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Religious Exemptions - Applicability to Vegetarian Beliefs

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NOTE

RELIGIOUS EXEMPTIONS—APPLICABILITY TO VEGETARIAN BELIEFS

I. INTRODUCTION

Conflict arising as a result of the tension between church and state has plagued American society since its inception. "'Man's dedication has often been torn between God and country, religious faith and patriotism. Church and state have been the most significant institutions within which Western man has lived, but struggle has ensued between them because each has tended to make absolute claims.'"¹

Recently, parents who are complete vegetarians have attempted to exempt their children from receiving vaccinations because the vaccinations are cultured using animal and human fetal cells.² Vegetarians eschew the consumption and use of animals and their byproducts.³ Three sets of parents petitioned the Bridgehampton School District for religious exemptions from Public Health Law section 2164's mandatory inoculation requirement on the ground that the vaccinations run contrary to their spirituality.⁴ The Bridgehampton School District refused to grant the waivers because the school district did not consider vegetarian practices to fall within the ambit of the religious exemption provided by the New York State legislature in section 2164(9).⁵ But the fight for exemption is not over—the parents are threatening to challenge the school district’s refusal and take the matter to the courts in a case of first impression.⁶ This Note analyzes the likelihood that vegetarian

⁴. See Mead, supra note 2.
⁵. See id.
⁶. See id.
beliefs will satisfy the requirements necessary to secure a religious exemption.

To clarify the issues addressed in this Note, Part II provides a framework for understanding the intense controversy behind providing religious exemptions from mandatory vaccination laws, particularly the tension between public health advocates and religious freedom advocates. Additionally, Part II discusses New York’s mandatory vaccination law, Public Health Law section 2164. Part III discusses the state of Public Health Law section 2164 today as developed by case law. The courts have developed a three-pronged test for determining qualification for religious exemption: (1) is the belief asserted "religious" in nature; (2) is the religious belief sincerely held; (3) is there a public health/welfare interest that outweighs the granting of the exemption. Part IV explores the probable arguments vegetarians will assert in an attempt to gain an exemption and the arguments that will be made against such an entitlement. Part V predicts how the court would decide if presented with the case of a vegetarian arguing for entitlement to the religious exemption provided under section 2164(9).

II. MANDATORY VACCINATION LAWS

Mandatory vaccinations for school-age children have been the subject of controversy for as long as they have been required. Mandatory state immunization laws illustrate the “tension between society’s commitment to both religious freedom and public health.” While every state requires children be immunized for certain diseases prior to entering school, forty-eight states grant religious exemptions to this requirement. Exemptions heighten the tension that exists between advocates of religious freedom and those of public health.

Public health advocates fear that exemptions will result in the spread of communicable diseases to the population that is exempt from immunization and also to nonexempt populations. Public health advocates believe that state vaccination laws greatly reduce the instances

9. See id. at 109.
10. See id. at 112 (illustrating that, as the number of persons vaccinated in the population decreases, the number of persons infected will increase). For example, persons susceptible to infection are those over school-age who were never vaccinated and nonvaccinated persons who have not yet reached school-age. See id. at 113-14.
of certain diseases and ultimately eliminate a disease from a population by reducing the number of persons who can serve as hosts for the disease. Allowing religious and/or medical necessity exemptions from vaccination, however, makes this goal of greater population immunity much more difficult to reach. In order to achieve population immunity, the vaccination rate within a population must be sufficiently high, generally between eighty and ninety-five percent, contingent upon the disease being vaccinated. Therefore, proponents of public health argue that childhood vaccination requirements are necessary to protect unvaccinated children and the general public from continuing risks of contagious disease, even if the requirements conflict with religious interests.

Advocates of religious freedom argue that their constitutional right to be free from government interference with religious practices trumps the rationale espoused by those in favor of mandatory childhood vaccinations. Religious freedom advocates premise their beliefs on the constitutional amendment, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Religious advocates argue that if mandatory vaccinations are contrary to the teachings of a religious belief, forcing them to submit to vaccination violates the constitutional right to free exercise of religion. Although the positions taken by religious advocates are as varied as religion itself, all religious advocates agree that public health interests should not trump their religious beliefs. Arguments put forth by religious advocates include: (1) the State must exhaust all other means to reach its public health goals, including voluntary means, before it has the authority to require its inhabitants to act in contravention of their religious beliefs to satisfy public health requirements; (2) the failure of the State to provide religious exemptions infringes upon parental rights to encourage their children in the practice of a religious belief; and (3) the State should not

11. See id. at 113.
12. See id.
13. See id. at 113 n.17 (explaining that the immunization rates necessary to effect population immunity are as follows: for measles and pertussis, 92-95%; rubella, 85-87%; mumps, 90-92%; diphtheria and polio, 80-85%).
14. See id. at 114.
15. U.S. CONST. amend. I; see also Cantwell v. Connecticut, 310 U.S. 296, 303 (1940) (limiting state action by incorporating the First Amendment freedoms into the Fourteenth Amendment).
16. See Aspinwall, supra note 8, at 114.
force parents to make the difficult choice between abiding by their religious convictions or facing criminal liability.\(^1\)

Traditionally, mandatory vaccination laws enacted by state legislatures were held to be valid constitutional exercises of state power.\(^2\) \textit{Jacobson v. Massachusetts}\(^3\) is the most significant case that addressed the constitutionality of mandatory vaccination laws. In \textit{Jacobson}, the United States Supreme Court upheld the conviction of a Massachusetts man who, in violation of a state law that required vaccination for all citizens of Cambridge, refused to receive an immunization for smallpox.\(^4\) The appellant, Jacobson, argued that the Massachusetts law violated constitutionally protected rights of due process and equal protection under the Fourteenth Amendment because it provided an exemption for physician certified "unfit" children and had no similar provision for adults.\(^5\) Adults who refused to receive vaccination were subject to a fine or imprisonment for refusal to submit to vaccination.\(^6\) Jacobson offered evidence to illustrate that the receipt of a vaccination would be detrimental to his health.\(^7\) He alleged that he had suffered serious injury as a result of a prior vaccination and that his son's exhibition of the same reaction to vaccinations indicated that a hereditary condition existed which made both individuals susceptible to injury from introduction into their bodies of vaccine matter.\(^8\) Jacobson argued that the law denied him equal protection of the laws because an exemption was available to parents to protect their children from the receipt of vaccinations that would be detrimental to their health, but did not provide the same protection to adults themselves for their own protection.\(^9\) The Court disagreed with this argument and stated that the law did not deny Jacobson equal protection because the law was applicable to all similarly situated individuals.\(^10\) Jacobson and his son were not similarly situated individuals because Jacobson was an adult and his son was a child. The Court reasoned that there were many

