

# Revisiting the desire-based objection to single state religions: A reply to my critics

Ethnicities

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## Introduction

More than 20% of countries recognize a single religion in their constitution. Many normative theorists believe that this objectionable within multi-religious societies. Yet, as I show in my article, ‘Five arguments against single state religions’, the arguments that they have levelled against the constitutional recognition of a single religion, or what I call ‘mono-recognition’, are either incomplete or based on questionable empirical assumptions. In their stead, I offer a new argument. Rather than trying to identify some inherent and decisive flaw in mono-recognition as other authors have tried to do, this argument shows that mono-recognition is *pro tanto* wrong within many societies because there exists a fairer alternative: a system whereby *multiple* religions are constitutionally recognized. To be more precise, my contention is that a form of plural recognition whereby state religions are rotated, which I refer to as ‘diachronic plural recognition’, is fairer than mono-recognition within multi-religious societies *even if* there are overriding reasons for maintaining the latter within some of these societies, such as that abolishing mono-recognition would lead to serious social unrest.

I am grateful for the time that Geoffrey Levey, Jonathan Seglow, and Andrew Shorten have spent commenting on my article. In what follows, my aim is three-fold: to respond to some of their criticisms; to clarify various misunderstandings; and to answer some of the questions that are raised.

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## Showing plural recognition to be superior to Mono-recognition vs. showing it to be justified

Let me start off by addressing a misunderstanding. Shorten writes that ‘arguably De Vries’s real aim in this paper is to lay the groundwork for an original justification of multifaith or plural symbolic establishment, in which more than one religion is granted official recognition’. This is incorrect. Whilst I provide a defense of diachronic plural recognition in other work (De Vries, 2020), my aim in this article is simply to show that mono-recognition is *pro tanto* wrong within multi-religious societies and that this can be explained by the fact that diachronic plural recognition is a fairer system of religious establishment. What follows from this is that, even if diachronic plural recognition ought to be ultimately rejected, perhaps because normative theories of strict secularism are correct, this does not affect my critique of mono-recognition as long as it remains the case that diachronic plural recognition is morally superior to this type of religious establishment. (One might draw a comparison here with refusing the franchise to women; in order to show that this practice is morally indefensible, one does not need to show that democracy is a morally defensible form of government; all that one needs to show is that a democratic system that enfranchises both men and women is morally superior to one that only allows men to vote.) Whilst defending the superiority of another type of religious establishment is a less common way of arguing against mono-recognition than showing that mono-recognition has flaws that require it to be abandoned in favor of disestablishment or a state of affairs in which no religion is constitutionally recognized, I show in the first part of the article that the most promising arguments for disestablishment are unsuccessful, which is why I take this alternative route.

## Desires for and entitlements to constitutional recognition

Why think that, to the extent that any religions are constitutionally recognized within multi-religious societies, such recognition ought to be shared by different religions, whether synchronically or diachronically? The most intuitive answer would be that receiving such recognition is inherently or objectively valuable irrespective of whether it is accompanied by any tangible benefits, at least when the recognition is granted by a legitimate and minimally just state. Assuming that inherently or objectively valuable goods ought to be fairly distributed by states, this might then be taken as evidence that the good of constitutional recognition ought to be shared among different religions. However, it turns out that, even if this argument is sound, its axiological premise is notoriously difficult to vindicate, which is why I adopt a different strategy. What I do in the article is suggest that *even if* we bracket the question of whether it is inherently or objectively valuable for people to have their religion constitutionally recognized, there are reasons for thinking that, insofar as such recognition is granted to any religion, it ought to be granted to a plurality of religions within multi-religious societies.

In order to show that it is possible for the constitutional recognition of religions to fall within the purview of distributive justice even if such recognition is not inherently or objectively valuable, I make the following analogy:

Consider a family with young triplets who always go on holiday by car. Each holiday, the children Adam, Bernhard, and Chris fight over who gets to sit in the middle seat. Suppose that there is nothing objectively or inherently valuable about sitting in the middle. In fact, as the middle seat offers less space and has no door to lean against, the objective value of sitting there is lower than that of sitting in one of the two side-seats (suppose *arguendo* that none of the children become car sick, which is sometimes a reason for people to sit in the middle as looking through the front window helps them to cope with their nausea). Nonetheless, insofar as the parents only ever let, say, Chris take the middle seat, it looks like Adam and Bernhard are owed a justification for this unless it is known to the parents that Adam and Bernhard but not Chris have morally unreasonable motives for wanting to sit there (e.g. whilst Chris may simply enjoy occupying the middle seat, Adam and Bernhard might simply not want Chris's car-seat preferences to be fulfilled out of spite).

