No. 24-297

In The Supreme Court of the United States

TAMER MAHMOUD, *et al.,*

PETITIONERS,

V.

THOMAS W. TAYLOR, *et al.,*

RESPONDENTS.

On Writ Of Certiorari to the United States Court Of Appeals for the Fourth Circuit

BRIEF FOR THE LONANG INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF THE AMICUS CURIAE[1]

The LONANG Institute is a Michigan-based, nonprofit and nonpartisan research and educational institute. Application of the "Laws of Nature and Nature's God" to contemporary legal disputes is its specialty. The "Laws of Nature and Nature's God" constitute the legal foundation of the civil governments established State by State and of the United States. The law was specifically adopted and referenced in the Declaration of Independence of 1776. As such it legally binds the States and the national government.[2] Its legal principles also bind the courts. See https://lonang.com/

The Laws of Nature express various legal principles of relevance here, including: 1) the legal obligation of a government controlled and funded school to secure intellectual freedom by denying it jurisdiction *to compel by force* exposure to official government ideas such as a school's curriculum, 2)

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[1] It is hereby certified that no counsel for a party authored this brief in whole or in part; and that no person other than the amicus curiae, their members, or their counsel made a monetary contribution to its preparation or submission.

[2] For a legal analysis of the binding effect of the laws of nature through the Declaration of Independence, see, K. Morgan, The Laws of Nature and of Nature's God: The True Foundation of American Law. LONANG Institute (2006). https://lonang.com/commentaries/conlaw/declaration/laws-of-nature-and-natures-god/ For an examination of the true roots of American constitutional law as found in the Bible and the nation's civil covenants, see: https://lonang.com/commentaries/conlaw/americas-heritage-constitutional-liberty/introduction/

acknowledging and protecting parental rights to oversee the education of their own children, and 3) disestablishing state control over education by striking down compulsory attendance laws *when used* against the exercise of parental rights. This natural right is enjoyed by Petitioner parents because it is parents who owe a duty to educate their own children to their Creator and to whom they must one day give account.[3]

The Laws of Nature limit the state's power by enjoining enforcement of compulsory attendance laws against dissenting parents, and by prohibiting Respondent, the Mongomery County, Maryland, Board of Education from violating a student's intellectual freedom. The Laws of Nature and Constitution bar enforcement of Maryland's compulsory attendance laws because they abridge the natural right of parents regarding curricular choice and the Constitutional right to the free exercise of religion.

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[3] "That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence;" VA. CONST, Art. 1, Sec. 16.

STATEMENT OF THE CASE

The Montgomery County Board of Education mandates its students be taught books that celebrate gender transitions, Pride parades, and same-sex romance between young children. Petitioners brief provides much greater detail of Respondents content and zealous "LGBTQ-inclusive" advocacy. (See Merits Brief, pp. 9-13.) Its goal is to change how students think about gender, *discipling* them to adopt the school's singular viewpoint. Petitioners asserted various religious objections arising from duties they owe to their Creator, and not Maryland, which are contrary to Respondents' teachings about gender and sexuality. Respondents' teachings flatly contradict Petitioners' religious beliefs. Petitioners sought an "opt-out" accommodation which the Board denied. Petitioners filed a lawsuit and sought a preliminary injunction.

The district court denied a preliminary injunction, and the Fourth Circuit affirmed in a 2-1 decision. According to the panel majority, there is no free-exercise burden because denying opt-outs did not "compel[]" Petitioners to "change their religious beliefs or conduct." App.34a. Because Petitioners remain "free[]" to "discuss[] the topics raised in the [s]torybooks with their children" and to "teach[] their children as they wish," the court found no First Amendment violation. App.35a. As noted below, the Court errs.

SUMMARY OF ARGUMENT

Petitioners are endowed by our common Creator with certain unalienable rights, which among them include the natural, unalienable right to direct the education and upbringing of their own children free from state interference, regulation and control. Maryland's compulsory attendance laws are consistent with these rights only when they serve to effectuate the natural right of parents. Maryland's compulsory attendance laws are inconsistent with these rights whenever they are hostile toward a parent's religious beliefs, ideas and values. They are also unconstitutional when used to abridge the natural rights of parents who have no religious belief.

