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## **Spinoza, Jefferson and “the Separation of Church and State”**

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Spinoza has long been heralded as a forerunner of all things modern, and in many respects rightly so. In the domain of ethics, religion and politics, we can see how he carries the standard for many values that we recognize as modern, even progressive. He is, after all, the seventeenth century’s most forceful and eloquent proponent of the democratic, tolerant and secular state.

Democracy, Spinoza argues in both the *Theological-Political Treatise* (published to great alarm in 1670) and the *Political Treatise* (left uncompleted at his death), is the “most natural” form of government arising out of the social contract and the best form of commonwealth. A democratic governing assembly is most likely to issue laws based on sound reason and to serve the ends for which government is instituted: freedom, security and culture. This is because in a democracy the people obey only laws that issue from the general will of the body politic. It is also the form of government least subject to various abuses of power. In a democracy, the rationality of the sovereign assembly’s commands is practically secured, as it is unlikely that a majority of a large number of people will agree to an irrational design. Contrary voices answering to irrational individual preferences and passions will cancel each other out and the resulting decrees will reflect what is in the rational interest of all. Monarchy, on the other hand, is the least stable form of government and the one most likely to degenerate into tyranny.

As for toleration, the subtitle of the *Theological-Political Treatise* makes it perfectly clear where Spinoza stands on this issue: “Wherein it is shown that the Republic can grant freedom of

philosophizing without harming its peace or piety, and cannot deny it without destroying its peace and piety.” He is especially concerned to show that the peace, stability and security of the state can only be undermined when civic affairs are allowed to be directed by ecclesiastics, and when intellectual matters are policed according to their conformity to sectarian religious dogma. In this sense, one can rightly speak of Spinoza’s commitment to the separation of church and state. This is the moral of the history of the ancient Israelite kingdoms, in which things began to fall apart when priests “took for themselves the right to rule”<sup>1</sup>, and it is a lesson that the Dutch Republic should now, in the late 1660s, take to heart, as conservative leaders of the Dutch Reformed Church seek to control what happens not just within their houses of worship but in the public domain as well.

However, things are a little more complicated than they may seem at first glance. Spinoza, in a striking way, does *not* in fact argue for the separation of church and state. However, it is not that he thinks that the state should conform to religious strictures. Rather, he believes that it is the state or civil sovereign that should exercise control over what happens in the religious sphere, especially when church affairs are a matter of public activity. The contours of Spinoza’s views on church and state become especially clear when they are compared with the views of Thomas Jefferson, writing a century later.

## I. Jefferson and the Separation of Church and State

The United States Constitution was drafted in 1787 and finally ratified by the states in 1788. It was immediately found wanting, however, especially with regard to the protection of individual rights. Thus, in 1791 the Constitution was supplemented by ten amendments collectively known as the Bill of Rights. The very first of these amendments includes two clauses

regarding the relationship between the federal government and religion: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The first clause, known as the “establishment clause”, forbids the government from favoring not just any particular religion, but religion in general. The second clause, known as the “free exercise clause”, forbids the government from interfering with the observance of religious faiths (giving rise, of course, to disputes generated by religious practices that violate other federal laws, such as rituals using hallucinogenic narcotics).

Together, these two clauses amount, in theory, to a robust separation of “church” (construed broadly to include any sectarian faith) and state—that is, a separation of the religious and civic domains. Something like the phrase ‘separation of church and state’ itself seems to have been first used by a public official when Roger Williams, the founder of the colony of Rhode Island, referred to a “wall or hedge of separation” between “the wilderness of the world” and “the garden of the church.” Its most famous use, however, appears in Thomas Jefferson’s 1802 letter to the Danbury Baptist Association. According to Jefferson, the point of the establishment clause of the First Amendment was to build “a wall of separation between the church and the state.” Jefferson and his colleague James Madison were especially concerned with preventing government establishment of one particular religion—much as the Anglican faith was the established church in Great Britain—or even any religion at all. Here is the relevant part of Jefferson’s text:

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should “make

no law respecting an establishment of religion or prohibiting the free exercise thereof”, thus building a wall of separation between Church & State.

