want to defend the permissibility of the state deploying resources to support the established church. How can this be squared with the equal treatment of citizens? Here, we enter the quite difficult terrain of the just provision of public goods, assuming on the basis of my earlier argument that an established church can count as provider of public goods—specifically the good of providing religion with a public voice while drawing believers away from ‘enthusiastic’ sects, to use Hume’s epithet.<sup>14</sup> Some public goods can quite easily be defended on the grounds that they

<sup>12</sup> See Ian MacMullen, *Civics Beyond Critics: Character Education in a Liberal Democracy* (Oxford: Oxford University Press, 2015).

<sup>13</sup> See also here Rex Ahdar and Ian Leigh, “Is Establishment Consistent with Religious Freedom?”, *McGill Law Journal*, 49 (3) (2004), pp. 635–681. The argument is also swiftly dismissed in the case of symbolic establishment in Laborde, *Liberalism's Religion*, p. 134.

<sup>14</sup> I draw here on previous work: David Miller, “Justice, Democracy, and Public Goods” in Keith Dowding, Robert E. Goodin, and Carole Pateman (eds.), *Justice and Democracy: Essays for Brian Barry* (Cambridge: Cambridge University Press, 2004); David Miller and Isaac Taylor, “Public Goods” in

are an essential means for all citizens to lead decent lives—public safety, for example, or clean air. The state’s providing these goods is not controversial except perhaps among extreme libertarians. But other public goods are such that they are valued by many citizens but not by all, and then the question arises whether the state can be justified in using its coercive powers of regulation and taxation to supply these goods. Goods such as national parks, museums and art galleries open to all, sports pitches, and public television fall into this category. The general answer that I have defended elsewhere is that there is no injustice so long as the complete *package* of these discretionary goods is of roughly the same value to each citizen. In other words, taking as a benchmark the situation in which a minimal state provides only essential goods, when a more-than-minimal state taxes and regulates so as to provide a bundle of public goods available to all, does each citizen gains on balance to roughly the same extent? You may enjoy walking in national parks but not play any sport, whereas I have the opposite preferences, but there is no injustice in the state’s providing these opportunities so long as we are both net beneficiaries, taking into account the cost of providing sports pitches and the restrictions on freedom involved in protecting a national park. There are obvious difficulties in computing those net gains accurately, and something must be said to those who claim that they value none of the discretionary goods that the state either does or could provide. Nonetheless, this approach seems to me to be the only defensible way of reconciling the more-than-minimal state with liberal-egalitarian principles of distributive justice.<sup>15</sup>

The question now is whether the same approach can be used to justify state support of an established church. Establishment cannot be opposed merely on the grounds that not everyone values having such a church and the services it provides, since that will be true of many public goods that we nevertheless think it justifiable for the state to provide, as argued above. But the more specific problem appears to be that the state is providing a benefit to the members of one particular church, but doing nothing equivalent for those who belong to other faiths, and this looks like deciding to offer financial support to tennis but not cricket, say, which would be ruled out by the equal benefit approach I am commending. In other words, if establishment is going to be defended on public good grounds, it seems it will have to be

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Footnote 14 (continued)

Serena Olsaretti (ed.), *The Oxford Handbook of Distributive Justice* (Oxford: Oxford University Press, 2018).

<sup>15</sup> The approach I am taking here contrasts with the view that any state activities that require coercive taxation to support them must be individually capable of public justification. Kevin Vallier, for example, argues that such activities must serve a ‘publicly justified purpose’ understood as ‘one that all suitably idealized and reasonable persons regard as a worthy pursuit’ (Kevin Vallier, “Religious Establishment and Public Justification” in Cécile Laborde and Aurelia Bardon (eds.), *Religion in Liberal Political Philosophy* (Oxford: Oxford University Press, 2017), p. 109. Such a view would almost certainly rule out the state provision of any non-essential public goods. On my approach, when the state uses tax-generated funds to build a sports stadium or an opera house, there is no requirement that all (reasonable) citizens should find such purposes worthwhile. Instead, what is required is that the good valued by *some* people—in this case, sports enthusiasts and opera lovers, respectively—should form part of a package of public goods from which, as far as possible, all citizens stand to benefit equally. It is the overall package that can be publicly justified to each citizen, on grounds of efficiency and fairness, not its individual components.

multi-faith establishment, where the state recognises and supports a variety of religious confessions, presumably apportioning its support to the number of adherents that each has, in roughly the same way as it would in the sports case. To resist this equalising move, an argument must be made that it's beneficial to *all* religions to have one particular church given state recognition as the national church.