The Montgomery County Board of Education's rejection of parental requests to release their own children from classroom instruction that parents find offensive based on religious or other belief disregard the natural right of parents and perverts the purpose of Maryland's compulsory attendance law. Requiring Petitioners' children to be excused from the Respondents' anti-religious teachings contrary to their religion, is already guaranteed in principle under *Zorach v. Clauson*, 343 U.S. 306 (1952).

Yet, striking down Maryland's compulsory attendance law *as applied* to parents who object to one aspect of a government school's curriculum because they do not agree with it or because it contradicts their religious belief, is the superior resolution of this case. This court should discard its *ad hoc* approach to these cases--balancing and rebalancing the natural right of

parents and the additional Constitutional right of religious parents, against the state's interest in establishing a uniform curriculum. It must move beyond the familiar charge that the Court ought not substitute its opinion for the educator's judgment in academic matters.

Instead, the Court should drive to the heart of these "parents v. curriculum" disputes. The Court should strike down state compulsory attendance laws *as applied* to parents who object to a school's curricular mandates. The school's institutionalized brand of *conversion therapy,* by whatever pedagogical label taught under the cover of "education," may still proceed without any parental interference, but the school may not compel students to attend such sessions. To compel attendance upon offending courses, or demean, alienate, or punish students who dissent are hallmarks of incarceration, not education. Any inconvenience to the school is administrative in nature and must yield to the superior and substantive natural rights of parents.

This result is not defeated by the lower courts' claim that there is no free-exercise burden because denying "opt-outs" did not compel Petitioners to "change their religious beliefs or conduct." Such a claim is clearly erroneous. The effect of the School Board's denial compels Petitioners to further energize their *belief and conduct* in opposition.

Parents must devote additional time to undertaking supplemental parental instruction of their children demonstrating how the school's

teachings corrupt their religious beliefs about gender and offend the Creator. They must now consider teaching their children that Maryland's system of education lacks any lawful authority to command their children be exposed to anti-religious bigotry in a curricular format, that parents must obey God, not the Board of Education, and that castigating public officials for teaching doctrines contrary to their religion like John the Baptist castigated the Governor of Galilee, may be an appropriate religious example for parents to follow.

Indeed, the Court's assuring defense of the Respondents' teaching misses the larger context of state compulsion. The school board may prosecute parents who withhold their children from their aberrant teaching under its criminal statutes, with punishment ranging up to 30 days in jail and a $500 fine. If Petitioners attempt to keep their children from the government's anti-religious viewpoint, they can be punished in a criminal court with imprisonment and a fine. The Respondents have already shown religious hostility toward Petitioners. Criminal prosecution is a clear and present threat looming over a parent's head. Unfortunately, the lower court's denial of relief already applauds use of force against parental freedom.

But understood in the context of criminal law, nothing short of declaring unconstitutional Maryland's compulsory attendance laws, *as applied*, to compel children to attend classes teaching curriculum which a parent finds contrary to their

opinions or inconsistent with their individual religion, will resolve this case.

Otherwise, Amicus is at a loss to identify how the Montgomery County School Board's threats of fines and incarceration are consistent with religious neutrality, demonstrate no hostility to religion, secure intellectual freedom, protect the enjoyment of a parent's natural and unalienable rights, or square with this country's history and tradition.

ARGUMENT

I. PARENTS HAVE THE NATURAL, UNALIENABLE RIGHT TO DIRECT THE EDUCATION OF THEIR OWN CHILDREN.

The Declaration of Independence affirms that "governments are instituted," and by implication including the government of Maryland and the Montgomery County Board of Education, for the purpose of securing "these rights." What rights are these? The Declaration indicates these rights are the ones endowed by God – the Creator. It tells us that civil governments are created to secure these unalienable rights. But do they?

