EMPLOYMENT DIVISION, DEPARTMENT OF HUMAN RESOURCES OF OREGON, ET AL. *v.* SMITH ET AL.

CERTIORARI TO THE SUPREME COURT OF OREGON

No. 88-1213. Argued November 6, 1989—Decided April 17, 1990

[redacted]

This case requires us to decide whether the Free Exercise Clause of the First Amendment permits the State of Oregon to include religiously inspired peyote use within the reach of its general criminal prohibition on use of that drug, and thus permits the State to deny unemployment benefits to persons dismissed from their jobs because of such religiously inspired use.

I

Oregon law prohibits the knowing or intentional possession of a "controlled substance" unless the substance has been prescribed by a medical practitioner. Ore. Rev. Stat. § 475.992(4) (1987). The law defines "controlled substance" as a drug classified in Schedules I through V of the Federal Controlled Substances Act, 21 U. S. C. §§ 811–812, as modified by the State Board of Pharmacy. Ore. Rev. Stat. § 475.005(6) (1987). Persons who violate this provision by possessing a controlled substance listed on Schedule I are "guilty of a Class B felony." § 475.992(4)(a). As compiled by the State Board of Pharmacy under its statutory authority, see § 475.035, Schedule I contains the drug peyote, a hallucinogen derived from the plant *Lophophora williamsii Lemaire*. Ore. Admin. Rule 855–80–021(3)(s) (1988).

Respondents Alfred Smith and Galen Black (hereinafter respondents) were fired from their jobs with a private drug rehabilitation organization because they ingested peyote for sacramental purposes at a ceremony of the Native American Church, of which both are members. When respondents applied to petitioner Employment Division (hereinafter petitioner) for unemployment compensation, they were determined to be ineligible for benefits because they had been discharged for work-related "misconduct." The Oregon Court of Appeals reversed that determination, holding that the denial of benefits violated respondents' free exercise rights under the First Amendment.

On appeal to the Oregon Supreme Court, petitioner argued that the denial of benefits was permissible because respondents' consumption of peyote was a crime under Oregon law. The Oregon Supreme Court reasoned, however, that the criminality of respondents' peyote use was irrelevant to resolution of their constitutional claim—since the purpose of the "misconduct" provision under which respondents had been disqualified was not to enforce the State's criminal laws but to preserve the financial integrity of the compensation fund, and since that purpose was inadequate to justify the burden that disqualification imposed on respondents' religious practice. Citing our decisions in *Sherbert* v. *Verner*, 374 U. S. 398 (1963), and *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 450 U. S. 707 (1981), the court concluded that respondents were entitled to payment of unemployment benefits. *Smith* v. *Employment Div., Dept. of Human Resources*, 301 Ore. 209, 217–219, 721 P. 2d 445, 449–450 (1986). We granted certiorari. 480 U. S. 916 (1987).

Before this Court in 1987, petitioner continued to maintain that the illegality of respondents' peyote consumption was relevant to their constitutional claim. We agreed, concluding that "if a State has prohibited through its criminal laws certain kinds of religiously motivated conduct without violating the First Amendment, it certainly follows that it may impose the lesser burden of denying unemployment compensation benefits to persons who engage in that conduct." *Employment Div., Dept. of Human Resources of Oregon* v. *Smith*, 485 U. S. 660, 670 (1988) *(Smith I)*. We noted, however, that the Oregon Supreme Court had not decided whether respondents' sacramental use of peyote was in fact proscribed by Oregon's controlled substance law, and that this issue was a matter of dispute between the parties. Being "uncertain about the legality of the religious use of peyote in Oregon," we determined that it would not be "appropriate for us to decide whether the practice is protected by the Federal Constitution." *Id.*, at 673. Accordingly, we

vacated the judgment of the Oregon Supreme Court and remanded for further proceedings. *Id.*, at 674.