I think such an argument can be made, though I will only sketch it here. Although there are certainly ways in which the state can support a variety of churches—for instance, by giving them charitable status for tax purposes—the idea that it can actually *establish* more than one looks odd on closer inspection. This is not merely a matter of definition. The idea of establishment involves recognising the church's special authority to speak on religious matters, but also as we've seen giving it the responsibility to serve all citizens in an inclusive way. It's unclear how this could be done in the case of more than one institution. It's also very doubtful whether other religions would welcome the idea of becoming established. They might enjoy the enhanced voice that it brings, but they would almost certainly prefer to be responsible only to their own constituents and to be free to develop doctrinally and in terms of organisation in whatever way their adherents wish. The evidence we have, in the English case at least, is that members of other religions prefer to maintain the Church of England as the single established church.<sup>16</sup> They see the benefit to religion in general of having an institution responsible for speaking on its behalf in public debate, and they recognise that for historical reasons this should be the one that plays that role. So, although it might still be argued that adherents of the established church derive greater benefit from establishment than do those of other faiths, this looks like a case where a good that is widely valued can only be provided in a way that benefits some more than others. To insist on egalitarian grounds that such goods should never be provided would be an obvious example of levelling down.

The people to whom this argument is going to be hardest to sell are convinced atheists (agnostics, on the other hand, might view support for the church in much the same way as car drivers might view the provision of rural bus services—important that they should be available in case your primary means of transport should one day fail). Atheists, obviously, attach no value to giving religion a public voice. They

<sup>16</sup> The evidence in question usually takes the form of statements by religious leaders. I don't know of any surveys of ordinary congregants (would they understand the significance of the question?). This evidence is surveyed in Robert M. Morris (ed.), *Church and State in 21st Century Britain: The Future of Church Establishment* (Basingstoke: Palgrave Macmillan, 2009), Ch. 11. A particularly eloquent defence of establishment by a non-Christian, the then Chief Rabbi Jonathan Sacks, can be found in Jonathan Sacks, *The Persistence of Faith: Religion, Morality and Society in a Secular Age* (London: Weidenfeld, 1991). For a more nuanced but supportive view, see Tariq Modood, "Establishment, Multiculturalism and Citizenship", *Political Quarterly*, 65 (1) (1994), pp. 53–73; Tariq Modood, "State-Religion Connections and Multicultural Citizenship" in Jean Cohen and Cécile Laborde (eds.), *Religion, Secularism, and Constitutional Democracy* (New York: Columbia University Press, 2016).

Note that the broad issue of Church of England establishment should be distinguished from the specific arrangement whereby twenty-six Anglican bishops are automatically entitled to sit in the House of Lords. Here, the evidence suggests that those who represent other faith groups strongly prefer a more balanced system of religious representation. See Iain Mclean and Benjamin Linsley, *The Church of England and the State: Reforming Establishment for a Multi-Faith Britain* (London: New Politics Network, 2004).

see it as confounding, rather than illuminating, public debate. So, if they are to be persuaded that an established church might nonetheless be a public good, it would have to be for reasons of the kind that I outlined when setting out a secular case for establishment. The public voice of an established church is likely to be moderate, ecumenical, and closer in substance to secular discourse. You don't find spokespersons for these churches arguing that evolution is nonsense or that Jews must seize the whole of Jerusalem to hasten the second coming of Christ. A rational atheist, therefore, must weigh the comparative advantages and disadvantages of establishment and disestablishment, on the assumption that the latter won't mean the end of religion itself or its disappearance from the public sphere. Indeed, the effect might be the exact opposite: for religion to be strengthened and become more vociferous and intransigent once freed from the shackles of establishment. Richard Dawkins seems, in fact, to embrace something like this argument when in his book *The God Delusion* he draws attention to the 'paradox' that 'the United States, founded in secularism, is now the most religious country in Christendom, while England, with an established church headed by its constitutional monarch, is among the least'.<sup>17</sup> He suggests an explanation for this that follows very much in the footsteps of Hume's argument for establishment, pointing to the sales techniques followed by evangelists in the land where 'religion has become free enterprise'. 'In England, by contrast, religion under the aegis of an established church has become little more than a pleasant social pastime, scarcely recognizable as religious at all'.<sup>18</sup>