In the context of education, this mandate means that civil governments are instituted to secure the unalienable right of a parent to direct the education and upbringing of their children. The legitimate task of state governments is to statutorily articulate parental rights. The legislature should enact

education laws that will secure parental rights. Such laws should principally serve to protect parents in the unmolested exercise of their rights and punish those who interfere with their rights.

Do compulsory attendance and education laws square with this principle? Or are these laws consistently applied contrary to the rights of parents? This inquiry requires an examination of the underlying legal rationale and evolution of compulsory attendance laws themselves. United States Supreme Court Associate Justice James C. McReynolds articulated the modern perception about compulsory attendance laws and a parent's right to control the education of their children. He observed in *Meyer v. Nebraska,* 262 U.S. 390 (1922) that: "The American people have always regarded education and acquisition of knowledge as matters of supreme importance which should be diligently promoted …."[4] The question is: Who should promote education?

Justice McReynolds wrote that, "Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life …."[5] The Court understood that parents

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[4] *Id.* at 400 (1922), citing the Northwest Ordinance of 1787 that declares: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." https://www.archives.gov/milestone-documents/northwest-ordinance

[5] *Id.*

have a natural duty and corresponding right to control the education of their children suitable to their station in life.[6] The early academic consensus supported parental rights over state power,[7] as did other writers on the subject.[8] But the Court then added one more part to the puzzle. To the proposition that, "Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life" the court added "and

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[6] James Kent, for example, articulated this universal precept: "The duties of parents to their children, as being their natural guardians, consist in maintaining and educating them during the season of infancy and youth, and in making reasonable provision for their future usefulness and happiness in life, by a situation suited to their habits, and a competent provision for the exigencies of that situation." J. Kent, Commentaries on American Law, 4 Vols. (New York: O. Halsted, 1826; reprint ed., New York: Da Capo Press, 1971) 2:159.

[7] Francis Wayland, President of Brown University said: "The right of the parent over his child is, of course, commensurate with his duties. . . . . While he discharges his parental duties within these limits, he is, by the law of God, exempt from interference both from the individual and from society." F. Wayland, The Elements of Moral Science, (4th ed. Boston: Gould, Kendall and Lincoln, 1841) 318.

[8] Attorney Zach Montgomery observed that: "The law of nature and nature's God, which ordains that it is both the right and duty of parents to educate their children in such manner as they believe will be most for their future happiness, is utterly disregarded and set at naught by the State, which ordains that it is neither the right nor the duty of parents, but of the State, to say when, where, by whom, and in what manner our children shall be educated." Z. Montgomery, Comp., The School Question from a Parental and Non-sectarian Standpoint, (4th ed. Washington, 1889; reprinted.; New York: Arno Press, 1972) 52.

nearly all the States, including Nebraska, enforce this obligation by compulsory laws."

The Court quotes the Northwest Ordinance that "the means of education shall forever be encouraged" to stand for the proposition that education is a state obligation enforced by compulsion. Setting aside this non-sequitur (that encouragement is synonymous with enforcement accompanied by criminal law), the Court nevertheless asserts that compulsory attendance is a means to further or effectuate the natural right of parents.

Should Amicus take the Court at its word? Certainly, the Respondent School Board would not want to be bound by this object-means rule.[9]

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[9] School boards having grown comfortable with dismissing parental rights, would find Justice Hugo Black the better defender of their creed. In his dissent in *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969). According to Justice Black, expression of any viewpoints contrary to the school board resulted in "groups of students all over the land are already running loose, conducting break-ins, sit-ins, lie-ins, and smash-ins. Many of these student groups. . . have already engaged in rioting, property seizures, and destruction." *Id.* at 524-26. Such overexcited demagoguery is reinvented using more contemporary social ills by the Montgomery County School Board whose members publicly accused petitioners of promoting "hate" and compared them to "white supremacists" and "xenophobes."

II. AS APPLIED, MARYLAND'S COMPULSORY ATTENDANCE LAW, A VIOLATION OF WHICH IS A MISDEMEANOR, ABRIDGES, RATHER THAN SECURES, THE NATURAL RIGHT OF PARENTS TO EDUCATE THEIR OWN CHILDREN.