As concerned as Jefferson was with religious freedom from government interference, he was equally worried about ecclesiastics interfering in government affairs. He feared a situation in which “kings, nobles and priests” form a kind of aristocracy or, worse, theocracy, whereby they set themselves up as “good conservators of the public happiness” when in fact they are generally ignorant of, and even opposed to, it.<sup>2</sup>

## II Spinoza on Church and State

Jefferson owned several volumes by Spinoza. In his library there was a copy of the first edition (1670) of the *Tractatus theologico-politicus*; a copy of that treatise in English translation (1689) titled *A Treatise Partly Theological and Partly Political*, and a first edition (1677) of the *Opera Posthuma*, which contained the *Ethics* and the correspondence, among other things. We do not know whether and how much of these works Jefferson actually read; there are no marginalia in any of the volumes. Still, much of what Jefferson has to say about the relationship between church and state echoes Spinoza’s solution to the theological-political problem.<sup>3</sup> At the same time, there are significant and illuminating differences.

Spinoza, contrary to the charges made by his contemporary critics, was not an irreligious person. At least, not when religion is properly understood. On one occasion, when he was accused of having “renounced all religion”, Spinoza replied:

Does that man, pray, renounce all religion who declares that God must be acknowledged as the highest good, and that he must be loved as such in a free spirit? And that in this alone does our supreme happiness and our highest freedom consist?<sup>4</sup>

There is a crucial distinction, Spinoza argued in the *Theological-Political Treatise*, between organized sectarian religions and what he calls “*true religion*.” There are sectarian cults united by dogma, bound by specific rites and ceremonies, and governed by authoritative hierarchies. And then there is true piety, which consists only in the love of God and of one’s fellow human beings and the moral or ethical behavior to which such love gives rise.

Judaism, Christianity and Islam are, naturally, Spinoza’s paradigmatic sectarian religions. As Abrahamic traditions, they obviously share common patriarchal origins. But what distinguishes them from one another and provides their exclusivity is the fact that they recognize different individuals as the supreme prophet (Moses, Jesus and Mohammed) and different texts as canonical, and they demand different beliefs and rituals of their adherents. Spinoza is certain, however, that none of this matters when it comes to true religion.

For example, the ceremonial laws of Moses, Spinoza concludes, “contribute nothing to blessedness” but have to do only with the political and economic well-being of the ancient Israelite commonwealth. “The observance of ceremonies has regard only to the temporal prosperity of the state and in no way contributes to blessedness ... Scripture promises for ceremonial observance nothing but material advantages and pleasures, while blessedness is promised only for observance of the universal Divine Law.”<sup>5</sup> Similar considerations apply to the ceremonies of Christianity, such as baptism, prayers, the sacraments and the celebration of holy days.

If [these ceremonies] were ever instituted by Christ or the Apostles (of which I am not yet convinced), they were instituted only as external symbols of a universal Church, not as conducing to blessedness or as containing an intrinsic holiness. Therefore, although it was not to support a sovereign state that these ceremonies were instituted, yet their only purpose

was the unification of a particular society, and thus he who lives in solitude is by no means bound by them.<sup>6</sup>

Spinoza's point is that the dogmas and rituals of Judaism and Christianity (and Islam, for that matter) are neither necessary nor sufficient for the achievement of the highest human good and salvation, the real goals of religion. The rituals are not sufficient because one may know and follow every single one of the Torah's commandments and still have nothing of true religion. And one can be a rigorously observant and ceremonially devout Christian and still not enjoy true piety. The rituals are not necessary because one can be a paragon of true religious devotion and know or care nothing at all for Jewish law or Christian rites. "He who, while unacquainted with [the writings of Scripture], nevertheless knows by the natural light that there is a God having the attributes [of wisdom and righteousness], and who also pursues a true way of life, is altogether blessed—indeed, more blessed than the multitude."<sup>7</sup>