17. See id. at 115-17.
20. See id. at 12-13. The legislation at issue resulted from a determination by the Board of Health of Cambridge finding it necessary for the public health and safety that citizens be vaccinated against smallpox. See id. at 12.
21. See id. at 30.
22. See id. at 26.
23. See id. at 23-24.
24. See id. at 36-37.
25. See id. at 17.
26. See id. at 29-30.
reasons that a legislature would enact regulations that, while appropriate to enforce against adults, would not be appropriate to enforce against children.\textsuperscript{27} Jacobson also argued that the state legislature's delegation of power to the Board of Health of Cambridge to determine when it was necessary to require mandatory vaccination of the general public and what exemptions were to be permitted denied him due process.\textsuperscript{28} Jacobson argued that compulsory vaccinations violated an individual's liberty interest in that such vaccinations forced the introduction of a disease into the body.\textsuperscript{29} The Court, again, disagreed. The Court recognized that "the liberty secured by the Constitution of the United States ... does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good."\textsuperscript{30} The Court reasoned that the right to liberty did not mean that individuals had license to act in any manner they saw fit.\textsuperscript{31}

The Court held that the police power of a state included enacting reasonable regulations, relating to matters completely within its territory, that promote the health and safety of its inhabitants, and that do not affect citizens of other states.\textsuperscript{32} It further refused to interfere with the manner in which a state chooses to exercise its police power, provided that the Constitution of the United States was not contravened and no right granted or secured by it was infringed upon.\textsuperscript{33} The Court determined that the police power of the State included the authority to enact mandatory vaccination laws and it was the province of the state legislature to decide whether vaccination was the best procedure available to protect the public health.\textsuperscript{34}

The Supreme Court in \textit{Zucht v. King},\textsuperscript{35} relying on \textit{Jacobson}, reaffirmed a state's authority to enact compulsory vaccination laws pursuant to its police power.\textsuperscript{36} The petitioner in \textit{Zucht} also questioned the constitutionality of mandatory vaccination laws. Zucht challenged municipally enacted ordinances conditioning attendance at public

\textsuperscript{27} See id. at 30.
\textsuperscript{28} See id. at 30-31.
\textsuperscript{29} See id. at 26.
\textsuperscript{30} Id.
\textsuperscript{31} See id. at 27.
\textsuperscript{32} See id. at 25.
\textsuperscript{33} See id.
\textsuperscript{34} See id. at 30-31.
\textsuperscript{35} 260 U.S. 174 (1922).
\textsuperscript{36} See id. at 176.
schools or other places of education on presentment of a certificate of vaccination, on the ground that they violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment, the same reasons voiced in *Jacobson*.

However, the Court was not persuaded and followed its holding in *Jacobson* that mandatory vaccination laws did not violate the Federal Constitution. In both cases the Court found that a state’s authority to enact compulsory vaccination laws results from a state’s police power and that it is constitutionally permissible for a state to delegate to municipalities the power to determine when and in what circumstances it is necessary, for the protection of the public health, that health laws take effect.

In *Zucht*, the Court stated that it was well settled that there is no violation of the Equal Protection Clause where a regulation is not all embracing. States have the authority, pursuant to their police power, to enact regulations that reasonably classify. The Court additionally reasoned that the ordinances passed by the City of San Antonio did not confer arbitrary and unreasonable power on the public officials charged with the duty to enforce the ordinances, but only conferred on the officials the broad discretion required for the protection of public health. This analysis mirrored the analysis used in *Jacobson*. Both Courts recognized the appropriateness of granting local officials the responsibility of protecting local inhabitants from public health dangers.

The principle that a state has the authority to require its citizens to be immunized in the interest of the public health and welfare was established through *Jacobson* and *Zucht*. As a result of these rulings, and spurred by the increased threat of contagious diseases to their citizens, states throughout the United States enacted compulsory vaccination laws for the protection of the public welfare.

### III. New York’s Compulsory Vaccination Law

#### A. Legislative Findings Prompting the Statute’s Enactment

In 1966, pursuant to its police power to enact legislation reasonably designed to protect the public health, New York passed Public Health
Law section 2164, requiring school-age children to present a certificate of vaccination as a predicate to entering either public or private school in New York. At the time of the statute's enactment, the New York legislature found that medical advances rendered it possible to reduce the incidence of polio through immunizations. In fact, these immunizations, proven safe by medical evidence, were at least ninety percent effective in preventing paralysis caused by polio. The legislature found that a great many Americans were still not immunized in 1966, either due to ignorance or apathy. Furthermore, the legislature found that a large percentage of these nonimmunized individuals were preschool-age children under the age of five, and that, correspondingly, almost one-half of those inflicted with crippling polio were also of this age group. Lastly, the legislature found that the majority of those nonimmunized persons were members of the lower socioeconomic strata who were living in highly concentrated urban areas. To protect those individuals most susceptible to communicable diseases, such as polio, the New York State legislature required immunization as a prerequisite to attendance at a public, private or parochial school in New York State. The legislature declared that the mandatory vaccination requirement was in the best interest of those who would have chosen to forgo immunization. It was unlikely that a family with a limited income would be able to afford the medical care necessary for a child afflicted with polio or that the child with polio would be able to support him/herself upon reaching the age of maturity. Both of these instances would require financial contributions from taxpayers and charitable organizations to support and care for the afflicted individual. Therefore, mandatory vaccination requirements imposed by the legislature were necessary to protect not only those individuals who were not immunized, but also the health and economic well being of society.

44. See N.Y. PUB. HEALTH LAW § 2164(7)(a) (McKinney Supp. 2001).
46. See id.
47. See id. § 1(2).
48. See id.
49. See id.
50. See id. § 1(5).
51. See id. § 1(4).
52. See id. § 1(3).
53. See id.
54. See id. § 1(4).
B. Enactment of Public Health Law Section 2164

Public Health Law section 2164 was passed in 1966 and effective as of January 1, 1967. The statute required that all preschool children be vaccinated against poliomyelitis. Throughout the past thirty-five years, the statute has been amended to protect against additional contagious diseases that have been determined to pose a threat to the public health. The statute now requires that every child be vaccinated against polio, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenza type b, and hepatitis B prior to attending public, private, or parochial school. Schools are not permitted to allow children to be admitted to school or attend school in excess of fourteen days without provision of a certificate of immunization to the proper authority. The statute provides that, in the event a parent or guardian is unable to afford immunization from a private health practitioner, the health officer of the county where the child resides will vaccinate the child free of charge.