However, may an unalienable right be either promoted or coerced by civil government? By very definition, an unalienable right is to be freely exercised, not compelled to be exercised. It is illogical to maintain that civil government will promote free speech or the unalienable and Constitutional free exercise of religion by coercing speech or religion. Compulsion in attendance or education is no different. Coercion defeats the element of freedom – freedom of parents to exercise their unalienable right to direct the education of their own children as they see fit. Civil coercion is contrary to unalienable rights.[10]

While the Court in *Meyer* observed the correct principle – that parents have a natural right to educate – the Court failed to recognize that the state coupled it with an erroneous principle: that a state government has a right to coerce (or punish the failure to discharge) a natural or unalienable right.

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[10] The maxim *Nil Consensui Tam Contrarium Est Quam Vis Atque Metus* is also appropriate. Nothing is so opposed to consent as force and fear. Where the "consent" of the parent is sacrificed on the altar of compulsory school attendance laws, it is done so by reliance on civil force and fear, not the free exercise of an unalienable parental right.

Yet, *as applied* by the Montgomery County School Board, Maryland's compulsory attendance law can be invoked as an injection mold machine to re-create children in the image of mis-gendered humanism. The long-term result of this secular religion is that males elect to become eunuchs by choosing surgical castration, and females choose chemical and surgical barrenness, neither able to reproduce, each sharing in the gender identity of the other. The ageless human purpose of being fruitful and multiplying is discarded.

To propagate this anti-religious result state law comes to the School Board's aid. It requires mandatory attendance for 180 days a year and opens the door to compel mis-gendered viewpoint indoctrination.[11] A parent's opposing religious viewpoint that their children are already created in the image of the Creator or God, who made them exclusively male and female and do not need to be re-created by government employed bureaucrats, is rejected and its proponents are subject to arrogant hostility and personal attack. More importantly than name calling, parents who refuse to send their children for such indoctrination are subject to criminal prosecution for a misdemeanor

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[11] Maryland law requires all children between the ages of 5 and 18, who live in Maryland, to attend school. Md. Code, Education § 7–301(a)(1). Schools are required by law to be open for at least 180 school days, and a minimum of 1,080 school hours during a 10-month period in each school year. See Md. Code, Education § 7-103(a)(1).

and upon conviction are subject to a fine not to exceed $500 or imprisonment not to exceed 30 days, or both.[12]

In other words, if Petitioners attempt to keep their children from the government's anti-religious bigotry and indoctrination, they can be punished in a criminal court with imprisonment and a fine. Amicus is at a loss to identify how such a result is consistent with religious neutrality, demonstrates no hostility to religion, secures intellectual freedom, protects the enjoyment of a parent's natural/unalienable right, or squares with this country's history and tradition.

Pause for a moment to consider a parent's right from the "history and tradition" perspective. It seems clear that at least the Establishment Clause must be interpreted by "reference to historical practices and understandings." *Town of Greece v. Galloway*, 572 U. S. 565, 576 (2014). Consider then an historical point of view, that by Thomas Jefferson. Thomas Jefferson consistently applied the principle of unalienable rights to both religion and education. He asserted that religion was "of the natural rights of mankind." He declared that if the state legislature impaired religion in any way, that such would "be an infringement of

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[12] Whoever has custody or "care and control" of the child is responsible for seeing that the child attends school. If they do not, they may be fined or jailed. "Any person who induces or attempts to induce a child to be absent unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed $500 or imprisonment not to exceed 30 days, or both." Md. Code, Education § 7–301(e)(1).

natural right."[13] Likewise, he also supported the unalienable rights of parents to direct the education of their children free from civil punishment. He asks:

> Is it a right or a duty in society to take care of their infant members, in opposition to the will of their parents? . . . . It is better to tolerate the rare instance of a parent refusing to let his child be educated, than to shock the common feelings and ideas by the public asportation and education of the infant against the will of the father.[14]

Thus, to the civil government in general and state governments in particular, Thomas Jefferson