On remand, the Oregon Supreme Court held that respondents' religiously inspired use of peyote fell within the prohibition of the Oregon statute, which "makes no exception for the sacramental use" of the drug. 307 Ore. 68, 72–73, 763 P. 2d 146, 148 (1988). It then considered whether that prohibition was valid under the Free Exercise Clause, and concluded that it was not. The court therefore reaffirmed its previous ruling that the State could not deny unemployment benefits to respondents for having engaged in that practice.

We again granted certiorari. 489 U. S. 1077 (1989).

II

Respondents' claim for relief rests on our decisions in *Sherbert* v. *Verner*, *supra*, *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, *supra*, and *Hobbie* v. *Unemployment Appeals Comm'n of Florida*, 480 U. S. 136 (1987), in which we held that a State could not condition the availability of unemployment insurance on an individual's willingness to forgo conduct required by his religion. As we observed in *Smith I*, however, the conduct at issue in those cases was not prohibited by law. We held that distinction to be critical, for "if Oregon does prohibit the religious use of peyote, and if that prohibition is consistent with the Federal Constitution, there is no federal right to engage in that conduct in Oregon," and "the State is free to withhold unemployment compensation from respondents for engaging in work-related misconduct, despite its religious motivation." 485 U. S., at 672. Now that the Oregon Supreme Court has confirmed that Oregon does prohibit the religious use of peyote, we proceed to consider whether that prohibition is permissible under the Free Exercise Clause.

A

The Free Exercise Clause of the First Amendment, which has been made applicable to the States by incorporation into

the Fourteenth Amendment, see *Cantwell* v. *Connecticut*, 310 U. S. 296, 303 (1940), provides that "Congress shall make no law respecting an establishment of religion, or *prohibiting the free exercise thereof* . . . ." U. S. Const., Amdt. 1 (emphasis added). The free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires. Thus, the First Amendment obviously excludes all "governmental regulation of religious *beliefs* as such." *Sherbert* v. *Verner*, *supra*, at 402. The government may not compel affirmation of religious belief, see *Torcaso* v. *Watkins*, 367 U. S. 488 (1961), punish the expression of religious doctrines it believes to be false, *United States* v. *Ballard*, 322 U. S. 78, 86–88 (1944), impose special disabilities on the basis of religious views or religious status, see *McDaniel* v. *Paty*, 435 U. S. 618 (1978); *Fowler* v. *Rhode Island*, 345 U. S. 67, 69 (1953); cf. *Larson* v. *Valente*, 456 U. S. 228, 245 (1982), or lend its power to one or the other side in controversies over religious authority or dogma, see *Presbyterian Church in U. S.* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U. S. 440, 445–452 (1969); *Kedroff* v. *St. Nicholas Cathedral*, 344 U. S. 94, 95–119 (1952); *Serbian Eastern Orthodox Diocese* v. *Milivojevich*, 426 U. S. 696, 708–725 (1976).

But the "exercise of religion" often involves not only belief and profession but the performance of (or abstention from) physical acts: assembling with others for a worship service, participating in sacramental use of bread and wine, proselytizing, abstaining from certain foods or certain modes of transportation. It would be true, we think (though no case of ours has involved the point), that a State would be "prohibiting the free exercise [of religion]" if it sought to ban such acts or abstentions only when they are engaged in for religious reasons, or only because of the religious belief that they display. It would doubtless be unconstitutional, for example, to ban the casting of "statues that are to be used

for worship purposes," or to prohibit bowing down before a golden calf.

