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OPINION

# Finding a balance between education and religious liberty

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Whose education is more sound and basic? Is it the youngster who knows more math than Bible? Or is it the youth who knows more Bible than math?

There are no doubt millions of Americans who, if forced to choose, would choose the Bible as more sound and basic. No doubt millions of others would choose math.

My own view is that they're both sound and basic, but that wasn't the question. And who gets to decide?

This problem lies at the heart of the budget compromise that Albany [struck this month in respect of yeshivas](#). The Agudath Israel, the leading advocate for fervently religious Jews, calls the deal "historic."

It certainly could prove so if it ends the controversy over the private religious schools. In New York state, yeshivas educate more than 150,000 pupils, the vast majority from Orthodox households.

The budget compromise could even serve as a national beacon. Particularly at a time when our country is at constitutional loggerheads over the religious rights of Christians and Muslims as well as Jews.

What triggered New York's budget battle is a requirement imposed by New York statute. It obligates nonpublic schools to provide education "substantially equivalent" to that offered in public schools.

Activists allege the religious schools fail to meet the "substantially equivalent" standard. But "substantial equivalence" to public schools is not what yeshiva parents seek. They seek to fulfill their religious obligation to have their children learn the Bible, Talmud and morals.

It seems to me that yeshiva parents are owed a certain amount of deference. Particularly given that the Constitution protects the free exercise of religion.

The First Amendment, after all, does not say Congress shall make no law abridging the free exercise of religion, so long as devotees educate their children in the profane languages and trigonometry.

One fear of Orthodox parents, Rabbi Dovid Zwiebel of the Agudath Israel tells me, is that yeshivas could be pressured to change their curriculum in more radical ways.

No wonder state Sen. Simcha Felder, a Brooklyn Democrat, brought this to a head in Albany. He threatened to hold up a \$168 billion budget deal to protect minority rights.

The breakthrough in the compromise Felder fashioned involves how yeshivas are evaluated for compliance with the state law. It makes clear that the evaluation must include a yeshiva's entire curriculum.

Yeshivas are heartened, too, that compliance review must also take into account whether the curriculum "provides academically rigorous instruction that develops critical thinking skills."

It's the first time that's been required by law, Zwiebel stresses. It finally credits the yeshivas for their capacity to develop critical thinking skills through the study of religious texts.

I've heard the power of such talmudic learning praised, from a stage here in New York, by no less a sage than Supreme Court Justice Antonin Scalia. (He learned at the famed "yeshiva" Xavier HS in Manhattan.)

Scalia himself is, sadly, gone now. One can imagine he'd have been watching the battle of the yeshivas as the state works through its compliance reviews.

Zwiebel acknowledges that government "has the right to ensure that children in all schools, including ours, receive a sound basic education that prepares them to function as productive citizens."

His concern is "excessive" government oversight. He stresses the need for "great latitude in designing a rigorous academic program that may differ from that offered in the public schools."

So the state certainly has its work cut out. If it enforces the new law in a way that denies yeshiva parents their First Amendment free-exercise right, the question could land before Scalia's former court.

Better, in my view, to take this compromise and use it to credit the freedom of parents to choose a religious education as a good thing in the life of New York.

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