Perhaps, then, with Dawkins' concurrence, atheists might become convinced of the case for establishment. But if these arguments fail to persuade—and clearly they rest on counterfactuals—then the public goods case in favour of establishment must fall back on the general argument that the state may be justified in providing public goods that are not valued by everyone, provided that the overall package of goods benefits each person to roughly the same degree. That case also relies on identification with the relevant faith, even if only in a weak and passive form, remaining widespread.<sup>19</sup> It would be hard to justify continuing establishment in a thoroughly secular country. But, as I indicated at the outset, I regard the case for liberal establishment as in any case depending on continuing democratic endorsement.

That concludes my response to the objection that a state that provides material support to an established church is unjust because it unfairly advantages those who belong to or identify with that church. But now I want to consider a second charge, namely that any form of recognition, even of a purely symbolic kind, is inadmissible because of its failure to recognise all citizens as equal members of the political community. Such a charge is frequently levelled in the critical literature on establishment. There is the much-quoted remark of the US Supreme Court Justice Sandra Day O'Connor that any state endorsement of a particular religion 'sends a message to nonadherents that they are outsiders, not full members of the political community,

<sup>17</sup> Richard Dawkins, *The God Delusion* (London: Transworld Publishers, 2006), p. 61.

<sup>18</sup> Dawkins, *The God Delusion*, p. 62.

<sup>19</sup> On this in relation to England specifically, see Morris, *Church and State in 21st Century Britain*, Ch. 10.

and an accompanying message to adherents that they are insiders, favored members of the political community'.<sup>20</sup> Nussbaum elaborates on this idea:

By throwing its support behind an orthodoxy, government makes a statement: this is the official doctrine of our nation. Such a statement, as Madison saw, suggests that nonadherents are not fully equal members of the political community, and they don't enter the public square "on equal conditions". Even if they are not coerced, the implication is that they exist at the sufferance of the dominant group, not as citizens of equal worth in their own right.<sup>21</sup>

I am not, however, persuaded, by Nussbaum's argument here. First, 'official doctrine' strikes me as an overstatement if what is at issue is recognising a particular church as the national church and granting it certain privileges in public life (such as officiating at state ceremonies). No ordinary citizen is thereby required to espouse or endorse any official doctrine. Assuming that the conditions for liberal establishment are met, people outside of the established church will not be penalised or put under any pressure to conform to its teachings. Their civil and political rights are in no way affected by their religious affiliation (or lack of it). Second, again provided civil and political rights are equally protected for all, it's unclear why citizens of different backgrounds should 'enter the public square' on unequal terms just because some happen to belong to the established branch of religion while others don't. If 'entering the public square' means taking political action and engaging in political discussion, it is hard to see why being affiliated to the officially recognised religion confers any kind of privileged status on the adherent, even if his affiliation is visible (which normally it won't be). Moreover, the topics on which citizens are politically engaged are rarely specifically religious: in nearly all cases, a person's religious convictions will simply be irrelevant to the issue that is being discussed.

But perhaps the egalitarian argument against establishment is intended to focus not on political standing, specifically, but on some wider, less tangible form of social inequality that religious establishment is said to produce. So, consider by way of analogy the case where one particular sport is widely celebrated as the national game—rugby for New Zealanders, ice hockey for Canadians, perhaps—and suppose the state *does* give that sport a privileged status, conferring resources on it that it denies to others, on the grounds that the nation's psychic wellbeing depends on the continued success of its teams in international competitions. In one respect, this is indeed unfair to people who prefer to watch or participate in other sports since it violates the equal benefit principle sketched above. But it would be absurd for soccer or badminton fans to claim that their citizenship was being devalued or their equal worth not being recognised when the state disproportionately supports the national game. Sporting identities just don't cross over in that way into general standings in society or the public realm.

A critic might say in response that the sports analogy is misleading, because partisanship in sport is unlike religious commitment in at least one important

<sup>20</sup> Cited in Nussbaum, *Liberty of Conscience*, p. 247.