Respondents in the present case, however, seek to carry the meaning of "prohibiting the free exercise [of religion]" one large step further. They contend that their religious motivation for using peyote places them beyond the reach of a criminal law that is not specifically directed at their religious practice, and that is concededly constitutional as applied to those who use the drug for other reasons. They assert, in other words, that "prohibiting the free exercise [of religion]" includes requiring any individual to observe a generally applicable law that requires (or forbids) the performance of an act that his religious belief forbids (or requires). As a textual matter, we do not think the words must be given that meaning. It is no more necessary to regard the collection of a general tax, for example, as "prohibiting the free exercise [of religion]" by those citizens who believe support of organized government to be sinful, than it is to regard the same tax as "abridging the freedom . . . of the press" of those publishing companies that must pay the tax as a condition of staying in business. It is a permissible reading of the text, in the one case as in the other, to say that if prohibiting the exercise of religion (or burdening the activity of printing) is not the object of the tax but merely the incidental effect of a generally applicable and otherwise valid provision, the First Amendment has not been offended. Compare *Citizen Publishing Co.* v. *United States*, 394 U. S. 131, 139 (1969) (upholding application of antitrust laws to press), with *Grosjean* v. *American Press Co.*, 297 U. S. 233, 250–251 (1936) (striking down license tax applied only to newspapers with weekly circulation above a specified level); see generally *Minneapolis Star & Tribune Co.* v. *Minnesota Comm'r of Revenue*, 460 U. S. 575, 581 (1983).

Our decisions reveal that the latter reading is the correct one. We have never held that an individual's religious be-

liefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate. On the contrary, the record of more than a century of our free exercise jurisprudence contradicts that proposition. As described succinctly by Justice Frankfurter in *Minersville School Dist. Bd. of Ed.* v. *Gobitis*, 310 U. S. 586, 594–595 (1940): "Conscientious scruples have not, in the course of the long struggle for religious toleration, relieved the individual from obedience to a general law not aimed at the promotion or restriction of religious beliefs. The mere possession of religious convictions which contradict the relevant concerns of a political society does not relieve the citizen from the discharge of political responsibilities (footnote omitted)." We first had occasion to assert that principle in *Reynolds* v. *United States*, 98 U. S. 145 (1879), where we rejected the claim that criminal laws against polygamy could not be constitutionally applied to those whose religion commanded the practice. "Laws," we said, "are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. . . . Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself." *Id.*, at 166–167.

Subsequent decisions have consistently held that the right of free exercise does not relieve an individual of the obligation to comply with a "valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." *United States* v. *Lee*, 455 U. S. 252, 263, n. 3 (1982) (STEVENS, J., concurring in judgment); see *Minersville School Dist. Bd. of Ed.* v. *Gobitis*, *supra*, at 595 (collecting cases). In *Prince* v. *Massachusetts*, 321 U. S. 158 (1944), we held that a mother could be prosecuted under the child labor laws

for using her children to dispense literature in the streets, her religious motivation notwithstanding. We found no constitutional infirmity in "excluding [these children] from doing there what no other children may do." *Id.*, at 171. In *Braunfeld* v. *Brown*, 366 U. S. 599 (1961) (plurality opinion), we upheld Sunday-closing laws against the claim that they burdened the religious practices of persons whose religions compelled them to refrain from work on other days. In *Gillette* v. *United States*, 401 U. S. 437, 461 (1971), we sustained the military Selective Service System against the claim that it violated free exercise by conscripting persons who opposed a particular war on religious grounds.

Our most recent decision involving a neutral, generally applicable regulatory law that compelled activity forbidden by an individual's religion was *United States* v. *Lee*, 455 U. S., at 258–261. There, an Amish employer, on behalf of himself and his employees, sought exemption from collection and payment of Social Security taxes on the ground that the Amish faith prohibited participation in governmental support programs. We rejected the claim that an exemption was constitutionally required. There would be no way, we observed, to distinguish the Amish believer's objection to Social Security taxes from the religious objections that others might have to the collection or use of other taxes. "If, for example, a religious adherent believes war is a sin, and if a certain percentage of the federal budget can be identified as devoted to war-related activities, such individuals would have a similarly valid claim to be exempt from paying that percentage of the income tax. The tax system could not function if denominations were allowed to challenge the tax system because tax payments were spent in a manner that violates their religious belief." *Id.*, at 260. Cf. *Hernandez* v. *Commissioner*, 490 U. S. 680 (1989) (rejecting free exercise challenge to payment of income taxes alleged to make religious activities more difficult).