The core of true religion, for Spinoza, is obedience not to man-made ceremonial laws but to divine law. While human law is meant to prescribe what one should do to "safeguard life and the commonwealth", protect oneself and one's property from others and insure the well-being of the state, divine law prescribes what one should do to obtain the "supreme good", that is, what is most to one's advantage not as a physical, social or political being but as a rational and moral being. And what that divine law commands is, at least on the face of it, quite simple: to know and love God and to love one's neighbor as oneself and treat other human beings with justice and charity. "Piety and the practice of religion", he claims, consists "only in works, i.e., only in the practice of loving-kindness and justice."<sup>8</sup>

As we shall see, another important distinction for Spinoza concerns a tripartite distinction between (a) inner faith, (b) private worship (including private communal worship) and (c) public

activities in the service of one's religious institution, including such things as large worship gatherings, the celebration of holidays and life-cycle events (such as births, weddings or funerals), religious speeches and publications, etc.. The first (a) may not (and, in fact, probably cannot) be regulated by the political sovereign; the second (b) may, however, since it is a matter of action and not just belief; and the third (c) certainly does fall in the sovereign's realm of responsibility and *must* be regulated by it, although it is up to the sovereign to decide how strictly to do so.

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Two hundred years before the framing of the United States Constitution, freedom of religion was enshrined among the founding tenets of the United Provinces of the Netherlands. Article Thirteen of the Union of Utrecht states that "every individual should remain free in his religion, and no man should be molested or questioned on the subject of divine worship." The leaders of the Dutch Republic in the seventeenth century may not always have been faithful to this principle, and they certainly did not believe in the separation of church and state in the Netherlands, where the Reformed Church was, if not the *established* church, at least a formally privileged one. Still, there was for the period an unusually high freedom of religion in Holland and the other provinces (if not freedom *from* religion, since perceived atheists were, as Spinoza learned, sometimes persecuted with vehemence). It was precisely the threats to this and other freedoms in the Republic that had Spinoza sufficiently worried that he felt he had to write something about it.

As the author of a "theological-political" work, and having prepared the ground in the chapters where he discusses the Bible, miracles, prophecy, faith, Scripture, and political theory, Spinoza finally turns in the *Theological-Political Treatise* what he views as the proper relationship between the state and religion. Now it is often asserted that he was a strong early proponent of the separation of church and state, and that he, along with John Locke, laid the foundation for later

programs of complete religious toleration. One commentator even writes that “the spirit of Spinoza lives on in the opening words of the First Amendment of the U.S. Constitution, the phrase referred to as the establishment clause.”<sup>9</sup>

In fact, this is not right at all.

The separation of church and state can mean a number of things. Spinoza did believe that when it comes to religious *belief* people should be left alone to believe (or not believe) whatever they want. As he notes, because the nature of religion

consists not so much in external actions as in simplicity and honesty of heart, it is not the domain of any public legislation or public authority. For simplicity and honesty of heart are not instilled in men by the command of laws or by public authority ... absolutely no one can be compelled by force or by laws to become blessed. ... Therefore, since each person has the supreme right to think freely, even about religion ... each person will also have the supreme right and the supreme authority to judge freely concerning religion, and hence to explain it and interpret it for himself.<sup>10</sup>

It is impossible to control people’s beliefs anyway; there is no way to monitor what goes on in their minds, and any attempt by the government to reach into their minds regulate their beliefs is doomed to backfire and generate resentment, hypocrisy—people thinking one thing and saying another—and perhaps even rebellion. True piety, “the inward worship of God”, is an entirely personal matter. It may be encouraged, but should, as a matter not only of necessity but of right, be left to the individual alone.

Spinoza argues as well that the free *expression* of one’s religious beliefs, verbally or in writing, should also be tolerated by the state, but only up to a degree. In general, no one should be prosecuted for heresy or irreligion or, indeed, propounding any philosophical or theological views.