What we have here is a case where a specific activity, namely occupation of the middle seat, does not have any inherent or objective value, or at least not any greater inherent or objective value than occupying one of the side-seats has. Nonetheless, the fact that all three children want to occupy this seat seems *enough* to place its allocation within the purview of distributive justice and to make it morally problematic for the parents to always give this seat to the same child absent a compelling justification for doing so. In a similar vein, my contention in the article is that *even if* we remain non-committal on whether having one's religion constitutionally recognized is inherently or objectively valuable, it would be unfair in the absence of a compelling justification to give one religion a monopoly on such recognition insofar as there are citizens with unrecognized liberal-democracy-compatible religions who either desire constitutional recognition of their religion on morally reasonable, or simply not unreasonable, grounds or who would do so if they were to independently ponder the possibility of receiving such recognition without having to fear any social backlash that receiving it might cause.<sup>1</sup>

Having defended this claim, the article then considers two reasons why recognizing a single religion might not be unfair. One is that one particular religion has the most members within society whilst the other is that the members of one particular religion have contributed the most to society. However, even when these factors give some religions stronger claims to constitutional recognition than all other religions within society have, as I suggest is usually the case, and even if we think that such differences in claim-strength ought to be reflected in the constitutional recognition that is granted, as I suggest they should, I find that this does not normally justify mono-recognition. As I show, the reason for this is that differences in claim-strength can be done justice to by a system of proportional

diachronic recognition under which religions are recognized for different durations. In the UK, for instance, the Anglican Church could be constitutionally recognized for five months of the year, Catholicism for two months, Islam for one month, Hinduism for two weeks, and so on.

To summarize this part of the article, then, my finding is that mono-recognition is *pro tanto* wrong within multi-religious societies and in need of justification when two conditions are satisfied (which I go on to suggest are likely to be satisfied within such societies):

- (i) There are at least some citizens who desire constitutional recognition of their unrecognized religion on morally reasonable, or simply not unreasonable, grounds or who would do so if they were to independently ponder the possibility of receiving such recognition without having to fear any social backlash that receiving it might cause, and
- (ii) The religions of at least some of these citizens are entitled to the minimum amount of (meaningful) recognition-time based on the size of their population within society; the societal contributions of their members; and any injustices that their members have suffered at the hands of the state or the wider society.

Levey says that anything the state does requires justification and that this renders my conclusion that mono-recognition needs to be justified uninteresting. However, this ignores the fact that some people believe that only *coercive* state policies need to be justified and not ones that are wholly symbolic as certain forms of mono-recognition are. Furthermore, several philosophers whom I have talked to believe that even if states need to justify decisions to *start constitutionally recognizing a particular religion* (neo-establishment), no such justification is needed for maintaining a largely symbolic form of mono-recognition. If my arguments in the article are sound, then I have shifted the onus of justification towards proponents of mono-recognition in all of these cases.

As discussed in the final section of the article, another virtue of my desire-based account is that it offers a criterion for determining *how problematic* mono-recognition is. According to this criterion, the greater the number of citizens with recognition-entitled unrecognized religions who desire constitutional recognition of their religion on morally reasonable, or simply not unreasonable, grounds or who would do so if they were to independently ponder the possibility of receiving such recognition without having to fear any social backlash that receiving it might cause, the more problematic mono-recognition is, assuming that the frustrated (counterfactual) desires of each of these individuals count morally speaking. Still another virtue of this account is that it can explain (what I believe is) a common intuition, namely that if (almost) no members of a specific religion desire constitutional recognition of their religion or would do so under the above-mentioned counterfactual conditions, then the fact that their religion is not constitutionally recognized is not much of a problem, if it is at all. (In this regard, constitutional recognition of one's religion differs from things with clear and

substantial objective value such as freedom of speech and the right to a fair trial, which are things that we ought to make available to people *regardless* of whether they desire them.)

Most of Seglow's objections stem from a misinterpretation, namely that satisfying condition (i) is sufficient on my account to show that mono-recognition is *pro tanto* wrong. (I do not take responsibility for this misinterpretation as he quotes only the first of my requirements in his response, thereby omitting the part of the sentence with the second requirement.) He also errs in thinking that citizens must desire constitutional recognition of their religion *on the basis of* the three factors that determine whether their religion is entitled to recognition-time and, if so, how much (see condition ii). This is not the case. All that I note is that, in order to have moral weight, desires for constitutional recognition must not be based on unreasonable motives. Such motives are present when, for instance, people want their religion to be constitutionally recognized because they consider members of other religions to be second-class citizens. However, they are absent when, for instance, people desire constitutional recognition *simply because* they value such recognition as an acknowledgment of their religion's societal contributions or because receiving such recognition helps them to feel equal citizens.