The only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved not the Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press, see *Cantwell* v. *Connecticut*, 310 U. S., at 304–307 (invalidating a licensing system for religious and charitable solicitations under which the administrator had discretion to deny a license to any cause he deemed nonreligious); *Murdock* v. *Pennsylvania*, 319 U. S. 105 (1943) (invalidating a flat tax on solicitation as applied to the dissemination of religious ideas); *Follett* v. *McCormick*, 321 U. S. 573 (1944) (same), or the right of parents, acknowledged in *Pierce* v. *Society of Sisters*, 268 U. S. 510 (1925), to direct the education of their children, see *Wisconsin* v. *Yoder*, 406 U. S. 205 (1972) (invalidating compulsory school-attendance laws as applied to Amish parents who refused on religious grounds to send their children to school).[1]

[1] Both lines of cases have specifically adverted to the non-free-exercise principle involved. *Cantwell*, for example, observed that "[t]he fundamental law declares the interest of the United States that the free exercise of religion be not prohibited and that freedom to communicate information and opinion be not abridged." 310 U. S., at 307. *Murdock* said:

"We do not mean to say that religious groups and the press are free from all financial burdens of government. . . . We have here something quite different, for example, from a tax on the income of one who engages in religious activities or a tax on property used or employed in connection with those activities. It is one thing to impose a tax on the income or property of a preacher. It is quite another thing to exact a tax from him for the privilege of delivering a sermon. . . . Those who can deprive religious groups of their colporteurs can take from them a part of the vital power of the press which has survived from the Reformation." 319 U. S., at 112.

Yoder said that "the Court's holding in *Pierce* stands as a charter of the rights of parents to direct the religious upbringing of their children. And, when the interests of parenthood are combined with a free exercise claim of the nature revealed by this record, more than merely a 'reasonable relation to some purpose within the competency of the State' is required to sustain the validity of the State's requirement under the First Amendment." 406 U. S., at 233.

Some of our cases prohibiting compelled expression, decided exclusively upon free speech grounds, have also involved freedom of religion, cf. *Wooley* v. *Maynard*, 430 U. S. 705 (1977) (invalidating compelled display of a license plate slogan that offended individual religious beliefs); *West Virginia Bd. of Education* v. *Barnette*, 319 U. S. 624 (1943) (invalidating compulsory flag salute statute challenged by religious objectors). And it is easy to envision a case in which a challenge on freedom of association grounds would likewise be reinforced by Free Exercise Clause concerns. Cf. *Roberts* v. *United States Jaycees*, 468 U. S. 609, 622 (1984) ("An individual's freedom to speak, to worship, and to petition the government for the redress of grievances could not be vigorously protected from interference by the State [if] a correlative freedom to engage in group effort toward those ends were not also guaranteed").

The present case does not present such a hybrid situation, but a free exercise claim unconnected with any communicative activity or parental right. Respondents urge us to hold, quite simply, that when otherwise prohibitable conduct is accompanied by religious convictions, not only the convictions but the conduct itself must be free from governmental regulation. We have never held that, and decline to do so now. There being no contention that Oregon's drug law represents an attempt to regulate religious beliefs, the communication of religious beliefs, or the raising of one's children in those beliefs, the rule to which we have adhered ever since *Reynolds* plainly controls. "Our cases do not at their farthest reach support the proposition that a stance of conscientious opposition relieves an objector from any colliding duty fixed by a democratic government." *Gillette* v. *United States*, *supra*, at 461.

