

Interfaith Forum
Islamic Center of Hawthorne
March 1, 2020

Religion in the Public Square

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The First Amendment of the US Constitution has two religious clauses, which outline the appropriate and legal relationship between church and state – today we would have to say, Mosque and State, Synagogue and State, Ashram and State, etc., reflecting our contemporary religious plurality, whereas at the time of the writing of the Constitution, the vast majority of citizens of the US were Christians, Protestant Christians.

Our founding documents and governmental institutions pre-suppose the existence of a Supreme Being: The Constitution is dated “in the year of the Lord;” in the oath clause which people make when providing testimony they say “so help me God;” and in our pledge of allegiance to our flag, we mention that we are “one nation, under God...”

Thus, I think we can conclude that there is consensus – or at least there was in the beginning – that there is a God. What are we to do with that?

On the one hand, Congress, or more broadly the government, is not to establish a religion, but on the other hand, it may not prohibit the free exercise of religion. For Thomas Jefferson, one of our Founding Fathers, following the English political theorist, John Locke, this meant that the Constitution had created “a wall of separation between Church and State.” This construction was reinserted for the first time in the lexicon of the US Supreme Court 144 years ago, in the landmark case *Everson vs Board of Education*, when Justice Hugo Black invoked it, while noting that the government may not support religion, may not favor one religion over the other, and may not favor religion over irreligion and vice-versa. In other words, Justice Black affirmed in unequivocal terms, that the state must maintain a stance of neutrality among the religions, and between religion and non-religion, thus also underscoring that the government of the USA is secular.

Black’s doctrine, until the emergence of the Rehnquist Court (1986-2005), served as the normative doctrine defining the relationship between church and state in this country. But does it comport with the intention of our Founding Fathers? Is it the most practical way of keeping us safe from religious tyranny? Is not a state of neutrality between religion and non-religion unreal and impossible, because a state which strives to be neutral and secular between religion and non-religion is often a state which is hostile to religion?

So there exists a certain confusion: we have freedom **of** religion – the state does not impose a religion on its citizens and there is no state religion. Freedom **for** religion: the state does not restrict the free practice of religion by its citizens. Freedom **from** religion - the state excludes religion and religious

voices from the public square, in particular, in relation to law and public policy making. The first two are valid expressions of the doctrine of separation of church and state. The third is not, in my opinion.

This non-establishment clause of the First Amendment clearly bars the creation of an official American Church, like the Church of England or Norway, but is it all that it bars? Could the purpose of the non-establishment clause be not to protect the state from religion, but to protect religion from the state?

Could there not be an accommodation religious principle, whereby the state 'accommodates' religions and religious expressions, without discriminating between one religion and another, without coercing adherence to one religion over another, without being hostile to one over the others, without demonstrating preference of one over the others?

Could not the government actually support religion, as long as the state is evenhanded? And that may be asking a lot in a democracy like ours! Such an accommodation would justify initiatives such as school vouchers to support children going to religious schools, the placing of religious images on public lands during festival times – Nativity scenes at Christmas, for example (in El Segundo, in December, we have both a Christmas Tree and a Jewish Menorah on the City Hall Plaza), sanction prayer in public schools – again as long as it is not obligatory and is inclusive of all faiths – example of invocations at City Council meetings in El Segundo.

The challenge with such a religious accommodation approach is that certain practitioners of certain religions who are advocating for government support of religion really mean **their** religion, and no other religion, despite the niceties of governmental non-discrimination written into the laws. And here things can get very divisive.

I have mentioned two types of religious expression in the US – separation and accommodation. What about permitting what I call religiously motivated action. Whereas the religions may not use the arms of the state to enforce their own doctrines, what about consideration of the values of our various religious beliefs? For many of us, our moral reasoning is connected with our religious beliefs. To exclude us and our moral views from the public square, because of the source of our beliefs, in effect disenfranchises us.

I suggest that the most important task of the religious voices in the public square is to help to place and keep social-ethical values issues in a moral context. Religion should be seen as an important "collective moral memory," a memory we lose or ignore at our peril.

We are not a lobby. We are not a special interest group. We are not - nor should we be – tied to any political party or candidate. We are religious people, believers in God and faithful to the sacred teachings of our faiths. We know that while church, temple, mosque should be separated from state, religion cannot be separated from life. And this means that we apply our religious teachings to all the great issues of our day – war and peace, poverty and injustice, racism, marriage and family.

Those of us who are in leadership positions – imams, rabbis, pastors – experts in sacred texts, men and women of faith, are inheritors of the prophetic tradition. We must share our views on all important

matters of public policy, but we must not tell people how to vote. Rather, we tell them what our religious traditions have to say about critical issues.

We are a nation of free people. Religion in the public square is an important component of a healthy democracy. Religious people are still a significant number in America – we should not be silenced nor should we want to silence those opposed to religion. My political science professor many years ago taught us that the greatest risk of a democracy is that the majority of the people will always choose what is right. Religious people are still the majority in this country and we must choose what is right. The real challenge for us emerges when we disagree on what is right morally: Proposition 8 on the definition of marriage in California a few years ago, to say nothing of the abortion issue, are prime examples of this challenge. What do we do when trying to be a moral conscience for our country and our religions differ on what is right in these matters?