The attempt to suppress what people say, like the attempt to regulate what they believe, can only harm the state it is allegedly intended to protect. It, too, will lead to resentment, secrecy, and ultimately revolt. However, Spinoza is not an absolutist when it comes to freedom of speech and expression. The state should not allow anyone to say anything they want anywhere, at any time, and under any circumstances. He does allow the sovereign to punish those whose speech is likely to give rise to seditious activity. This applies not only to explicitly political speech but also to the public expression in certain circumstances of ideas that the civil sovereign deems to be irreligious and thus inimical to the practice of justice and charity.

Which brings me to my main point. For if the separation of church and state means what it is usually taken to mean in the free exercise and establishment clauses of the Constitution—that it is not up to the government to decide what counts as religion, and that the government may not regulate or formally endorse or suppress the expression of religious opinions or any particular set of religious practices or outward forms of worship—then here Spinoza parts company with Jefferson and his fellow founders of the American republic.

In the properly ordered state, Spinoza argues, the sovereign power (*summa potestas*) is charged with all matters of public well-being. Any actions or practices that enter into the public sphere and therefore may possibly affect the welfare of the people and the commonwealth are the responsibility of the government. The state's laws and decrees must be directed toward the peace, security and stability of the polity, and its legislators must take care to regulate institutions whose activities have some bearing on these. (By contrast, anything that is not related to the public good, such as private belief, is not within the sovereign's purview.)

It follows, then, that the sovereign's authority extends not only to the promulgation of civil laws but to laying down religious laws as well, at least insofar as these are related to piety in the

form of public activities. The inner worship of God and the feelings of love toward one's neighbors are to be left to the individual, though such beliefs and values certainly can, and should, be encouraged by the civil authority, since these mental states are not without effect on public behavior. But the outer form in which the worship of God and neighborly love are to be expressed and practiced—the rites and ceremonies observed and, especially, the expression of the love of and obedience to God and the love of one's neighbor through justice and charity in action—falls within the public domain and, thus, within the sovereign's sphere of authority. This means that the sovereign is responsible for what Spinoza calls the "interpretation of religion." As Spinoza puts it in chapter 19 of the *Theological-Political Treatise*, "religious worship and the exercise of piety must be accommodated to the peace and utility of the republic, and hence must be determined only by the supreme powers [*summīs potestatibus*], who must also be its interpreters."<sup>11</sup> A few passages later, he notes that

Since it is the duty of the supreme power alone to determine what is necessary for the well-being of the whole people and the security of the state, and to command what it has judged to be necessary, it follows that it is the duty of the supreme power alone to determine in what way each person must devote himself to his neighbor in accordance with piety, i.e., in what way each person is bound to obey God.<sup>12</sup>

He reminds the reader that this governmental oversight applies only to the "external practice of religion, not piety itself and the internal worship of God." On such internal matters, "each person is his own master."<sup>13</sup> Individual citizens are, of course, free to read and interpret the Bible for themselves and to take to heart, however they can (and with whatever metaphysical, theological and historical beliefs may help them), its exhortations to justice and charity. But whether in a democratic or an aristocratic form of government, the governing assembly is to decide how God's

law—to love one’s neighbor and exercise justice and charity—is to be translated into practice, since it has sole authority to decide what activities are consistent with the public welfare.

No one can exercise piety toward his neighbor in accordance with God’s command unless his piety and religion conform to the public good. But no private citizen can know what is good for the state except from the decrees of the supreme power, to whom alone it belongs to transact public business. Therefore, no one can practice piety aright nor obey God unless he obeys the decrees of the supreme power in all things.<sup>14</sup>