C. Exemption Granted Under the Act

The statute also provides for a religiously-based exemption to the requirement of mandatory vaccinations. Public Health Law section 2164 provides that the law will “not apply to children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the practices herein required.” At the time of the passage of Public Health Law section 2164, the language of the religious exemption required that the parent(s) or guardian(s) seeking exemption for their children be “bona fide members of a recognized religious organization” whose teachings were contrary to vaccination. The United States District Court decision in Sherr v. 

56. See id. § 1(5).
58. See id. § 2164(6).
59. See id. § 2164(7)(a).
60. See id. § 2164(4).
61. Id. § 2164(9). There also exists an exemption from state mandated immunization when a physician licensed to practice medicine in the state certifies that immunization may be detrimental to the health of the child. See id. § 2164(8). That exemption is not relevant to this Note.
Northport-East Northport Union Free School District held that language unconstitutional because the requirement that parents be part of a "recognized religious organization" violated both the Establishment and the Free Exercise of Religion Clauses of the Constitution.

At a minimum, the Establishment Clause of the First Amendment ensures that "[n]either a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another." The case of Lemon v. Kurtzman set forth a three-pronged test that the Court has consistently used to determine the constitutionality of laws challenged under the Establishment Clause. For a statute to be deemed constitutional under the test, it must satisfy the following three requirements: (1) the legislature must have had a secular purpose for adopting the enactment in question; (2) the primary effect of the law to be scrutinized must be one that neither advances nor inhibits religion; and (3) the statute must not result in an excessive entanglement of government with religion.

The court in Sherr applied the Lemon test and held that Public Health Law section 2164 failed on at least two of the three elements. The court determined that the primary effect of the language in section 2164(9), limiting the eligible class, inhibited the religious practices of those individuals who were opposed to vaccinations on religious grounds but did not belong to groups that the state recognized as bona fide religious organizations. Members of bona fide religious organizations were permitted to live according to the tenets of their religious beliefs while those not belonging to recognized religious groups were forced to either act contrary to their religious beliefs or deny their children an education. The court also found the former version of Public Health Law section 2164(9) resulted in the excessive entanglement of the government in religious affairs because it gave official recognition to certain religions and not others, thereby involving the government in religious matters to a degree not permitted by the Constitution.

64. See id. at 98.
67. See Sherr, 672 F. Supp. at 89 (discussing the Lemon test).
68. See id.
69. See id.
70. See id.
71. See id. at 89-90.
72. See id. at 89.
The constitutionality of the limiting language of the original religious exemption to Public Health Law section 2164 was also challenged under the Free Exercise Clause of the First Amendment. In determining the constitutionality of a statute under the Free Exercise Clause, the Supreme Court followed a four-step inquiry developed in the case of Sherbert v. Verner. The court in Sherr applied the four-step Sherbert test and made determinations regarding the following inquiries: (1) whether a religious belief or practice is involved; (2) whether such belief or practice is burdened by the government action in question; (3) whether a compelling state interest justifies such an infringement on First Amendment rights; and (4) if such a compelling interest exists, is there a less restrictive alternative that would enable the State to satisfy its purpose in the action in question without infringing on the First Amendment rights of individuals. The court determined: (1) an application for exemption by a person who is not a member of a recognized religious organization involved a religious belief or practice; (2) compulsory vaccination under section 2164 burdens such person's adherence to a religious belief or practice; (3) no compelling state interest existed that justified restricting the religious free exercise only of individuals who do not belong to recognized religious groups as opposed to members of bona fide religious organizations; and (4) less restrictive alternative means existed to allow the state to provide a religiously-based exemption from compulsory vaccination. The court held that if New York wanted to continue to provide a religious exemption, the exemption must be offered to all persons who hold genuine and sincere religious beliefs that oppose vaccination. In response to this decision, the New York State legislature amended Public Health Law section 2164(9) to delete the requirement of membership in a recognized religious organization to receive the benefit of the exemption.

73. See id.
75. See Sherr, 672 F. Supp. at 90.
76. See id. at 90-91.
77. See id. at 98.
78. See N.Y. PUB. HEALTH LAW § 2164(9) (McKinney Supp. 2001).
IV. Present Standard of the Law Necessary to Qualify for the Religious Exemption Under New York Law

Parents and guardians have challenged the denial of vaccination waivers by school boards in the New York State courts and the federal district courts on the ground that their children qualify to receive the benefit of the religious exemption provided by section 2164(9). These courts have developed a three-pronged test to be satisfied for a child to qualify to receive the benefit of the religious exemption under the law. The test requires that a party arguing for exemption must: (1) hold a "religious" belief contrary to vaccination, as opposed to an opposition to vaccination on purely moral or medical considerations; (2) sincerely hold such religious belief; and (3) demonstrate that there are not any circumstances present within the general community which would represent a clear and present danger to the public of the spread of the particular communicable disease.

Public Health Law section 2164(9)'s religiously-based exemption demonstrates the state legislatures "intent to statutorily preserve, whenever possible, a coexistence of public health protection and a recognition of the right of serious religious practice." The exemption seeks to allow those individuals who sincerely oppose vaccinations because of religious precepts to exercise their religious beliefs free from criminal liability while at the same time disregard the public health goal of maximum population immunity to protect the general public from the spread of communicable disease. However, this balance has proven difficult to strike.

A. The First Prong: Defining Religious Beliefs for the Purposes of the Exemption Under the Statute

When individuals seek religious exemption from vaccination, the primary inquiry is whether the grounds asserted as the bases for opposition are religious in nature. The exemption is limited by its terms solely to those who oppose immunization on the basis of religious

80. Brown, 429 N.Y.S.2d at 357.
81. See Sherr, 672 F. Supp. at 93.
82. See id. at 92.
beliefs, beliefs not resulting from moral or medical considerations, scientific and secular theories, or philosophical and personal beliefs.  

The task of determining whether the beliefs that oppose vaccination are religious in nature as opposed to having secular, moral, personal, or philosophical foundations is not easy. Scholars and jurists alike have wrestled for years with the problems that are inherent in defining religion for legal purposes. Any attempt to define religion for legal purposes runs the risk of undue governmental involvement in ecclesiastical matters, which is not permitted by the First Amendment.