B

Respondents argue that even though exemption from generally applicable criminal laws need not automatically be extended to religiously motivated actors, at least the claim for a

religious exemption must be evaluated under the balancing test set forth in *Sherbert* v. *Verner*, 374 U. S. 398 (1963). Under the *Sherbert* test, governmental actions that substantially burden a religious practice must be justified by a compelling governmental interest. See *id.*, at 402–403; see also *Hernandez* v. *Commissioner*, 490 U. S., at 699. Applying that test we have, on three occasions, invalidated state unemployment compensation rules that conditioned the availability of benefits upon an applicant's willingness to work under conditions forbidden by his religion. See *Sherbert* v. *Verner*, *supra*; *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 450 U. S. 707 (1981); *Hobbie* v. *Unemployment Appeals Comm'n of Florida*, 480 U. S. 136 (1987). We have never invalidated any governmental action on the basis of the *Sherbert* test except the denial of unemployment compensation. Although we have sometimes purported to apply the *Sherbert* test in contexts other than that, we have always found the test satisfied, see *United States* v. *Lee*, 455 U. S. 252 (1982); *Gillette* v. *United States*, 401 U. S. 437 (1971). In recent years we have abstained from applying the *Sherbert* test (outside the unemployment compensation field) at all. In *Bowen* v. *Roy*, 476 U. S. 693 (1986), we declined to apply *Sherbert* analysis to a federal statutory scheme that required benefit applicants and recipients to provide their Social Security numbers. The plaintiffs in that case asserted that it would violate their religious beliefs to obtain and provide a Social Security number for their daughter. We held the statute's application to the plaintiffs valid regardless of whether it was necessary to effectuate a compelling interest. See 476 U. S., at 699–701. In *Lyng* v. *Northwest Indian Cemetery Protective Assn.*, 485 U. S. 439 (1988), we declined to apply *Sherbert* analysis to the Government's logging and road construction activities on lands used for religious purposes by several Native American Tribes, even though it was undisputed that the activities "could have devastating effects on traditional Indian religious practices," 485 U. S., at 451.

In *Goldman* v. *Weinberger*, 475 U. S. 503 (1986), we rejected application of the *Sherbert* test to military dress regulations that forbade the wearing of yarmulkes. In *O'Lone* v. *Estate of Shabazz*, 482 U. S. 342 (1987), we sustained, without mentioning the *Sherbert* test, a prison's refusal to excuse inmates from work requirements to attend worship services.

Even if we were inclined to breathe into *Sherbert* some life beyond the unemployment compensation field, we would not apply it to require exemptions from a generally applicable criminal law. The *Sherbert* test, it must be recalled, was developed in a context that lent itself to individualized governmental assessment of the reasons for the relevant conduct. As a plurality of the Court noted in *Roy*, a distinctive feature of unemployment compensation programs is that their eligibility criteria invite consideration of the particular circumstances behind an applicant's unemployment: "The statutory conditions [in *Sherbert* and *Thomas*] provided that a person was not eligible for unemployment compensation benefits if, 'without good cause,' he had quit work or refused available work. The 'good cause' standard created a mechanism for individualized exemptions." *Bowen* v. *Roy*, *supra*, at 708 (opinion of Burger, C. J., joined by Powell and REHNQUIST, JJ.). See also *Sherbert*, *supra*, at 401, n. 4 (reading state unemployment compensation law as allowing benefits for unemployment caused by at least some "personal reasons"). As the plurality pointed out in *Roy*, our decisions in the unemployment cases stand for the proposition that where the State has in place a system of individual exemptions, it may not refuse to extend that system to cases of "religious hardship" without compelling reason. *Bowen* v. *Roy*, *supra*, at 708.

Whether or not the decisions are that limited, they at least have nothing to do with an across-the-board criminal prohibition on a particular form of conduct. Although, as noted earlier, we have sometimes used the *Sherbert* test to analyze free exercise challenges to such laws, see *United States* v.