For the same reason, the civil sovereign is also the source of the normative force of God’s decrees in the state. Since God is, in philosophical truth, not an anthropomorphic ruler or lawgiver, there are no laws, divine or otherwise, in a state of nature; before the formal institution of a polity, there is neither justice nor injustice, no piety and no sin. And there are no valid laws in the commonwealth that are not enacted by the sovereign, including all laws regarding the exercise of justice and charity—that is, the practice of true religion. Since, Spinoza says, “justice and charity can acquire the force of law and command only through the right of the state, I can readily draw the conclusion—since the state’s right is vested in the supreme power alone—that religion can acquire the force of law only from the decree of those who have the right to command, and that God has no special kingdom over men save through the medium of those who hold supreme power.”<sup>15</sup>

Notice that Spinoza says that the organization and control of religion is the duty of the sovereign *alone*. Among those private citizens who are not qualified to make judgments about the public good and thus dictate outward forms of worship (including, presumably, ceremonial rites), are sectarian clergy. Spinoza has fully removed the supervision of religion from sectarian leaders and put it firmly in the hands of the civil authority. The sovereign is free to appoint ecclesiastics

to act as its “ministers” in religious affairs, but these representatives serve at the pleasure of, and fully answer to, the secular authority.

Civil control of religious affairs, while no doubt offensive to early modern ecclesiastics, was in fact a prominent theme in seventeenth-century Dutch republican thought, and Spinoza was not alone in his views on this matter. Grotius, in his work *De imperio summarium potestatum circa sacra* (*On the command of the highest powers over sacred affairs*), had proposed political regulation of preaching and worship<sup>16</sup>, while Pieter de la Court, foreshadowing Spinoza, insisted in his *Political Discourses* that the state, insofar as it is responsible for peace, security and prosperity, should have power over all religious activities (while, at the same time, tolerating a diversity of religious *beliefs*). The English philosopher Thomas Hobbes, too, argued, not surprisingly, that the sovereign is to have absolute command over religion within its dominion: not just the organization and content of public preaching, but even in determining what is Scripture and what is the word of God. “There is ... no other government in this life, neither of state nor religion, but temporal; nor teaching of any doctrine, lawful to any subject, which the governor, both of the state and of the religion, forbiddeth to be taught. And that governor must be one, or else there must needs follow faction and civil war in the commonwealth.” There may be many pastors in a state, Hobbes says, but they must all be subordinate to a single chief pastor. And “who that chief pastor is, according to the law of nature, hath been already shown, namely, that it is the civil sovereign.”<sup>17</sup> The alternative to “this consolidation of the right politic and ecclesiastic” is, Hobbes believes, “civil troubles, divisions, and calamities of the nation.”

For Spinoza, then, any public forms of religious devotion are to be regulated and supervised by the civil government.<sup>18</sup> And there may indeed be many different organized forms of public devotion and activity in the state and subjected to official scrutiny—all the different ways in which

sectarian religions prescribe how their devotees are to gather for worship, celebrate religious occasions, perform baptisms, marriages, funerals, etc. Spinoza's intention is most definitely *not* to institute a single state religion with compulsory church attendance and religious observance and a unique set of ceremonies. And he especially does not want the sovereign to dictate compulsory religious *dogma* (although it *is* the sovereign's responsibility to encourage among the masses an acceptance of those basic tenets of faith that are "necessary for obedience to God's law"). No one is to be forced to believe or to worship anything, to join any gathering or to engage in any ceremonial practices. Such enforced (and therefore false) piety and mandated conformity would not be consistent with the primary aim of the state (or of Spinoza's project): increasing the rationality and freedom of its citizens and insuring civic peace. Spinoza is not interested in seeing totalitarian control over people's lives. Rather, his position is based on the fear that, without such singular, centralized and secular control over religious matters, there is a real danger to the well-being of the commonwealth.<sup>19</sup> As he says in the *Political Treatise*, while each citizen may be a "master" of his own thoughts, "he has no right to decide what is fair or unfair, pious or impious." This belongs exclusively to the commonwealth.<sup>20</sup>