The Supreme Court case of *United States v. Seeger* provides guidance for defining religious beliefs that deserve the protection of the Free Exercise Clause of the First Amendment. The Court in *Seeger* ruled that a religious belief, defined as a belief in a Supreme Being, included those that have either a theocentric or anthropocentric basis. *Seeger* involved the statutory interpretation of the term “religious training and belief” as used in the Universal Military Training and Service Act (“Act”). The Act exempts from combatant training and service in the United States armed forces those individuals who are conscientiously opposed to war and participation in war in any capacity on the ground of their religious training and belief. The Act defined “religious training and belief” as “an individual’s belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but [not including] essentially political, sociological, or philosophical views or a merely personal moral code.” The petitioners, individuals who claimed that their conscientious opposition to service in the armed forces came within the statutory definition of religious training and belief, challenged the statute under both the Free Exercise and Establishment Clauses because the statute did not provide similar exemption for nonreligious conscientious objectors to war.

83. See Berg, 853 F. Supp. at 655; Sherr, 672 F. Supp. at 92-93.
84. See Sherr, 672 F. Supp. at 92. The courts have attempted to develop a workable definition for religion. Relevant to the context of religious exemptions are two decisions that deal with the issue of whether a statutory exemption for conscientious objector status impermissibly favors one religion over another, or religion over nonreligion. See *Welsh v. United States*, 398 U.S. 333 (1970); *United States v. Seeger*, 380 U.S. 163 (1965).
85. See Sherr, 672 F. Supp. at 92.
86. 380 U.S. 163 (1965).
87. See id. at 165-66.
88. See id.
89. See id. at 164-65 (interpreting 50 U.S.C. app. § 456(j) (1958)).
90. See id.
91. Id. at 165 (alteration in original) (quoting 50 U.S.C. app. § 456(j) (1958)).
92. See id.
Additionally, the petitioners claimed that the statute violated the Due Process Clause of the Fifth Amendment because it discriminated between different manifestations of religious beliefs.93

The Court interpreted the statute to exclude from conscientious objector status those who oppose war on an economic, political, or sociological basis because such determinations have, throughout history, been deemed within the province of the government.94 An individual’s economic, political, or sociological convictions have never trumped the determination of the state that war was necessary and men were needed to fight it.95 After the Court made the determination as to what beliefs did not come within the ambit of the statute, it was necessary for the court to determine what beliefs were within the parameters of the statutory definition.96

The Court developed a test to be used for determining religious beliefs that deserved the protection of the Constitution.97 The test provided that a protected religious belief was “[a] sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption.”98 Additionally, the Court stated that the test should be applied objectively.99 New York courts have used the language in Seeger to define religious beliefs for the purpose of granting religious exemptions from mandatory inoculations because the analysis of the Court is applicable to cases where the Free Exercise and Establishment Clauses are at issue.100 Seeger illustrated that for a religiously–based exemption statute to withstand constitutional scrutiny, the definition of religion must be sufficiently broad to include not only traditional theistic religious beliefs, but also nontheistic religions and moral and ethical beliefs held by individuals.101

The requirement of a sufficiently broad definition of religion does little, however, to clarify what is correctly considered a religion for legal purposes.102 A broad definition often exacerbates the problem of

93. See id.
94. See id. at 173.
95. See id.
96. See id. at 174.
97. See id. at 176.
98. Id.
99. See id. at 184.
101. See Aspinwall, supra note 8, at 129.
classification as either religious or nonreligious. Moreover, the principle of defining religion broadly poses a problem when mandatory vaccinations are at issue. The broader the definition of religion adopted, the greater the number of individuals who qualify for exemption under the statute. This reduces the number of vaccinated individuals in a population, in turn reducing the public health goal of population immunity. The state’s interest in enacting mandatory vaccination laws, and in protecting the public from the spread of contagious disease, would therefore be undermined by a broadly interpreted exemption. The state’s interest would be better promoted by a narrowly interpreted exemption that would render the smallest number of individuals exempt from vaccination, thereby decreasing the number of individuals that have the capacity to serve as hosts for contagions.

Numerous other cases have provided further guidance for determining when beliefs are to be considered “religious” beliefs. The Supreme Court abandoned the requirement that a religion need be founded upon a belief in a “God.” The Supreme Court and the Second Circuit each declared that religion involves the “ultimate concerns” of individuals, which are not the intellectual concerns of a person but rather the most important interest in that person’s life, such that they would rather suffer adverse consequences than violate their “concerns.”

The definition given to “religious beliefs” in New York Public Health Law section 2164(9) has been a point of contention. Individuals subject to the law initiated several actions, claiming their beliefs were wrongly classified as nonreligious, thereby not allowing them to qualify for an exemption pursuant to New York Public Health Law section 2164(9).
New York State courts and the federal district courts have attempted to discern whether beliefs held by various petitioners were in fact religious using criteria developed in previous Supreme Court and court of appeals decisions discussed above. In Sherr (a consolidated case), for example, the court was faced with the task of determining whether the beliefs asserted by both the Sherrs and the Levys were religious in nature in order to be accorded exemption under the law. In making this determination, the court applied the principles set forth above by the Supreme Court and the Second Circuit Court of Appeals. The Sherrs espoused in their complaint that their opposition to inoculation stemmed from a belief in the universe as a “natural order” where “‘[h]ealth is the unhindered expression of life (God) moving through the body, mind and heart.’” Inoculation is contrary to the natural order of the universe because it “‘hinders life (God) and thus is contrary to God.’” The Levys espoused a belief in which the “‘Universe and all things in it are the manifestation of Divine Consciousness or God.’” The Levys believed that everything in the Universe is connected and that disease results from the disharmony caused when a human being has separated himself from the rest of creation. Further, “‘[v]accinations, and other forms of medical intervention do not take into account the spiritual nature of disease, and therefore they are a violation of God’s natural and spiritual laws.’” The court categorized the beliefs held by the petitioners’ as “pantheistic” and religious for the purposes of exemption.