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[13] "An Act for Religious Freedom," adopted by the Virginia General Assembly on January 16, 1786, Va. Code Ann. § 57-1 (1985). The Act further declares that: "that 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, because he, being of course judge of that tendency, will make his opinions the rules of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own." This is a perfect description of the Montgomery County Board of Education—they have made their opinions about gender "the rule[] of judgment, and approve or condemn the sentiments of [parents] . . . only as they shall square with or differ from" their own. https://law.lis.virginia.gov/vacode/title57/chapter1/section57-1/

[14] J. Randolph, Early History of the University of Virginia, as Contained in the Letters of Thomas Jefferson and Joseph C. Cabell, (Richmond, VA: C. H. Wynne, Printer, 1856) 97. See also C. Arrowood, Thomas Jefferson and Education in a Republic, (New York: McGraw-Hill Book Co., Inc., 1930) 61-62.

said that it may not and ought not to compel instruction in either religion or education – it is better to tolerate a parent refusing to let his child be educated by the government, than to compel education against the will of the parent. Here, parents are *refusing* to let their children be educated by the government in ideas they find to be religiously hostile.

The legal principle that animated Jefferson's thinking was articulated in the first draft of his Bill for religious freedom. The draft affirmed that:

> Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, . . . ; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time.[15]

In other words, the mind automatically follows the ideas presented to it. The mind of a child is even

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[15] "A Bill for Establishing Religious Freedom," June 18, 1779, in The Papers of Thomas Jefferson, 2:545-47. https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0082

more oriented. Children must consider what the Montgomery County Board of Education places before their mind because that is the law of nature of the mind. If Amicus state to this Court: "Don't visualize what a Christmas tree looks like" it is certain that each Justice will have an image of some type of Christmas tree that automatically appears in their mind. This is how the mind works. Thomas Jefferson understood it. James Madison understood it. Virginia understood it.

What about this Court? To say: "Well you do not need to believe in a Christmas tree" is legally meaningless. The issue is not belief, but compulsory exposure followed by compulsory *affirmation* i.e., the school's follow up testing or examination of the student on what has been taught. It is no different to compel exposure to teaching about a Christmas tree, to teaching about the choice of chemical and surgical mutilation of human features to transition one's gender. Both ideas are *imposed by force*. The mind envisions it all the same. And just to reinforce what was taught, the school imposes a test with a letter grade to follow confirming how well the student's mind affirmed what was just taught. Therein lies the controlling legal principle: use of criminal law to compel exposure to, and affirmation of, official government ideas violates freedom of the mind, the unalienable right of parents to educate their own children, and the free exercise of religion.

Civil government lacks jurisdiction over another's "opinions and modes of thinking." Parents enjoy the jurisdiction to direct the opinions and mode

of thinking of their children, but not the civil government. Yet, the Montgomery County Board of Education, armed with the power to criminalize non-attendance, claims the power to compel children against the will of their parents, to conform a student's opinions and modes of thinking about gender to its own will. Who are the members of the Montgomery County Board of Education but a committee of "fallible and uninspired" men and women, who have set up "their own opinions and modes of thinking as the only true and infallible"? [16] Here, the religion of the Montgomery County School Board is this: the County has the superior power to shape the mind of children in its own gender fluid image and reject the "male and female" image given by our Creator.

Reasoning from original principles, Law Professor Jeffrey C. Tuomala demonstrates why tax-funded compulsory education is an unconstitutional establishment of religion contrary to the First Amendment. Harkening back to first principles articulated by Thomas Jefferson and James Madison during the Virginia state-establishment controversy which resulted in the complete legislative disestablishment of state control over religious ideas in 1786, Professor Tuomala recognized that:

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[16] Government schools across this country have "established and maintained false religions over the greatest part of the world and through all time" even though this Court has affirmed the desirability of "individual freedom of mind in preference to officially disciplined uniformity for which history indicates a disappointing and disastrous end." *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637 (1943).

