Debate: Religious Freedom (Friday, 4/6)

The Question

There has been much recent controversy over the question of whether corporations should be permitted to claim exceptions to certain laws, and whether small businesses or individual employees should be permitted to deny service to certain customers, on religious grounds.

In 2014, the U.S. Supreme Court ruled that some corporations could claim special exceptions to certain federal laws on religious grounds. For instance, in that particular case, Hobby Lobby objected to paying for medical coverage for their employees that covered certain contraceptives (such as IUD’s and Plan-B, aka the ‘morning after pill’), claiming that the use of these resulted in something morally on a par with abortion—which the corporation opposed on religious and moral grounds. The court’s ruling, which cited their religious freedom, was to permit Hobby Lobby to refrain from offering contraceptive medical coverage to their female employees.

In March of 2015, our current vice president (then governor), Mike Pence, signed into Indiana law the Religious Freedom Restoration Act, which further legitimized appeals to religious freedom as a legal defense by individuals and corporations in a court of law. Controversy was exacerbated in June 2015, when the Supreme Court ruled that all 50 states are now required to issue marriage licenses to same-sex couples—a ruling which has been opposed by many business owners who say that serving customers at same-sex weddings is forbidden by their religious beliefs (since doing so implies a moral approval of the ceremony). Since then, bakeries have refused to bake cakes for same-sex weddings (e.g., in California and Colorado, among others); county clerks have refused to issue marriage licenses to same-sex couples (the most famous case being that of Kim Davis in Kentucky, but this has also happened in Texas, Alabama, among others); florists and photographers have also refused to serve same-sex customers at their weddings. And so on.

The issue has become complicated very quickly. The question you will ask is, Should business owners and employees be granted exceptions from the law on religious grounds? More specifically, you will ask: Should they be permitted to refuse service to a customer based on sexual orientation? (Note that the Supreme Court has taken up this case; a ruling is expected in June 2018.)

Religious Freedom: A Good Idea? It is easy to see why permitting such religious and moral freedom might be a good idea. For instance, imagine that you are a small-business owner and a member of a religion which states that human sacrifice is morally wrong. However, now imagine that you live in a society where acceptance of human sacrifice is on the rise, and has even been recently legalized. Surely, you would (and should?) refuse to serve customers at their human sacrifice ceremonies (e.g., via catering, photography, etc.). But, then, if that is correct, then shouldn’t a small business owner whose religion condemns homosexuality also be permitted to refuse to serve customers as their same-sex weddings? If there is a difference, what is it?

The point of this illustration is not, of course, to advance the offensive claim that homosexuality is morally on par with human sacrifice, but rather to clarify the more general question at issue, which is simply: If I believe—or if my religion states—that action X is morally repugnant or prohibited, then should I be required (by law and against my will) to serve customers in ways which facilitate X or imply my endorsement of X?

1 For some examples of other similar controversies not involving a refusal to serve customers based on a moral opposition to same-sex weddings, consider this Colorado baker who refused to bake an anti-gay cake on moral
**Bad Idea?** On the other hand, perhaps granting religious freedom in such a broad manner is actually a bad idea. For instance, imagine that you are a member of a religion which states that interracial marriage is morally wrong. Imagine further that you live in a society where acceptance of interracial marriage is on the rise and has even been recently legalized. Should you, as a business owner, be entitled to an exception from non-discrimination laws on religious and/or moral grounds? That is, should you be permitted to refuse to serve customers based on race? (say, by refusing to issue a marriage license to an interracial couple; note: this has actually happened in the U.S. as recently as 2009.) To many, granting such an exception will seem repugnant. But, is the contemporary debate any different? Critics ask: If individuals are permitted to deny service to customers based on their sexual orientation, won’t the results be parallel to the Jim Crow era of racist segregation laws in the U.S.? (e.g., here and here; also, here.) Is this a legitimate worry?

**Your Task**

Question: Should business-owners and/or employees be permitted to refuse service to certain individuals based on religious and/or moral grounds?

You have been divided you into two groups. One group will argue that the answer to the above questions is “yes” (this group will argue in favor of the religious freedom of employees). The other group will argue that the answer is “no” (this group will argue against the religious freedom of employees).

**Getting Started**

Now that you have met your teammates, I encourage you to continue to email one another, exchange phone numbers, arrange to meet, etc.

You may want to do a bit of research before you begin, in order to familiarize yourself with some of the common reasons that each side gives in defense of their position.

**What To Do**

**Opening statement:** Please elect one or more spokespersons from your group to give an opening statement of 3-5 minutes. During this opening statement, you will present some argument or reasons for believing that your group has the correct answer to the questions above.

**Response statement:** After both teams give their opening statements, each group will be given a couple of minutes to brainstorm quietly, to agree on what your group will say in response to your opponents. Please elect one or more spokespersons from your group to give a 3 minute response statement. During this response statement, you will provide some reason or justification for believing that what the opposing group has just said is mistaken.

**Open discussion:** At the end, the two teams will be allowed some time to discuss the issue with one another informally, before I open discussion to the entire class for Q&A.

grounds (this happened in Florida too); or, the many corporations (e.g., Walmart, Amazon, Sears, Ebay) that have decided to stop selling Confederate flag merchandise on moral grounds (including Walmart’s refusal to serve a customer who ordered a Confederate flag cake); or this woman at a printing shop who refused to print a neo-Nazi message on a mug (tumblr post here).
Format

<table>
<thead>
<tr>
<th>Event</th>
<th>Time Allotment</th>
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</thead>
<tbody>
<tr>
<td>Team “NO” opening statement</td>
<td>3-5 minutes</td>
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<tr>
<td>Team “YES” opening statement</td>
<td>3-5 minutes</td>
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<tr>
<td>Team “NO” brainstorm session</td>
<td>2 minutes</td>
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<tr>
<td>Team “NO” response statement</td>
<td>2-3 minutes</td>
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<tr>
<td>Team “YES” brainstorm session</td>
<td>2 minutes</td>
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<tr>
<td>Team “YES” response statement</td>
<td>2-3 minutes</td>
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<tr>
<td>Informal open discussion between teams</td>
<td>5 minutes</td>
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<tr>
<td>Informal Q&amp;A between teams and class</td>
<td>25 minutes</td>
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</tbody>
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Grading

This assignment is worth 10% of your grade. Half of this grade will be assigned by myself based on the performance of your team during the class debate. The other half of this grade will be based on peer assessment. You will be graded by the other members of your team in an anonymous survey following the debate. Here are some things I'll be looking for:

- Are the arguments that you present clear, carefully stated, and persuasive?
- Do you handle questions, criticisms, etc., clearly, carefully, and persuasively?
- Is it apparent that your team has put some careful thought and consideration into this issue?
- Do you function well as a team? (e.g., avoid contradicting, bickering with, or talking over your own teammates)