Using somewhat similar reasoning, the Court in *Board of Education of Kiryas Joel Village v. Grumet*,[251] invalidated a New York law creating a special school district for an incorporated village composed exclusively of members of one small religious sect. The statute failed "the test of neutrality," the Court concluded, since it delegated power "to an electorate defined by common religious belief and practice, in a manner that fails to foreclose religious favoritism." It was the "anomalously case-specific nature of the legislature's exercise of authority" that left the Court "without any direct way to review such state action" for conformity with the neutrality principle. Because the village did not receive its governmental authority simply as one of many communities eligible under a general law, the Court explained, there was no way of knowing whether the legislature would grant similar benefits on an equal basis to other religious and nonreligious groups.

Free Exercise of Religion

Overview.— "The Free Exercise Clause . . . withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions there by civil authority."[252] It bars "governmental regulation of religious *beliefs* as such,"[253] prohibiting misuse of secular governmental programs "to impede the observance of one or all religions or . . . to discriminate invidiously between religions . . . even though the burden may be characterized as being only indirect."[254] Freedom of conscience is the basis of the Free Exercise Clause, and government may not penalize or discriminate against an individual or a group of individuals because of their religious views nor may it compel persons to affirm any particular beliefs.[255]

Complicating these broadly protective assertions is the fact that exercise of religion usually entails ritual or other practices that constitute "conduct" rather than pure "belief."[256] While the Court has acted to ensure the sanctity of religious beliefs, protection for reli-

---

[251] 512 U.S. 687 (1994). Only four Justices (Souter, Blackmun, Stevens, and Ginsburg) thought that the *Grendel's Den* principle applied; in their view the distinction that the delegation was to a village electorate rather than to a religious body "lack[ed] constitutional significance" under the peculiar circumstances of the case.

[252] Abington School District v. Schempp, 374 U.S. 203, 222–23 (1963).

[253] Sherbert v. Verner, 374 U.S 398, 402 (1963) (emphasis in original).

[254] Braunfeld v. Brown, 366 U.S. 599, 607 (1961).

[255] Sherbert v. Verner, 374 U.S. 398, 402 (1963); Torcaso v. Watkins, 367 U.S. 488 (1961).

[256] The Free Exercise Clause "embraces two concepts—freedom to believe and freedom to act. The first is absolute, but in the nature of things, the second cannot be." Cantwell v. Connecticut, 310 U.S. 296, 304 (1940).