In Spinoza's view, the greatest threat to civil peace—both in theory and in practice, as ancient (Biblical) and contemporary (Dutch) events have shown—are the divisions introduced into society by sectarian religions. The multiplication of sects distinct from the official public religion—what, in the *Political Treatise*, Spinoza calls the "national religion" and a "simple and most universal religion"—are a potential danger to the security and stability of even a prosperous society. Sectarian religions can set citizens against each other—Christians against Jews, Protestants against Catholics, Protestants against other Protestants (as the Dutch Republic itself was being torn apart by vicious divisions within the Dutch Reformed Church throughout most of

the seventeenth century). More importantly, sectarian religions can set citizens against the state itself. As soon as there are alternative sources of authority besides the civil sovereign, the loyalty of citizens is divided. It becomes a legitimate question as to whether the citizens are devoted to the polity at-large and the general welfare or to their narrow sectarian causes. And a commonwealth within which there is such a schism of loyalties, with piety opposed to patriotism, cannot last long. It will eventually disintegrate under the pressure of civil discord. As Hobbes succinctly puts it, “no man can serve two masters.”<sup>21</sup>

The problem becomes particularly acute when the “religious functionaries” themselves seek influence over not just the hearts and minds of their congregants, but the social and moral life of the polity. It is, in fact, inevitable that ecclesiastics, once allowed their independent sectarian domains, will encroach upon the civil power and strive for supremacy over it. The result of such a usurpation of political authority is a division of sovereignty in the commonwealth and, in the end, its downfall.

This is precisely the lesson that Spinoza finds in ancient Israelite history. As long as political and religious authority were combined in one man (such as Moses) or one body acting on behalf of God (the true sovereign), the Hebrew commonwealth thrived as a theocracy. There was no confusion over to whom obedience was owed. A priestly caste existed, but its members were completely subordinate to the sovereign; they were consultants on religious matters, not leaders. After the monarchy was instituted under Saul, however, things deteriorated as power in the kingdom devolved into political and religious spheres. The kings were forced to recognize “a dominion within their dominion” as the priests exercised greater influence within and, subsequently, beyond the confines of the sanctuary. This was the beginning of the end.

Anyone who seeks to deprive the sovereign of this authority [over religion] is attempting to divide the sovereignty; and as a result, as happened long ago in the case of the kings and priests of the Hebrews, there will inevitably arise strife and dissensions than can never be allayed.<sup>22</sup>

With the return from exile in Babylon and the restoration of independence in the Second Temple period, “the priests usurped the right of government, thereby holding absolute power.” In a reading of Biblical history that has clear resonance for the contemporary scene—where, in the late 1660s, the orthodox Calvinist elements in Dutch society exerted their considerable influence on behalf of the Orangist bloc and the return of the stadholder, and thus opposed the domestic and foreign policies of De Witt and the States-party—Spinoza notes that “the priests became inflamed with the desire to combine secular and religious rule”, with ruinous consequences for the Israelite commonwealth.<sup>23</sup> The Dutch Republic, heeding the lesson of the Kingdom of Judah, should not allow ecclesiastics to influence civic affairs.

How disastrous it is for both religion and state to grant to religious functionaries any right to issue decrees or concern themselves with state business. Stability is far better assured if these officials are restricted to giving answers only when requested, and at other times to teaching and practicing only what is acknowledged as customary and traditional.<sup>24</sup>

When priests and preachers acquire “the authority to issue decrees and to transact government business”, their individual ambitions will know no bounds and they will each seek “self-glorification both in religious and secular matters.” They will fall out among themselves, increasing sectarian divisions in society. Corruption will necessarily follow as the affairs of state will be run according to the self-interest of whichever sect happens to gain the reins of power.