> The Supreme Court, while professing the freedom of the mind and disclaiming the government's power to establish an orthodoxy of opinion, has not questioned the power to do exactly that through the states' school establishments. . . . The present critique is not simply based on an originalist theory of constitutional interpretation, but rather it reflects a law-of-nature principle that civil government has no jurisdiction over the mind.[17]

Civil government has no jurisdiction over the mind. Let that fully sink in. In *W. Va. State Bd. of Educ. v. Barnette*, the Cout held: "We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the *sphere of intellect* and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control." Justice Murphy affirmed that "[o]fficial compulsion to affirm what is contrary to one's religious beliefs is the antithesis of freedom of worship."[18] What else is requiring Montgomery County students to be first exposed, an example of unconstitutional "official control"? And what else is a requirement that students be tested *and graded* on the storybook's

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[17] J. Tuomala, "Is Tax-Funded Education Unconstitutional?" LIBERTY UNIV. LAW REVIEW: Vol. 18:4, pp. 1009, 1011, 1119 (2024). Available at: https://digitalcommons.liberty.edu/lu_law_review/vol18/iss4/6

[18] *Barnette,* 319 U.S. at 642, 646.

lessons, anything other than unconstitutionally compelling a student to "affirm" what has been taught?[19] Compulsory exposure and affirming what has been taught, not belief, is the litmus test. The lower court's self-assurance that students are not compelled to believe is legally irrelevant.

III. THE RIGHT OF PETITIONERS' CHILDREN TO BE EXCUSED FROM THE RESPONDENTS' INDOCTRINATION, CONTRARY TO THEIR RELIGION, IS ALREADY GUARANTEED UNDER *ZORACH*.

The Supreme Court acknowledged in *Zorach v. Clausen*, 343 U.S. 306 (1952):

> We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its

[19] For an analysis of how compulsory attendance laws are used to dominate the mind through prolonged coercive exposure tantamount to changing and compelling a student's belief, see K. Morgan, Real Choice, Real Freedom in American Education: The legal The Legal and Constitutional Case for Parental Rights and Against Governmental Control of American Education, Lanham, MD: University Press of America, (1997), pp. 89-119.

> dogma. When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs.[20]

Does the Montgomery County School Board "make room" for each student's "spiritual needs," letting each student "flourish?" Does it cooperate with religious parents "by adjusting the schedule of public" schools to religious needs? Line up the forgoing against the Respondents' "no exceptions, no opt-out mandate" backed up by a misdemeanor statute. School boards across the country scoff at such a description of America and the "best of our traditions."

Yet, *Zorach's* accommodation principle is trustworthy, and serves three essential purposes, as pointed out in a 1987 issue of the Harvard Law Review: First, and most important, it attempts to encourage and promote the free exercise of religion in civic life. Second, it strives to recognize and commemorate the importance of religion in America's historical traditions and cultural heritage. Third, it serves the state's interest in promoting social cohesion and community identity by admitting shared symbols and values into the civic sphere.[21]

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[20] 343 U.S. at 313-14.

[21] Note, "Developments in the Law – Religion and the State," 100 Harv. L. Rev. 1606, 1643 (1987).

Former Dean and Law Professor Herbert W. Titus observed that this "three-fold objective is especially important when applied to a system of tax-supported public education dedicated to the inculcation of fundamental values necessary to the maintenance of a democratic political system." He recognized that total exclusion of religion, creates an atmosphere of "unreality as well as one of hostility to those students and their families whose lives center upon God." Indeed, no argument about "peer pressure" or "immaturity" ought to dissuade the courts from finding a school boards opt-out program as a legitimate constitutional accommodation of religion, so long as students whose lives do not center on God or religion, are not required to participate in the accommodating activities.[22]

The *Zorach* release time program involved no religious instruction in a public-school classroom, no expenditure of public funds. It declared that "we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence."[23]

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[22] Hebert W. Titus, Public School Chaplains: A Constitutional Solution (2001). See https://lonang.com/commentaries/conlaw/religious-liberty/public-school-chaplains-constitutional-solution/#fn166u This article originally published in REGENT U. L. REV., Vol. 1 (1991).

[23] 343 U.S. 306, 314 (1952).