606 (Fam. Ct. 1992) (holding that father’s sincerely held beliefs were rooted in scientific rather than religious concerns).
111. See supra text accompanying notes 79-107.
112. See Sherr, 672 F. Supp. at 92.
113. See id. The court relied on Torcaso, Seeger, Barber, cited supra notes 108-09, and Allen v. United States, 760 F.2d 447 (2d Cir. 1985), in assessing which beliefs deserved protection under the First Amendment. See id.
114. Sherr, 672 F. Supp. at 92 (quoting the Sherrs’ beliefs as set forth in their complaint).
115. Id. at 92-93 (quoting the Sherrs’ beliefs as set forth in their complaint).
116. Id. at 93 (quoting the Levys’ beliefs as set forth in their complaint).
117. See id.
118. Id. (quoting the Levys’ beliefs as set forth in their complaint). The Levys explained their opposition to inoculation by stating that “‘any introduction into that process of a foreign element outside the normal processes of the body, is going to affect the body adversely and, therefore, we feel it is a violation in a sense of our nature, physical, spiritual religious nature.’” Id. (alteration in original) (quoting the Levys’ beliefs as set forth in their complaint).
119. See id. “Pantheism” is defined as “‘a doctrine that the universe conceived of as a whole is God; the doctrine that there is no God but the combined forces and laws that are manifested in the existing universe.’” Id. at 93 n.6 (quoting WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (1986 ed.)).
Mason v. General Brown Central School District\textsuperscript{120} illustrates beliefs that the court held insufficient to entitle its followers to exemption.\textsuperscript{121} The Masons contended that their opposition to immunization stemmed from a belief in the necessity of living a “natural existence.”\textsuperscript{122} Their belief in “natural existence,” although couched in chiropractic principles, resulted in their creation of a belief system that they argued could be classified as religious.\textsuperscript{123} The court recognized that religious beliefs include more than “traditional Judeo-Christian, Moslem or Buddhist forms of worship.”\textsuperscript{124} For a belief to qualify as religious it is not necessary that the belief have at its core an orthodox or traditional God.\textsuperscript{125} Instead, beliefs need only “occup[y] a place in the life of its possessor parallel to that filled by the orthodox belief in God.”\textsuperscript{126}

Still, the Masons’ belief system was deemed secular because an individual’s contention that his belief is of religious magnitude is not dispositive in finding the belief to be religious in nature.\textsuperscript{127} An additional inquiry is necessary to determine what beliefs are in fact based on religious tenets, and what beliefs are based instead on secular or scientific principles.\textsuperscript{128} The court found that the Masons’ commitment to living a “natural existence” was a “choice of lifestyle [that] does not rise to the level of religion.”\textsuperscript{129} The court reasoned that all individuals make basic life choices concerning where to live, what to eat, and how to raise children, and although such decisions are important and often supported by strong conviction, the decisions are not religious.\textsuperscript{130} Instead, such decisions made by individuals are personal and philosophical in nature, rendering them ineligible for protection under the religion clauses and not exempted under section 2164.\textsuperscript{131}

Lewis v. Sobol\textsuperscript{132} suggests that courts may look at references to a transcendent reality when deciding whether beliefs are to be deemed religious,\textsuperscript{133} even though the Supreme Court in Seeger held that

\begin{thebibliography}{99}
\bibitem{120} 851 F.2d 47 (2d Cir. 1988).
\bibitem{121} See id. at 52.
\bibitem{122} See id.
\bibitem{123} See id.
\bibitem{124} Id. at 51.
\bibitem{125} See id.
\bibitem{126} Id. (quoting United States v. Seeger, 380 U.S. 163, 166 (1965)).
\bibitem{127} See id.
\bibitem{128} See id.
\bibitem{129} Id. at 50, 52.
\bibitem{130} See id.
\bibitem{131} See id.
\bibitem{133} See id. at 513-14.
\end{thebibliography}
nontheistic beliefs are eligible for exemption without reference to a transcendent reality. The United States District Court for the Southern District of New York considered whether the petitioners' ("Lewis" and "Fishkin") belief in a natural order and awareness of the spirituality of the land qualified as a religious belief for the purpose of the exemption under section 2164. The court expanded on the notion of "ultimate concern" articulated in Mason and Seeger, stating that an individual's ultimate concern is his/her religion. "A concern is "ultimate" when it is more than "intellectual."" The court went on to declare that a concern is "more than intellectual when a believer would categorically 'disregard elementary self-interest ... in preference to transgressing its tenets.'" The court determined that the beliefs of the petitioners were the result of concerns that were "more than intellectual in nature." The court found that the belief system held by Lewis and Fishkin was not predicated on scientific or biological concerns; rather, their distinctive lifestyle was a function of their belief in a creator. The petitioners' views of their creator and of individual spiritual perfection that ran contrary to vaccination were held religious in nature, therefore qualifying for religious exemption.

The distinctions drawn between the beliefs held by the petitioners in Lewis (deemed religious) and those held by the Masons in Mason (deemed philosophical) are not clear. The Masons articulated a belief system based on a natural existence where health emanates from within. Lewis and Fishkin shared this belief with the Masons. If the Masons' beliefs were similar to those of Lewis and Fishkin, why were the Masons' beliefs deemed not religious, therefore not deserving of exemption? The court in Lewis distinguished the beliefs of Lewis and Fishkin from those of the Masons by emphasizing that there was no

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135. See Lewis, 710 F. Supp. at 509-10. The beliefs of Lewis and Fishkin were similar to those espoused by vegetarians as evidenced in their statement that "'[w]e therefore have come to believe, in a manner respectful of others, that we cannot consume live or dead organisms, or their byproducts, for any purpose."
136. See id. at 513.
137. Id. (quoting Int'l Soc'y for Krishna Consciousness, Inc. v. Barber, 650 F.2d 430, 440 (2d Cir. 1981)).
138. Id. (alteration in original) (quoting United States v. Kauten, 133 F.2d 703, 708 (2d Cir. 1943)).
139. Id. at 514.
140. See id.
141. See id.
143. See Lewis, 710 F. Supp. at 514.
evidence that the beliefs at issue in the case were based predominantly on biological or scientific considerations.\textsuperscript{144} The court in \textit{Mason} held the beliefs espoused to be nonreligious because Dr. Mason himself stated at trial that his objection to vaccination was primarily biological and that his fears were the result of medical considerations.\textsuperscript{145} Dr. Mason, the father of the child seeking exemption from inoculation, was a chiropractor and in his training was taught to reject drug and surgical intervention.\textsuperscript{146} Mason attempted to argue the point that, although his beliefs were based on chiropractic principles, they were so ingrained in his family's daily existence that they were essentially religious.\textsuperscript{147} The court did not agree and refused to grant chiropractic beliefs religious status.\textsuperscript{148} The court based this decision on the fact that the "religious" organization the Masons belonged to, the Universal Life Church, was dominated by chiropractors and was organized to give religious legitimacy to the chiropractic ethics of its members, which were in essence biological concerns, not religious concerns.\textsuperscript{149} The court's refusal appeared to rest on a desire of the court not to grant a preferential status to oppositions that really were the result of personal fears or scruples with the medical procedure of injecting the human body with disease to ward off disease.\textsuperscript{150}

New York State courts, and the district courts interpreting state law, do not appear to adopt as broad a view of religion as did the court in \textit{Seeger} when determining eligibility for religious exemptions under the Public Health Law section 2164.\textsuperscript{151} The courts are not bound by the holding of the Supreme Court in \textit{Seeger} because the Supreme Court limited its holding to interpreting the statutory language of the religious exemption granted under the Universal Military Training and Services Act.\textsuperscript{152} Therefore, the broad definition of religion adopted by the Supreme Court in that instance was a statutory definition rather than a constitutional definition.\textsuperscript{153} A problem may result in future litigation over