Meanwhile, the religion they enforce, now put to service for the perpetuation of their rule, will degenerate into “pernicious superstition”.<sup>25</sup>

This is not without bearing on my main theme. According to Spinoza, it is not just ecclesiastics should not be allowed to encroach upon the legislation of civil matters. Jefferson, of course, agrees with that. Allowing religious officials to have a hand in crafting civil legislation would be a clear violation of what is implied by the “establishment clause.” But, as we have seen, even matters regarding “sacred law” are the prerogative of the civil sovereign. To allow ecclesiastics to regulate such matters “divides sovereignty.”<sup>26</sup> The civil sovereign alone is to decree about sacred matters. Indeed, Spinoza insists, all arguments for the separation of sacred right and civil right are “frivolous.”<sup>27</sup>

What are the particular kinds of regulations on religious practices and activities that Spinoza envisions? Between the *Theological-Political Treatise* and the *Political Treatise*, we can come up with a list that includes things like the following, whether they apply to the “national religion” or one of the sectarian ones: the appointment of ministers, the size of meetings, the reception of people into a sectarian religious community, the excommunication of members, and providing for the poor. Even the size of houses of worship are subject to civil oversight:

Those who are attached to another religion [besides the national religion] must certainly be allowed to build as many houses of worship as they wish, but these should be small, of some definite size, and at some distance from one another. It is very important that the temples dedicated to the national religion be large and magnificent.<sup>28</sup>

And within the national religion, only its “patricians [governors] should be permitted to baptize, to consecrate a marriage, lay on hands, and unconditionally be recognized as priests, and as defenders and interpreters of the national religion.”<sup>29</sup>



This discussion of the national religion reveals, as well, that Spinoza not only departs from the broad toleration enshrined in the U.S. Constitution's "free expression" clause, but also its "establishment" clause.

Of course, as with all things Spinoza, things may be more complicated than I have presented them. This is only a beginning of trying to disentangle Spinoza's remarks on piety, religious belief, religious action, and civil liberties. Some of the things he says in various contexts appear inconsistent with my presentation so far. Moreover, the relationship with Jefferson's views is unclear. The U.S. Constitution may not allow the government to single out religious activities for legislation, but it can certainly address religious practices that it deems dangerous or a threat to civil peace and thus are illegal because they violate "neutral law." But I will leave these problems for another time.

It is interesting to note that by leaving "actions" within the realm of legitimate government authority, Jefferson may or may not be endorsing the kind of state oversight of religious practices that Spinoza countenances. It is one thing to say that religious practices have to be consistent with civil law; Jefferson himself was clear on this. It is another thing to say that the government may determine, independently of other laws ("neutral laws") which religious practices are allowed and which are not – that is, positively to prescribe or proscribe religious practices. Jefferson was not willing to take this step; Spinoza, it seems, was.

"whatsoever is lawful in the Commonwealth ... cannot be forbidden to him for religious uses; & whatsoever is prejudicial to the commonwealth in their ordinary uses & therefore prohibited by the laws, ought not to be permitted to churches in their sacred rites. for instance, it is unlawful in the ordinary course of things or in a private house to murder a child. it should not be permitted any sect then to sacrifice children: it is ordinarily lawful (or temporarily lawful) to kill calves or lambs. they may therefore be religiously sacrificed. but if the good of the state required a temporary suspension of killing lambs (as during a siege); sacrifice of them may then be rightfully suspended also... if any thing pass in a religious meeting seditiously & contrary to the public peace, let it be punished in the same

manner & no otherwise than as if it had happened in a fair or market (Jefferson, Notes on Locke & Shaftesbury, October 11–December 9, 1776, *Papers of Thomas Jefferson* 1.547–548).

The Virginia Statute for Religious Freedom makes the same point:

to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty... it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order....

Discussing the new Constitution and a possible Bill of Rights, Jefferson wrote to Madison that “The declaration that religious faith shall be unpunished does not give immunity to criminal acts dictated by religious error.” His insistence that there be no religious exemption from neutral laws does not apply to direct efforts to regulate religion (whether expressly or implicitly) which would themselves be unconstitutional. Thus, Jefferson might note that when evangelical dissenters in Virginia were arrested for disturbing the peace before the Revolution, they were not seeking a religious exemption but, rather, neutrality in the enforcement of the law (Jefferson to Madison, July 31, 1788, *Papers of Thomas Jefferson* 13.442–443).