Now, contrary to what both Levey and Seglow suggest, accepting that this last motive is not unreasonable does not commit me to the truth of the symbolic subordination-objection to mono-recognition, which I argue in the first part of the article is incomplete. It is perfectly coherent to say that there is nothing irrational or morally problematic about someone feeling more of an equal citizen as a result of her religion being constitutionally recognized whilst also accepting that there is currently no conclusive evidence that a state that constitutionally recognizes only one religion must thereby be symbolically subordinating other religions within society. (Though notice that, insofar as the conditions of my desire-based objection are satisfied, at least one egalitarian objection will apply.)

### **Societal contributions**

As was mentioned, how much recognition-time, if any, religions are entitled to under diachronic plural recognition, or rather under the version of diachronic plural recognition that I consider to be the most defensible, depends upon three factors: the size of a religion's population within society; the societal contributions of its members; and any injustices that its members have suffered at the hands of the state or the wider society. Levey asks why societal contributions matter. 'Why is it not enough', he writes, 'that religious group members are fully fledged and law-abiding citizens for their religion to be ripe for recognition?'. The answer is that ignoring societal contributions has some highly implausible implications. To mention just one, imagine a small country with only one religion, religion A, whose members have heavily shaped the country's politico-legal, economic, and cultural institutions throughout the centuries even though most of the country's inhabitants have by now become atheistic or agnostic. Now, suppose that the

government of this country decides to admit a large group of refugees with religion B and that B's population equals that of religion A after admission. In this case, treating societal contributions as irrelevant for the amount of recognition-time that religions are due would mean that religion B would be entitled to *as much recognition-time* as religion A as soon as B's members take up residence within their new society or become citizens of it, which hardly seems fair.

It is worth highlighting here that by making a religion's recognition-time depend partly upon the societal contributions of its members, diachronic plural recognition is sensitive to the fact that the members of some religions will have played a bigger role in their society's history and had a larger impact upon its culture than the members of other religions. The reason why I mention this is that it shows that Levey is attacking a straw man when he accuses this type of religious establishment of exhibiting a 'total disregard of a society's history and culture'. Presumably, Levey thinks that diachronic plural recognition is not being sensitive to a society's history and culture in the *right way*. However, he does not describe in any meaningful detail what the right way would be. The closest he gets to such a description is when he writes that, 'Reckoning with history and culture doesn't require deferring to status quo arrangements uncritically; rather it means widening one's field of vision and consideration and not deracinating the landscape'. The problem with this statement is that we are never told what 'widening one's field of vision and consideration and not deracinating the landscape' entails, which leaves it unclear as to what Levey thinks is morally required. (Another straw man is created towards the end of his response when he suggests that I do not allow for the possibility that different forms of recognition, including mono-recognition, might be justified in different societies. What this ignores is that my fairness-objection to mono-recognition is a *pro tanto* objection, one which I explicitly note can be overridden by countervailing considerations.)

Returning to the role of religions' societal contributions in determining how much recognition-time each of them ought to be allocated under diachronic plural recognition, one might wonder, as Seglow does, exactly how we should define such contributions. As shown by the examples he gives, it seems that there can be reasonable disagreements about whether certain kinds of activities ought to be understood as societal contributions. I think that this is a difficult issue (one that I would have talked more about in the article had I had more space) and that the best way for states to respond to it is to simply use as a proxy the length of time that a religion has been present within society together with its relative population size(s) throughout this period. This is an imperfect indicator of societal contributions given that, in many cases, the members of some religions will be more civic-minded than the members of other religions and, consequently, end up contributing more to society *per capita*. However, because offering compelling detailed definitions of societal contributions is such an arduous task (as is determining how much weight different kinds of societal contributions ought to have), I suspect that any other approach would be too controversial.

## Recognition thresholds

Another criticism raised by Levey, as well as by Shorten, is that I set the bar for constitutional recognition too high. In the article, I suggest that one day of constitutional recognition ought to be the minimum amount of recognition-time that is given to a religion. Whereas it is doubtful whether less than a day of constitutional recognition—say a mere hour—would be meaningful, it seems that one day is a meaningful amount as it is the same unit that is successfully used for birthdays, various holidays, and commemorative days such as Martin Luther King Day. Insofar as we accept that recognition-days ought to be re-allocated annually in order to account for changes in religions' population sizes among other relevant variables, this would mean that, *ceteris paribus*, a religion's members need to comprise 0,27% of a country's population in order to be entitled to one day of constitutional recognition per year when all citizens belong to a religion, a percentage that will be lower when some citizens do not (as significant proportions do not within many contemporary societies). However, as Levey and Shorten point out, this percentage would still leave various religious minorities within countries such as Australia and Ireland without a claim to constitutional recognition. My response to this objection is that, insofar as the proposed threshold is indeed too high (which I leave open here), it can simply be lowered. This could be done, for instance, by having a re-allocation of recognition-days ever two years or every five years rather than every year. (That said, I take it that even Levey and Shorten would agree that it is possible for religions to be too small to merit one day of constitutional recognition, such as when a religion only has five members or perhaps just one member and has never been much larger.)