\textsuperscript{144} See \textit{id.}
\textsuperscript{145} See \textit{Mason}, 851 F.2d at 51.
\textsuperscript{146} See \textit{id.}
\textsuperscript{147} See \textit{id.} at 50.
\textsuperscript{148} See \textit{id.} at 51.
\textsuperscript{149} See \textit{id.} at 53.
\textsuperscript{151} See \textit{Galinsky v. Bd. of Educ.}, No. 99-9027, 2000 U.S. App. LEXIS 9529, at *2 (2d Cir. May 9, 2000) (holding that opposition to vaccination stemmed not from religious beliefs but from personal fears as to well-being of the child to receive the vaccination); \textit{Mason}, 851 F.2d at 52.
\textsuperscript{153} See \textit{Choper}, supra note 102, at 588 (explaining the consequences of the generous definition of religion in the statutory context).
the New York State exemption where a petitioner argues that either spiritually or biologically based beliefs can be considered by the holder as a source of ultimate authority or concern. In such a case the court would be more willing to classify such beliefs as religious if the petitioner is able to connect his/her belief system to a transcendent reality. To do so would require the petitioner to state that his/her vegetarian belief system has consequences and meaning to them that transcends experience on earth (for example, the afterlife and the natural order of the world) and concerns areas of reality that cannot be demonstrated by facts that are observable in everyday life. If a petitioner is able to do this, the court will be more likely to classify the belief system as religious because the court will not feel as though it is allowing secular concerns to outweigh the necessity of protecting the general public from the spread of contagious diseases. The reasoning of the Supreme Court in Seeger would support such an analysis.

B. The Sincerity of the Religious Belief Proffered

A determination by the court that the beliefs asserted are religious in nature alone does not entitle the holder of the beliefs to the exemption. A second inquiry into the sincerity of the beliefs asserted is necessary. The party requesting a religious exemption must demonstrate, to the satisfaction of the court, that the asserted beliefs are sincerely held. Public Health Law section 2164(9) mandates this inquiry. The inquiry attempts to ensure that exemptions are not granted to individuals who frame their opposition to vaccination in religious terms in order to be afforded the legal remedy desired when in fact the religious beliefs are not sincerely held because the opposition stems from secular convictions.

Inquiry into the sincerity of religious beliefs of individuals requires courts to exercise extreme caution, for the inquiry “in essence puts the individual on trial for heresy.” The United States Court of Appeals for

154. See id. at 602.
157. See id.
159. See N.Y. PUB. HEALTH LAW § 2164(9) (McKinney Supp. 2001) (exempting only children whose parents hold “genuine and sincere religious beliefs”).
160. See Sherr, 672 F. Supp. at 94.
161. Id.
the Second Circuit has asserted, "[s]incerity analysis seeks to determine the subjective good faith of an adherent . . . . The goal, of course, is to protect only those beliefs which are held as a matter of conscience." 162 This determination is complicated by the fact that the courts are prohibited from questioning the truth of the underlying belief but, at the same time, must afford protection to only those beliefs that are truly held. 163 Evidence the court examines in a sincerity analysis includes, but is not limited to: (1) whether the adherent acted inconsistently with the belief at issue; (2) whether the adherent materially gained by masking secular beliefs with a religious veneer; and (3) the religion's history and size. 164 The issue of whether a belief is "truly" or "sincerely" held is a question of fact, which inevitably requires the court to rely on its unique ability to observe the demeanor of the witnesses, thereby allowing the court to weigh their credibility. 165

The Sherr case provides insight into the sincerity analysis undertaken to determine whether religious beliefs were sincerely held so as to merit exemption. 166 The court denied the exemption sought by the Sherrs on the ground that the beliefs asserted by the Sherrs were not sincerely held. 167 The Sherrs initially asserted that they were entitled to exemption because of their membership in The American Natural Hygiene Society, Inc., an organization that opposes immunization under any circumstances. 168 The school district refused the claim for exemption because the organization's opposition to mandatory vaccination did not have a religious basis. 169 The Sherrs then claimed entitlement to exemption by virtue of their membership in The Missionary Temple at Large, Universal Religious Brotherhood, Inc., which was found to be nothing but a mail-order church. 170 The Sherrs admitted that they joined the Sarasota church for the purposes of gaining an exemption from vaccination for their son. 171 This action illustrated that the Sherrs sought to gain the legal remedy desired by framing their opposition in religious terms. The reference to religion by the Sherrs was an afterthought, not

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163. See United States v. Seeger, 380 U.S. 163, 185 (1965); Barber, 650 F.2d at 441.
164. See Barber, 650 F.2d at 441.
167. See id. at 96.
168. See id. at 94.
169. See id. at 95.
170. See id.
171. See id. at 96.
the true source of the opposition. Additionally, the Sherrr acted inconsistently with their purported opposition to intrusion into the body on religious grounds when they allowed their children to be circumcised, had decay removed from their children's teeth, and had one son X-rayed. The court put a great deal of weight on the testimony given by Alan Paul Sherr. His demeanor and attitude while on the stand revealed to the court that his opposition to vaccination did not stem from religious convictions, but rather from medical concerns derived from his chiropractic ethics.

The religious beliefs held by the Levys, the other set of petitioners in the Sherr case, were deemed by the court to be sincerely held. The Levys' beliefs regarding human existence and the world manifested themselves in each minute detail of the Levys' lives. The Levys also admitted to joining a church to gain an exemption from mandatory vaccination; however, the church joined was found not to be merely a mail order church, but rather a group that possessed views in line with those expressed by the Levys. Therefore, the Levys were not attempting to gain an exemption by giving their secular views religious credence by joining a sham church. When assessing the sincerity of the adherents' beliefs, the court again placed a great deal of weight on witness testimony. Louis Levy's testimony demonstrated that he took the task of developing his religious foundations very seriously and spent a great many years reading religious and spiritual texts.