<sup>21</sup> Nussbaum, *Liberty of Conscience*, p. 225.

respect. The worst that a rugby or hockey fan can say about a football fan is that he shows bad taste by failing to recognise the superior athletic or aesthetic quality of the favoured national sport. But religions make truth claims, so when government throws its support behind one particular religion, the critic will argue, it is implicitly accusing those who follow other religions (as well as atheists) of committing a moral error. Its disparagement cuts much deeper than in the sporting case. There is clearly something to this argument: without question, this is how followers of established religions tended to regard religious dissidents in the past. But in contemporary liberal societies with established churches, the case is very different. Leaders of the officially recognised religions are keen to present themselves as speaking on behalf of religion in general, not only for their own communion. They take pains to avoid being judgemental about other religions; on the contrary they often engage in outreach, taking part in inter-faith dialogue and making room for other faiths to participate in official events such as inaugurations and state funerals. In these circumstances, state recognition cannot plausibly be interpreted as moral condemnation of those who stand outside of the national church.

If the claim is that, nonetheless, members of minority religions do experience church establishment as demeaning or marginalising, then we must ask, first, whether there is empirical evidence that this is so, and, second, if it is, whether they are justified in their reaction. As Sune Laegaard has pointed out in a careful analysis, claims about the effects of symbolic inequality can be understood either subjectively or objectively.<sup>22</sup> Understood subjectively, they refer to the way that establishment is actually experienced by those outside of the favoured religion. However, the thesis that any form of religious preference shown by the state subjectively ‘denigrates or marginalizes’ those who do not belong to that faith is not borne out by the evidence.<sup>23</sup> A recent attempt to test it found that the degree to which the state supported a particular religion had no negative effects on religious minorities’ confidence in the public institutions of their society.<sup>24</sup>

This leaves in play the objective reading, which, in effect, says that establishment conveys a disparaging message to minorities even if those being disparaged don’t get the message and consequently don’t feel demeaned. The problem here, as Laegaard points out, is to find a suitable interpretative perspective from which to judge a public policy whose intention is not written on its face. In the case where religious symbols are on display, such as Christmas Nativity scenes in public buildings, for example, Nussbaum seems able to draw fine distinctions between circumstances in

<sup>22</sup> Sune Laegaard, “What’s the Problem with Symbolic Religious Establishment? The alienation and symbolic equality accounts” in Laborde and Bardon (eds.), *Religion in Liberal Political Philosophy*.

<sup>23</sup> Nussbaum, *Liberty of Conscience*, p. 11.

<sup>24</sup> Nahshon Perez, Jonathan Fox, and Jennifer McLure, “Unequal State Support of Religion: On Resentment, Equality, and the Separation of Religion and State”, *Politics, Religion and Ideology*, 18 (4) (2017), pp. 431–448. Although confidence in institutions such as parliament and government is not a perfect proxy for a subjective feeling of non-alienation, it would be surprising if the alleged marginalising effect of establishment on religious minorities failed to dent their political confidence at all, which is what the evidence suggests (indeed the data presented in this article shows government support for religion having a small *positive* effect on minorities’ confidence in their political institutions).

which the display conveys disparagement of religions other than Christianity and circumstances in which it does not.<sup>25</sup> But it is not clear to me what she would say to someone who did not share her intuitions. The worry here is of a kind of hypersensitivity where a prior theory about what ought and what ought not to be displayed in public spaces is then used to justify claims about what is objectively demeaning to religious minorities and what isn't.

Laborde's discussion of the inegalitarian effects of symbolic establishment weaves together several threads, but she appears willing to mirror Nussbaum's argument in saying that 'when the state associates itself too closely with the symbols of the majority, nonadherents are rejected outside the imagined community of citizens. Symbolic establishment is wrong, on this account, when it constitutes and perpetuates social relations of hierarchy, subordination and domination'.<sup>26</sup> But arguments of this kind fail to distinguish clearly enough between privileging an institution and privileging the individual people who are attached to it. Once again it helps us to see the point more clearly if we switch attention away from the specific case of religion and consider other cases in which states may recognise and support social or political institutions. For example, it is quite common for states to use public funds to support political parties, presumably on the grounds that strong and effective parties play an important role in a democracy. But we have no inclination to say that in doing so they are creating a social hierarchy between party members and non-members, or turning the latter into second-class citizens. The support that is offered conveys a judgement that the institution, in this case the political party, is doing valuable work, but this does not translate into any evaluation of the relative social standing or worth of individual people inside and outside the institution.