The Montgomery County School Board has turned this completely upside-down by denying and suppressing "opt-out" and, by implication, any "release time." It has shown public hostility to Petitioners' by religiophobic name calling, by comparing the Petitioners to "white supremacists" and "xenophobes." The School Board is clearly "hostile to religion" and throws its weight against efforts to widen the effective scope of religious influence by parents. Not all here is peace and love.

While Maryland's compulsory attendance law recognizes certain exemptions from attendance, it makes no provision for release time to receive religious instruction. Parents may decide in the exercise of their natural or United States Constitution First Amendment free exercise rights that their child shall be released for religious education. In the instant case, Petitioners may direct the school to send their children to the school library or other room during storybook instruction time, to read books or review audio visual selected by Petitioners for their children that emphasize their parental or religion's values.

This parent selected material may include teaching values that illustrate how the school's storybook curriculum advocates a violation of God's law. Parents may also select materials that describe the irreparable physical harm created by chemical and surgical mutilation of a child's body. Likewise, parents may also evaluate whether their religious practice will

now include publicly castigating government officials.[24]

Even so, releasing children for religious instruction is consistent with the First Amendment which does not require separation in every and all aspects. "Disallowing the public schools' accommodation of students' "religious needs," according to the Court, stretches the separation concept to an undesired "extreme[ ]."[25]

Indeed, while "[w]e are a religious people whose institutions presuppose a Supreme Being," [26] the Respondents approach is the opposite: that Maryland students are a gendered ignorant people whose institutions presuppose the Montgomery County School Board's power to compel attendance without exception, to mold children in the Board's gender fluid image. Such a view cannot square with the Constitution's free exercise clause.

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[24] If parents consult the Bible, they may learn that John the Baptist publicly castigated Herod, the Governor of Galilee for living with his brother's wife contrary to the law. For John had told him, "It is against the law for you to have her." Matthew 14:4 (NJB). A parent's religious practice may change to include public castigation of the Montgomery County School Board for teaching that which is against the law of God, if their beliefs so warrant.

Indeed, Herod would never pass the "no hostility" test articulated in *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, 584 U.S. 617, 634 (2018), but then again neither do Board members who publicly accuse Petitioners as no different than "white supremacists" and "xenophobes."

[25] Id. at 313, 315.

[26] Id. at 306, 313.

IV. PARENTS RELIGIOUS BELIEF AND CONDUCT HAVE ALREADY BEEN AFFECTED BECAUSE OF RESPONDENTS' TEACHING, SET IN THE CONTEXT OF COMPULSORY ATTENDANCE, AND ENFORCED BY CRIMINAL LAW.

The lower courts' reasoning that there is no free-exercise burden because denying opt-outs did not compel Petitioners to "change their religious beliefs or conduct" is full of practical holes. Because they care for their children and brought this lawsuit, their commitment should not be denied. Parents have no doubt already taken additional time to provide supplemental parental instruction to their children. This instruction may have demonstrated how the school's teachings both corrupt their religious beliefs about gender and offends God by whatever name so called. They must take time to undertake religious teaching in order to deprogram their children from the Respondents' viewpoint.

Parents must also take time from their schedule when their children are not compelled to be in school or compelled to engage in homework. Thus, parents must look closely at their family schedules and identify specific times in the evening to explore sacred texts and consult the Almighty in devotional prayer. That conduct must certainly include an inquiry about the creation of human beings male and female versus the government's efforts to re-create human beings in terms of secular ideas hostile to Petitioners.

Moreover, Respondents' teaching may also induce Petitioners to reevaluate their own religious beliefs. Parents' belief may now be broadened to encompass a response or rejoinder to the state's religiously defiant teaching. Whereas before, Petitioners' religion may typically have included a belief that the state's system of education was consistent with their religion, they must now consider teaching their children that Maryland's system of education has no lawful authority to command their children's exposure to anti-religious bigotry regarding gender. The religion of Petitioners may now question the wrongful use of state criminal compulsion against their children to indoctrinate them in its anti-religious bigotry rejecting the Creator's creation of mankind, male and female.[27]