Lee, supra, at 257–260; *Gillette* v. *United States, supra,* at 462, we have never applied the test to invalidate one. We conclude today that the sounder approach, and the approach in accord with the vast majority of our precedents, is to hold the test inapplicable to such challenges. The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, "cannot depend on measuring the effects of a governmental action on a religious objector's spiritual development." *Lyng, supra,* at 451. To make an individual's obligation to obey such a law contingent upon the law's coincidence with his religious beliefs, except where the State's interest is "compelling"—permitting him, by virtue of his beliefs, "to become a law unto himself," *Reynolds* v. *United States,* 98 U. S., at 167—contradicts both constitutional tradition and common sense.[2]

The "compelling government interest" requirement seems benign, because it is familiar from other fields. But using it as the standard that must be met before the government may accord different treatment on the basis of race, see, *e. g.*,

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[2] JUSTICE O'CONNOR seeks to distinguish *Lyng* v. *Northwest Indian Cemetery Protective Assn.,* 485 U. S. 439 (1988), and *Bowen* v. *Roy,* 476 U. S. 693 (1986), on the ground that those cases involved the government's conduct of "its own internal affairs," which is different because, as Justice Douglas said in *Sherbert,* " 'the Free Exercise Clause is written in terms of what the government cannot do to the individual, not in terms of what the individual can exact from the government.' " *Post,* at 900 (O'CONNOR, J., concurring in judgment), quoting *Sherbert* v. *Verner,* 374 U. S. 398, 412 (1963) (Douglas, J., concurring). But since Justice Douglas voted with the majority in *Sherbert,* that quote obviously envisioned that what "the government cannot do to the individual" includes not just the prohibition of an individual's freedom of action through criminal laws but also the running of its programs (in *Sherbert,* state unemployment compensation) in such fashion as to harm the individual's religious interests. Moreover, it is hard to see any reason in principle or practicality why the government should have to tailor its health and safety laws to conform to the diversity of religious belief, but should not have to tailor its management of public lands, *Lyng, supra,* or its administration of welfare programs, *Roy, supra.*

Palmore v. *Sidoti*, 466 U. S. 429, 432 (1984), or before the government may regulate the content of speech, see, *e. g.*, *Sable Communications of California* v. *FCC*, 492 U. S. 115, 126 (1989), is not remotely comparable to using it for the purpose asserted here. What it produces in those other fields—equality of treatment and an unrestricted flow of contending speech—are constitutional norms; what it would produce here—a private right to ignore generally applicable laws—is a constitutional anomaly.[3]

Nor is it possible to limit the impact of respondents' proposal by requiring a "compelling state interest" only when the conduct prohibited is "central" to the individual's religion. Cf. *Lyng* v. *Northwest Indian Cemetery Protective Assn.*, 485 U. S., at 474–476 (BRENNAN, J., dissenting). It is no

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[3] JUSTICE O'CONNOR suggests that "[t]here is nothing talismanic about neutral laws of general applicability," and that all laws burdening religious practices should be subject to compelling-interest scrutiny because "the First Amendment unequivocally makes freedom of religion, like freedom from race discrimination and freedom of speech, a 'constitutional nor[m],' not an 'anomaly.'" *Post*, at 901 (opinion concurring in judgment). But this comparison with other fields supports, rather than undermines, the conclusion we draw today. Just as we subject to the most exacting scrutiny laws that make classifications based on race, see *Palmore* v. *Sidoti*, 466 U. S. 429 (1984), or on the content of speech, see *Sable Communications of California* v. *FCC*, 492 U. S. 115 (1989), so too we strictly scrutinize governmental classifications based on religion, see *McDaniel* v. *Paty*, 435 U. S. 618 (1978); see also *Torcaso* v. *Watkins*, 367 U. S. 488 (1961). But we have held that race-neutral laws that have the *effect* of disproportionately disadvantaging a particular racial group do not thereby become subject to compelling-interest analysis under the Equal Protection Clause, see *Washington* v. *Davis*, 426 U. S. 229 (1976) (police employment examination); and we have held that generally applicable laws unconcerned with regulating speech that have the *effect* of interfering with speech do not thereby become subject to compelling-interest analysis under the First Amendment, see *Citizen Publishing Co.* v. *United States*, 394 U. S. 131, 139 (1969) (antitrust laws). Our conclusion that generally applicable, religion-neutral laws that have the effect of burdening a particular religious practice need not be justified by a compelling governmental interest is the only approach compatible with these precedents.