C. The Third Prong: The Public Health/Welfare Interest

Religious freedom, a constitutional right granted under the First Amendment, "cannot be absolute in a society continually striving to achieve the proper balance between the liberties of its individual members and the shared needs of the community at large." It is well-settled law that mandatory vaccination programs survive strict scrutiny because, although religious freedom is a fundamental right granted to United States citizens in the Bill of Rights, government interference is

172. See id.
173. See id.
174. See id. at 97.
175. See id. at 96.
176. See id.
177. See id. at 94-97.
178. See id. at 95-96.
179. Id. at 83.
justified by the compelling interest of society in protecting itself from the spread of contagious diseases.\textsuperscript{180}

The New York State Legislature chose to provide to its citizens a religiously based exemption from its mandatory inoculation program that reflected the "urge to minimize imposition of the state's inoculation program upon adherents of religious belief systems whose teachings are at odds with the concept and methods of immunization utilized by the state."\textsuperscript{181} The legislature sought to promote the dual goals of public health protection and the right of serious religious practice.\textsuperscript{182} At times, however, dual achievement of these goals is impossible to obtain, in which case the interest of the general public in protecting itself from contagious disease trumps the right to religious freedom.\textsuperscript{183} In order for the religious exemption from vaccination to be granted, the court must be satisfied that no circumstances exist at the present time that represent a "clear and present danger" of epidemic of the communicable disease being immunized against.\textsuperscript{184}

V. ARE VEGETARIAN BELIEFS ENTITLED TO EXEMPTION PURSUANT TO NEW YORK PUBLIC HEALTH LAW SECTION 2164(9)?

Vegetarianism has become quite popular throughout the United States in recent years.\textsuperscript{185} Recently, parents who are complete vegetarians, or individuals who abstain from use and consumption of any animal product or animal byproducts, and plan on raising their children to be the same, have attempted to gain exemption from mandatory vaccination programs on the ground that their beliefs should be classified as religious.\textsuperscript{186} Petitions for waivers on this ground have been brought to New York's Bridgehampton School District.\textsuperscript{187} The school district refused to grant religious exemptions for the children of vegetarian parents.\textsuperscript{188} The parents feel that they were wrongly refused because they are being forced to act contrary to their spirituality.\textsuperscript{189} They are

\textsuperscript{180} See id. at 88.
\textsuperscript{181} Id.
\textsuperscript{183} See Sherr, 672 F. Supp. at 88.
\textsuperscript{184} See Brown, 429 N.Y.S.2d at 357.
\textsuperscript{185} See JAN PARR, THE YOUNG VEGETARIAN'S COMPANION 10 (1996).
\textsuperscript{186} See Mead, supra note 2.
\textsuperscript{187} See id.
\textsuperscript{188} See id. at 5.
\textsuperscript{189} See id.
threatening to challenge the school district's determination in the courts.90

Complete vegetarians eschew all animal products, including honey and dairy products.91 They also refrain from using leather, goose down, wool, and silk.92 The decision to embrace complete vegetarianism is more than a dietary decision; it is a lifestyle choice.93 Complete vegetarians' opposition to inoculation is rooted in the fact that the vaccinations issued are cultured using animal and human fetal cells.94

Let us assume, for the purposes of this Note, that a set of complete vegetarian parents commenced an action against a school district located in New York, contending that the immunizations required by Public Health Law section 2164 are contrary to their genuine and sincere religious beliefs and that they are entitled to the benefit of the exemption set forth in section 2164(9). How would the court go about determining this claim? What would be the arguments put forth by the parents requesting exemption? What would the school district argue in response?

Initially, the court will be required to undertake an inquiry into whether the grounds asserted by vegetarians as the basis for their opposition to vaccination are religious in nature.95 Vegetarians will argue that the basic purpose of the religion clauses of the First Amendment is to "promote and assure the fullest possible scope of religious liberty and tolerance for all and to nurture the conditions which secure the best hope of attainment of that end."96 Such purpose would be effectuated through a constitutional definition of religion that is broad enough to recognize new and unorthodox concepts of religion that might develop over time and to protect minority religious groups.97 Vegetarians might assert that a broad definition of religion that encompasses vegetarian beliefs should be adopted by the court. Vegetarians might argue that their vegetarian beliefs, which mandate that they abstain from the use or consumption of animal products, occupy a position in their lives parallel to that held by God in the life of

190. See id.
191. See PARR, supra note 185, at 12.
192. See id.
193. See id.
194. See Mead, supra note 2.
an adherent of an orthodox faith admittedly worthy of exemption.\textsuperscript{198} Their belief that exploitation of animals is in opposition to the natural order of the world pervades every facet of their lives.\textsuperscript{199} Every decision made by a vegetarian throughout the course of a day is grounded in promoting this belief.\textsuperscript{200} Often vegetarians are greatly inconvenienced and subjected to ridicule on the basis of their beliefs.\textsuperscript{201} Animals, in the view of vegetarians, occupy a position in the universe equal to that of humans, and therefore should not be tortured and killed for human benefit.\textsuperscript{202} Additionally, vegetarians would argue that their opposition stems from “ultimate concerns” in that they would choose to disregard elementary self-interest before they would exploit animals through the use and consumption of animals and their byproducts.\textsuperscript{203} Furthermore, vegetarians might argue that their vegetarian beliefs are religious in nature because such beliefs provide a “comprehensive belief system that addresses the fundamental questions of human existence . . . and . . . gives rise to duties of conscience.”\textsuperscript{204} For those who adhere to it, vegetarianism is a belief system that manifests a profound respect for all living organisms, both human and animal, and their unique position in the hierarchy of creation.\textsuperscript{205} In this regard, it is incumbent on man not to disrupt the natural harmony of the universe by exploiting animal life for his own advantage.\textsuperscript{206} In attempting to maintain this harmony, man strives to achieve a level of communion with nature. Vegetarians believe that it is impossible to achieve the desired harmony when man disregards and exploits, through use and consumption, the inherent value of the other forms of animal life.\textsuperscript{207} Through the pursuit of universal harmony, vegetarians seek spiritual perfection, in that they themselves become a part of the universal harmony.\textsuperscript{208}

The State might respond to the vegetarians’ argument that their beliefs qualify for an exemption from vaccination by asserting that