Indeed, the lower courts' acknowledgement that Petitioners remain "free" to discuss the topics raised in the storybooks with their children as they wish, is but a tautology if not a banal metaphor. Of course, they enjoy such freedom. They enjoy such freedom whether or not their children are forced to be exposed to the state's teaching held up as a universal model for humanity or are opted out of such teaching. They may

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[27] For instance, for Petitioners whose religion incorporates the Bible, their belief may be affected if not modified to incorporate Acts 5:29 (NJB), "Then Peter and the other apostles answered and said, 'We ought to obey God rather than men.'" In other words, Petitioners' former passive religious belief that their religion was compatible with the state's use of criminal law and its accompanying force and violence to compel attendance, must now be questioned if not changed. In effect they could declare that "Petitioners must obey God and their religion, and not the Montgomery County School Board."

also educate their children in a private state-regulated system but they still have the prerogative to attend a government-controlled school, and the Constitutional right to opt-out of courses to which they object.

Even so, the lower courts' observation is proof enough that parents' religious teaching and conduct are affected, if not consequently *compelled* by the Respondents' institutionalized humanist advocacy. This compulsion is highlighted even more because such teaching is conveyed in a setting where parents are subject to criminal prosecution for failure to send their children to school and thereby submitting their children to the Montgomery County Board of Education's anti-religious bigotry and indoctrination.

CONCLUSION

Law is good, if used lawfully. (1 Timothy 1:8). In this case the Montgomery County School Board has not used Maryland's compulsory attendance laws in a lawful manner. By denying "opt-out" it defaults to that law to break apart Petitioners' religious beliefs. It has used the compulsory attendance law to force into the minds of children, day after day, week after week, and year after year, ideas about gender contrary to the law of nature and of nature's God, and antithetical to the religious beliefs and views of Petitioners, abridging their natural rights along the way.

But re-creating children in the secular humanist image of the Montgomery County School Board contrary to the image of the Creator in whom these children are actually made, male and female, is

not enough for these public servants. Respondents are not merely satisfied with teaching their doctrines but are also driven to force Petitioners to alter their religious conduct and belief by effectively compelling parents to deprogram their children after school hours.

If all else fails to bring children under their coercive teaching, they may invoke Maryland's criminal law against Petitioners' non-attendance. The School Board holds the "iron fist in the velvet glove" threat of prosecuting parents who withhold their children from its aberrant teachings. It may invoke its criminal statute imposing up to 30 days in jail and a $500 fine just to prove their point. If Petitioners attempt to keep their children from the government's 12-year curricular pattern of anti-religious bigotry and indoctrination, the "solution" is to punish the parents in a criminal court with imprisonment and a fine.

Ancient Israel requested Pharaoh to let them "opt-out" of forced labor and worship God in the desert. Pharoah said make bricks without straw in the government's mud-pits, but did not force anyone to change their religious beliefs! Parents asked the Board of Education to let them "opt-out" of forced attendance. The Board says believe what you want, keep your religious belief, but you might just spend some time in jail thinking about it. Tyranny is like that, now and then. Exodus 5 (NJB).

Respondents' legal position, denial of opt-out, potential threat of criminal prosecution, and

sociopathic teaching, are inconsistent with religious neutrality, demonstrate hostility to religion, abridge a parent's natural/unalienable right, destroy freedom of the mind, and have no analogue in this country's history or tradition.

The Laws of Nature bar enforcement of Maryland's compulsory attendance laws when used to abridge the natural right of parents regarding their curricular choices. The Constitution's Free Exercise and no-Establishment clauses require this Court to declare unconstitutional Maryland's compulsory attendance law, *as applied*, where curriculum which parents find contrary to or inconsistent with their individual beliefs, religious or otherwise, is present.

This court should discard its *ad hoc* approach to these cases--balancing and rebalancing the natural right of parents and the Constitutional right of religious parents, against the state's interest in establishing a uniform curriculum. It should instead strike down state compulsory attendance laws *as applied* to parents who object to a school's curricular mandates. The school can still teach what it deems educationally desirable but may not compel attendance or discipline students who dissent. When faced with such curricular mandates, educational incarceration of students is not an option.

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