more appropriate for judges to determine the "centrality" of religious beliefs before applying a "compelling interest" test in the free exercise field, than it would be for them to determine the "importance" of ideas before applying the "compelling interest" test in the free speech field. What principle of law or logic can be brought to bear to contradict a believer's assertion that a particular act is "central" to his personal faith? Judging the centrality of different religious practices is akin to the unacceptable "business of evaluating the relative merits of differing religious claims." *United States* v. *Lee*, 455 U. S., at 263 n. 2 (STEVENS, J., concurring). As we reaffirmed only last Term, "[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds." *Hernandez* v. *Commissioner*, 490 U. S., at 699. Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim. See, *e. g.*, *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 450 U. S., at 716; *Presbyterian Church in U. S.* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U. S., at 450; *Jones* v. *Wolf*, 443 U. S. 595, 602–606 (1979); *United States* v. *Ballard*, 322 U. S. 78, 85–87 (1944).[4]

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[4] While arguing that we should apply the compelling interest test in this case, JUSTICE O'CONNOR nonetheless agrees that "our determination of the constitutionality of Oregon's general criminal prohibition cannot, and should not, turn on the centrality of the particular religious practice at issue," *post*, at 906–907 (opinion concurring in judgment). This means, presumably, that compelling-interest scrutiny must be applied to generally applicable laws that regulate or prohibit *any* religiously motivated activity, no matter how unimportant to the claimant's religion. Earlier in her opinion, however, JUSTICE O'CONNOR appears to contradict this, saying that the proper approach is "to determine whether the burden on the specific plaintiffs before us is constitutionally significant and whether the particular criminal interest asserted by the State before us is compelling." *Post*, at 899. "Constitutionally significant burden" would seem to be "cen-

If the "compelling interest" test is to be applied at all, then, it must be applied across the board, to all actions thought to be religiously commanded. Moreover, if "compelling interest" really means what it says (and watering it down here would subvert its rigor in the other fields where it is applied), many laws will not meet the test. Any society adopting such a system would be courting anarchy, but that danger increases in direct proportion to the society's diversity of religious beliefs, and its determination to coerce or suppress none of them. Precisely because "we are a cosmopolitan nation made up of people of almost every conceivable religious preference," *Braunfeld* v. *Brown*, 366 U. S., at 606, and precisely because we value and protect that religious divergence, we cannot afford the luxury of deeming *presumptively invalid*, as applied to the religious objector, every regulation of conduct that does not protect an interest of the highest order. The rule respondents favor would open the prospect of constitutionally required religious exemptions from civic obligations of almost every conceivable kind—ranging from

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trality" under another name. In any case, dispensing with a "centrality" inquiry is utterly unworkable. It would require, for example, the same degree of "compelling state interest" to impede the practice of throwing rice at church weddings as to impede the practice of getting married in church. There is no way out of the difficulty that, if general laws are to be subjected to a "religious practice" exception, *both* the importance of the law at issue *and* the centrality of the practice at issue must reasonably be considered.

Nor is this difficulty avoided by JUSTICE BLACKMUN's assertion that "although . . . courts should refrain from delving into questions whether, as a matter of religious doctrine, a particular practice is 'central' to the religion, . . . I do not think this means that the courts must turn a blind eye to the severe impact of a State's restrictions on the adherents of a minority religion." *Post*, at 919 (dissenting opinion). As JUSTICE BLACKMUN's opinion proceeds to make clear, inquiry into "severe impact" is no different from inquiry into centrality. He has merely substituted for the question "How important is X to the religious adherent?" the question "How great will be the harm to the religious adherent if X is taken away?" There is no material difference.