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<sup>1</sup> TTP XVIII, G III.222/C II.324.

<sup>2</sup> Thomas Jefferson to George Wythe, 13 August 1786.

<sup>3</sup> See Bernstein, “‘Nature’s God’ as *Deus sive Natura*: Spinoza, Jefferson and the Historical Transmission of the Theological-Political Question”, in *Reason and Religion in the American Founding*, edited by Dustin Gish and Daniel Klinghard (Lanham, MD: Lexington Books, 2013), 65–81. Bernstein argues that Jefferson’s “wall of separation between church and state”, whereby (as Bernstein puts it) “state is protected against church with respect to the imposition of policies/actions, church is protected against state with respect to the encroachment on personal/communal beliefs” is “an exact replication of Spinoza’s distinction [in the *TTP*] between ‘inner’ and ‘outer’ religion” (74).

<sup>4</sup> Ep. 43, Spinoza to Jacob Ostens (for Lambert van Velthuysen), February 1671.

<sup>5</sup> TTP V, G III.70; S 60.

<sup>6</sup> TTP V, G III.76; S 65.

<sup>7</sup> TTP V, G III.78; S 67.

<sup>8</sup> TTP XVIII, G III.226/C II.328.

<sup>9</sup> Rebecca Goldstein, *Betraying Spinoza*, p. 11.

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<sup>10</sup> TTP VII, G III.116–117/C II.191.

<sup>11</sup> TTP XIX, G III.228–229/C II.333.

<sup>12</sup> TTP XIX, G III.232/C II.337.

<sup>13</sup> TTP XIX, G III.229/C II.333.

<sup>14</sup> TTP XIX, G III.232–233/G II.337–338.

<sup>15</sup> TTP XIX, G III.229; S 213.

<sup>16</sup> See Malcolm 2002, p. 41.

<sup>17</sup> *Leviathan* III.29.v, Hobbes 1994, 316.

<sup>18</sup> It might be argued that what Spinoza is insisting upon is something weaker than this: not a single form of public worship, but only the idea that all forms of public worship—and there may be many—must nonetheless be consistent with the civil laws and public welfare, as these are determined by the sovereign. Thus, he says that “no one can obey God unless his practice of piety ... conforms with the public good” (TTP XIX, G III.232; S 216). Rather than being the establisher of religion, government would thereby be only its watchdog. But it seems to me that Spinoza does intend the stronger claim, that there is to be only one form of public worship, when he says, just before that passage, that “it is the duty of the sovereign alone to decide what form piety towards one’s neighbor should take.”

<sup>19</sup> In the *Political Treatise*, Spinoza does allow that there can be independent religious sects in the state. However, there will be restrictions: “Large congregations should be forbidden, and so, while those who are attached to another religion [besides the state religion] are to be allowed to build as many churches as they wish, they are to be small, of some fixed dimensions, and some distance apart.” The houses of worship of the “national religion”, by contrast, “should be large and costly” (VIII.46, G III.345; SM 740).

<sup>20</sup> TP III, G III.286/C II.518–519.

<sup>21</sup> *De Cive* VI.11, Hobbes 1991, 179–80: “For no man can serve two masters; nor is he less, but rather more a master, whom we believe we are to obey for fear of damnation, than he whom we obey for fear of temporal death.”

<sup>22</sup> TTP XIX, G III.235; S 218.

<sup>23</sup> TTP XVII, G III.221; S 203–4.

<sup>24</sup> TTP XVIII, G III.225; S 208.

<sup>25</sup> TTP XVIII, G III.222/C II.324.

<sup>26</sup> TTP XIX, G III.228/C II.332.

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<sup>27</sup> TTP XIX, G III.234/C II.339.

<sup>28</sup> TP VII, G III.345/C II.587.

<sup>29</sup> TP VII, G III.345/C II.587.