\begin{itemize}
\item \textsuperscript{198} Cf. United States v. Seeger, 380 U.S. 163, 173 (1965).
\item \textsuperscript{199} See \textit{Parr}, supra note 185, at 12.
\item \textsuperscript{200} See id. at 13-14.
\item \textsuperscript{201} See id. at 13.
\item \textsuperscript{202} See id. at 14.
\item \textsuperscript{203} See id.
\item \textsuperscript{204} Clements, supra note 197, at 553 (suggesting a constitutional definition of religion that combines the idea of Judge Adams of the Third Circuit—a comprehensive belief system addressing questions “fundamental” to human existence—with the generally held notion that religious beliefs involve a strong sense of duty and devotion).
\item \textsuperscript{205} See \textit{Mead}, supra note 2.
\item \textsuperscript{206} See \textit{Parr}, supra note 185, at 14, 48-49.
\item \textsuperscript{207} See id.
\item \textsuperscript{208} See id. at 14-15.
\end{itemize}
vegetarian beliefs are not of a religious nature, but are instead secular. The State might argue that vegetarianism is not a religious belief system because it does not involve “extratemporal consequences.” An inquiry into the extratemporal consequences of vegetarianism would require the court to determine whether the effects of actions taken pursuant to or in derogation of the dictates of vegetarianism extend to affect the adherent beyond his/her lifetime. The State might argue that repercussions for violations of vegetarian beliefs do not extend beyond the lifetime of the adherent, for example, wearing leather will not subject a vegetarian to eternal damnation. The State might assert that to the extent that an adherent believes that a transgression of vegetarian tenets will result in repercussions in the afterlife, this belief reflects the orthodox religious concept of punishment after death for the sins (transgressions of religious law) committed during life. The State will support this contention by demonstrating that vegetarianism cannot be classified as a religion by virtue of the fact that the majority of vegetarians are members of other recognized religious organizations that espouse differing tenets (e.g., Hinduism, Buddhism, Judaism, Christianity, etc.). Further, the defendants will assert that vegetarianism lacks any of the indicia generally associated with religious organizations (e.g., formal services, existence of clergy, ceremonial functions, sacred objects, and common observation of holidays). The defendants would argue that to grant vegetarian beliefs free exercise protection simply for the reason that such beliefs are deeply held would impede the state’s ability to advance societal interests because strongly held convictions pervade essentially all areas of ordinary government involvement.

If the court chooses to adopt a narrow definition of religious beliefs that excluded vegetarian beliefs in an attempt to maximize the goal of public health, the inquiry would end there and the exemption would be denied. If the court decides to adopt a broad definition of religious beliefs that encompasses vegetarian beliefs in order to permit vegetarians to practice their beliefs free from educational sanction, the court would then inquire into the sincerity of the petitioner’s beliefs.

To determine sincerity, a great deal of weight will be placed on the

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209. See Choper, supra note 102, at 599.
210. See id.
211. See PARR, supra note 185, at 49-54.
213. See Choper, supra note 102, at 596.
215. See id.
The petitioners will have to demonstrate to the satisfaction of the court that they live their daily lives in accordance with vegetarian beliefs and that much contemplation went into the decision to abide by vegetarian principles. The longer a vegetarian has abstained from animal product consumption and use, the more convincing the sincerity argument will be to the court.

The State will attempt to demonstrate instances where a vegetarian acted inconsistently with vegetarian beliefs, if possible. Inconsistent actions would include eating meat and other animal products, possessing leather items, or inoculating older siblings. If the State is able to prove that the petitioners acted inconsistently with their espoused belief system, it is more likely that the court will find the petitioners beliefs not to be sincerely held. Inconsistent action lessens the appearance of sincerity in the eyes of the court.

The State will also try to prove that vegetarians are merely hiding the true secular source of their opposition to vaccination behind vegetarian convictions. This could be done through exploration of the source of the vegetarians' beliefs; for example, uncovering that the petitioners became practicing vegetarians because they believe ingestion of animal products causes medical complications in later years. Belief systems premised on chiropractic or other medical and scientific teachings are not likely to be found to be sincerely held.

The court's determination that the beliefs espoused were sincerely held, provided that the geographical area was not experiencing an outbreak of contagious diseases of any kind, would entitle the petitioners to religious exemption from the mandatory vaccination program. A negative determination would result in the opposite conclusion. The court must beware if presented with such a case as hypothesized here that the greater the number of exemptions granted the lower the percentage of the population that is immunized against contagious disease. Therefore, adopting a broad definition of religion works to reduce the larger public health goal of population immunity. It is important to bear in mind that many of the diseases being immunized against at one time caused much pain, suffering, and death.

217. See id.
220. See Aspinwall, supra note 8, at 129.
221. See id.
throughout the general public. Increasing the number of nonimmunized individuals should alarm us. Such action could eventually lead to epidemics, especially in overly populated urban areas.\textsuperscript{222}

VI. CONCLUSION

What would a court interpreting New York Public Health Law section 2164(9) rule if confronted with such a case? The courts could adopt a broad definition of religious beliefs that encompasses vegetarian beliefs, thereby significantly increasing the number of individuals protected by exemption to the detriment of the general population. Alternatively, the courts could interpret religion narrowly, excluding vegetarian beliefs from such definition, at the risk of denying vegetarians the ability to abide by their convictions in opposition to the exploitation of animals without suffering pecuniary or penal sanctions. Neither alternative presents an easy determination for the courts. Either the rights of vegetarians to practice their beliefs will suffer or the public health goal of population immunity will be in jeopardy.

The most practical approach for the courts to follow would be to adopt a broad definition of religion encompassing vegetarian beliefs, while stressing the sincerity of belief inquiry to weed out individuals not truly deserving of exemption. Exemptions would only be granted to those individuals demonstrating strict adherence to their vegetarian principles. The determination would rest in the hands of the trial court to judge the credibility and sincerity of the individuals arguing for exemption. The court would inquire whether vegetarian beliefs pervade the life of the individual petitioning for exemption. Also important to the sincerity inquiry is determining whether medical concerns are the real motivation behind an individual's adherence to a vegetarian belief system. If that were the case, the court would deny granting the exemption because the courts have refused to grant exemptions to individuals who merely frame their opposition to exemption in religious terms, when in fact their opposition stems from secular or medical concerns.\textsuperscript{223} Therefore, the courts applying this rationale would grant exemption to a vegetarian individual who has adhered to vegetarian beliefs and practices for a sufficient amount of time because of a belief that animal exploitation of any kind is contrary to the natural order of the universe. Conversely, courts would deny exemption to individuals who

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  \item \textsuperscript{222} See id. at 112-13.
\end{itemize}
espouse vegetarian beliefs, but, in practice only sporadically refrain from the use of animal products or abstain from their use on purely medical grounds.

It defies common sense to refuse to grant an exemption to individuals who have abstained from the use and consumption of animal products for many years on the basis of their vegetarian beliefs, while granting exemption to members of traditional religious groups who assert that the teachings of their religion run contrary to vaccination, even if they have just recently begun to practice such belief. This approach would provide for accommodation between allowing individuals the freedom to practice their beliefs free from government interference, while still promoting the public welfare. Additionally, the court is equipped with the ability to deny an exemption to any petitioning individual when there exists a clear and present danger of the spread of a communicable disease to the general public.224 The ability to refuse exemption in this instance ensures that the interest of the public health to be free from contagious disease will trump the right to free practice of religious beliefs where necessary.

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224. See Brown, 429 N.Y.S.2d at 357.

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