## Desires for (specific) religions not to be recognized

I want to end with a few comments about the preferences of citizens who either do not want any religion to be constitutionally recognized or simply not certain specific religions, which might include their own religion.

The first thing to note is that Levey is mistaken when he imputes the view to me that those who do not wish their religion to be constitutionally recognized must suffer from a 'false consciousness'. I explicitly reject this view when I write that there is 'nothing obviously irrational about someone who does not attach any importance to her religion being constitutionally recognized even when other religions within society do receive such recognition'. Now, I do say that when people have internalized subordinating norms that make them feel unworthy of having their religion constitutionally recognized, they might not desire constitutional recognition of their religion as a result of these internalized norms. From this, Levey seems to have fallaciously inferred that I must be committed to the notion that if people do not desire constitutional recognition of their religion, this must be because they have internalized subordinating norms that cause them to suffer from a false consciousness, which is a logical error known as 'affirming the

consequent' (from a statement if P then Q, we cannot infer that if Q holds, P must hold as well).

Shorten wants to know what I have to say about citizens who are not just indifferent about the constitutional recognition of (specific) religions but who actually want the state to *refrain* from granting such recognition to religions in general or to certain specific religions, which might include their own religion. Why should the preferences of these individuals be subordinated to those of citizens who support the constitutional recognition of (some of the) religions that are entitled to constitutional recognition under the sketched model of diachronic plural recognition?

One thing to say here is that, even if it is problematic that the sketched model of diachronic plural recognition does not accommodate such negative preferences, it seems that the same charge can be raised against forms of mono-recognition. Constitutionally recognizing one specific religion (and never any other religion or more than one religion) does not accommodate the preferences of citizens who want a strictly secular state or the preferences of those who simply do not want the current state religion to be constitutionally recognized. Given that my aim in the article is just to show that diachronic plural recognition is fairer than mono-recognition within multi-religious societies rather than to defend diachronic plural recognition as such (see my comments at the outset of this response), the current objection does not pose an obvious challenge to my claims.

The other thing to say is that there are grounds for thinking that Shorten's negative preferences are unreasonable and therefore devoid of normative weight (which, to avoid confusion, does not mean that it is unreasonable not to desire constitutional recognition of one's religion). I have noted in the antepenultimate section of this contribution that citizens may have perfectly reasonable, or simply not unreasonable, motives for desiring constitutional recognition of their religion. Given the value of having such desires satisfied, which I take it is independent of any inherent or objective value that the constitutional recognition of specific religions might have (whilst I am unable to defend this view in the available space, notice that, on many axiological theories, the sheer satisfaction of not unreasonable desires has at least some value even when it is not the only thing that matters), it looks like those who oppose such recognition ought to have good reasons for their opposition. However, when the recognized religions are compatible with liberal democracy and when they are recognized by a legitimate and minimally just state (as I assume in the article), it is hard to see what these reasons might be, supposing again that the recognition that is granted is largely, if not wholly, symbolic. To bring this out more, notice that under the sketched model of diachronic plural recognition, for a religion to be constitutionally recognized does not mean that the state sees it as the true religion or as a religion that is otherwise superior to other religions within society. All that such recognition communicates is that the religion and its members have a legitimate place within society and made meaningful contributions to society, which is a perfectly reasonable message to send.

Shorten might reply that this response begs the question by assuming that it is the opponents of the constitutional recognition of a religion  $x$  who need to justify their opposition rather than supporters of  $x$ 's recognition having to justify their support. However, given that those with anti-recognition desires but not those with pro-recognition desires seek to withhold something that other people value, there seem to be good reasons for thinking that the argumentative burden lies with the former. To return to the car-seat example, suppose that Adam and Bernhard both want to sit in the middle seat and that Chris' only preference is that Adam does not sit in the middle. Assuming that Adam does not want to sit in the middle in order to harm or bully Chris, it is clearly up to Chris to make a plausible case as to why Adam should not be allowed to sit in the middle rather than Adam having to justify why he should be allowed to sit there. Likewise, given the personal value that constitutional recognition of their religion has for some people, it seems up to the opponents of such recognition to justify their opposition.

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### **Note**

1. Levey thinks that the analogy is spurious because it ostensibly shows a 'total disregard of a society's history and culture'. The problem with this objection is that it misunderstands the point of the car-seat example. As I explain in the article, what this example is meant to illustrate is simply that even something that lacks inherent or objective value can fall within the purview of principles of distributive justice.

### **Reference**

De Vries B (2020) 'Today a Christian Nation, Tomorrow a Muslim Nation': A defence of rotating state religions. *Ethical Theory and Moral Practice*. Epub ahead of print. DOI: 10.1007/s10677-020-10143-7.