compulsory military service, see, *e. g.*, *Gillette* v. *United States*, 401 U. S. 437 (1971), to the payment of taxes, see, *e. g.*, *United States* v. *Lee*, *supra;* to health and safety regulation such as manslaughter and child neglect laws, see, *e. g.*, *Funkhouser* v. *State*, 763 P. 2d 695 (Okla. Crim. App. 1988), compulsory vaccination laws, see, *e. g.*, *Cude* v. *State*, 237 Ark. 927, 377 S. W. 2d 816 (1964), drug laws, see, *e. g.*, *Olsen* v. *Drug Enforcement Administration*, 279 U. S. App. D. C. 1, 878 F. 2d 1458 (1989), and traffic laws, see *Cox* v. *New Hampshire*, 312 U. S. 569 (1941); to social welfare legislation such as minimum wage laws, see *Tony and Susan Alamo Foundation* v. *Secretary of Labor*, 471 U. S. 290 (1985), child labor laws, see *Prince* v. *Massachusetts*, 321 U. S. 158 (1944), animal cruelty laws, see, *e. g.*, *Church of the Lukumi Babalu Aye Inc.* v. *City of Hialeah*, 723 F. Supp. 1467 (SD Fla. 1989), cf. *State* v. *Massey*, 229 N. C. 734, 51 S. E. 2d 179, appeal dism'd, 336 U. S. 942 (1949), environmental protection laws, see *United States* v. *Little*, 638 F. Supp. 337 (Mont. 1986), and laws providing for equality of opportunity for the races, see, *e. g.*, *Bob Jones University* v. *United States*, 461 U. S. 574, 603–604 (1983). The First Amendment's protection of religious liberty does not require this.[5]

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[5] JUSTICE O'CONNOR contends that the "parade of horribles" in the text only "demonstrates . . . that courts have been quite capable of . . . strik-[ing] sensible balances between religious liberty and competing state interests." *Post*, at 902 (opinion concurring in judgment). But the cases we cite have struck "sensible balances" only because they have all applied the general laws, despite the claims for religious exemption. In any event, JUSTICE O'CONNOR mistakes the purpose of our parade: it is not to suggest that courts would necessarily permit harmful exemptions from these laws (though they might), but to suggest that courts would constantly be in the business of determining whether the "severe impact" of various laws on religious practice (to use JUSTICE BLACKMUN's terminology, *post*, at 919) or the "constitutiona[l] significan[ce]" of the "burden on the specific plaintiffs" (to use JUSTICE O'CONNOR's terminology, *post*, at 899) suffices to permit us to confer an exemption. It is a parade of horribles because it is horrible to

Values that are protected against government interference through enshrinement in the Bill of Rights are not thereby banished from the political process. Just as a society that believes in the negative protection accorded to the press by the First Amendment is likely to enact laws that affirmatively foster the dissemination of the printed word, so also a society that believes in the negative protection accorded to religious belief can be expected to be solicitous of that value in its legislation as well. It is therefore not surprising that a number of States have made an exception to their drug laws for sacramental peyote use. See, *e. g.*, Ariz. Rev. Stat. Ann. §§ 13–3402(B)(1)–(3) (1989); Colo. Rev. Stat. § 12–22–317(3) (1985); N. M. Stat. Ann. § 30–31–6(D) (Supp. 1989). But to say that a nondiscriminatory religious-practice exemption is permitted, or even that it is desirable, is not to say that it is constitutionally required, and that the appropriate occasions for its creation can be discerned by the courts. It may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself or in which judges weigh the social importance of all laws against the centrality of all religious beliefs.

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Because respondents' ingestion of peyote was prohibited under Oregon law, and because that prohibition is constitutional, Oregon may, consistent with the Free Exercise Clause, deny respondents unemployment compensation when their dismissal results from use of the drug. The decision of the Oregon Supreme Court is accordingly reversed.

It is so ordered.

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contemplate that federal judges will regularly balance against the importance of general laws the significance of religious practice.