Laborde might accept this point in its general form but say that there are special circumstances in which even symbolic, let alone material, endorsement does convey such a socially inegalitarian message. She draws attention to the fact that people can sometimes be made vulnerable through their religious identities and proposes the principle that 'when a social identity is a marker of vulnerability and domination, it should not be symbolically endorsed and promoted by the state'.<sup>27</sup> In contemporary Western democracies, the most obvious example is a Muslim identity, which is a 'marker of vulnerability' in the sense that people are often harassed and discriminated against simply because they are identified in that way. The claim is that, in these circumstances, the symbolic endorsement of Christianity (or indeed any religion other than Islam itself) by the state contributes to that vulnerability, and this is what makes it objectionable.

But how exactly does it contribute? Prejudice against Muslims and other religious minorities is unfortunately widespread in Western democracies, and does not seem

<sup>25</sup> Nussbaum, *Liberty of Conscience*, Ch. 6.

<sup>26</sup> Laborde, *Liberalism's Religion*, p. 136.

<sup>27</sup> Laborde, *Liberalism's Religion*, p. 137. The reader might be confused by this formulation: Laborde's meaning is that the state should not endorse the religious identity to which the vulnerable identity is counterposed—e.g., should not symbolically endorse Christianity in circumstances in which being a Jew or a Muslim is a marker of vulnerability.

to be in any obvious way correlated with the presence or absence of religious establishment. For example, if one compares England with its established church with officially secular France, it seems that antisemitic and anti-Muslim attitudes are at least as strong if not stronger in the latter. The question we should be asking is not about whether the church is formally established, but about how church leaders and church members respond to the presence of vulnerable religious minorities in their societies. At one extreme, they might denounce these minorities for their failure to convert to the true faith now that it is accessible to them, thereby contributing further to their social marginalisation. At the other extreme, they might use their moral authority to speak out as champions and defenders of these vulnerable groups in the face of radical secularism, drawing on the long, though certainly far from unblemished, history of Christian toleration. Where the churches that are actually established fall on this spectrum is, of course, an empirical question, though earlier I gave reasons why a church that enjoys this status might be expected to exert a moderating influence in the face of religious divisions, and interpret its role as one of defending the value of religious commitment generally over-and-above its own articles of belief.

It is surely relevant here to return to the question of how members of religious minorities themselves view establishment. If its effect is to increase their social vulnerability, one would expect them to oppose it. Alternatively, though, they might regard the public recognition of religion as providing some shield against a pervasive secularism that disparages people for being devout. Consider what Tariq Modood has to say about the Muslim case:

Muslims in Britain do seem to feel excluded and alienated by some aspects of British and indeed European society. Yet there is no record of any criticism by a Muslim group in relation to establishment. In contrast, many Muslims complain that Britain is too unreligious and antireligious, too hedonistic, consumerist, materialist, etc. Muslims protest much more about secularist bans on modest female dress such as the headscarf ... than they do about ‘establishment’ or Christian privileges. Muslims and other religious minorities appreciate that establishment is a recognition by the state of the public and national significance of religion ...<sup>28</sup>

It seems, therefore, that the social vulnerability critique of establishment has the right form but lacks supporting evidence. It is not enough to point to the fact that having a religious identity may be a source of vulnerability; it must also be shown that the presence of an established church magnifies that effect. So far, that hasn’t been done.

It is, nevertheless, correct to say that the justifiability of continuing establishment will depend on contextual factors. For example, if the state were to take the initiative of elevating a single religion to official status, that is very different from offering

<sup>28</sup> Modood, “State-Religion Connections and Multicultural Citizenship”, p. 195. Modood goes on to clarify that he regards single-religion establishment as ultimately less desirable than multi-faith establishment.

continued recognition to a church that has been established for centuries, and is, therefore, widely taken for granted as a reflection of the society's historically given national identity. So, the claim I have been defending is that establishment is sometimes permissible, not that it is always warranted. Critics of existing establishment must show that they are motivated by more than anti-religious prejudice, that they are not using the alleged affront it causes to minority groups as a way of advancing a secularist agenda of their own. In this general area, I believe, more attention should be given to tracing the actual impact that different religious configurations have on the practice of liberal citizenship, rather than trying to resolve the issue through an appeal to abstract principle.

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