



Journal of Religion & Society

The Kripke Center

Volume 5 (2003)

Religion in the American Public Square

An Islamic Perspective

Ismail Royer, Muslim American Society

Introduction

[1] Once upon a time, the diverse town of Jersey City, New Jersey marked Christmas, Hanukah, Ramadan, and the Hindu New Year with public pronouncements, signs, parades, and displays at City Hall. The celebrations ended after the city was sued, and lost, on the grounds that its official acknowledgment of these holidays violated the Constitution (Snow). As Muslims, should we have agreed with the city or with the court?

[2] The First Amendment states that government may not make laws "respecting an establishment of religion." There is controversy over whether those words, known as the "Establishment Clause," should be interpreted to mean that government may not promote one religion over another, or to mean that belief in God should be stripped from official expression altogether ("expression" is meant in the broad sense, from the use of language to the way public money is spent). Court decisions in recent years have tended to favor the latter interpretation.

[3] As we see with the Jersey City example, the question of which position should prevail is not simply theoretical; whether or not the pendulum of judicial interpretation eventually swings toward accommodation of religious expression will have a broad effect on Americans of all faiths, including Muslims. Some of the issues in the news that flow directly from this question are government funding of faith-based social service organizations, the presence of student-initiated religion in public schools, school vouchers, and the display of religious material on or by government facilities.

[4] The legal arguments of both camps have been laid out elsewhere, so rather than address them, we shall instead attempt to locate between the two a position that best reflects Islam's values and priorities.

Achieving Neutrality

[5] The courts have tended to interpret the Establishment Clause as meaning that the state should be neutral, not on the question of which religion is correct, but on the question of whether God exists at all. Thus, wrote Supreme Court Justice Hugo Black, government may not "pass laws which aid one religion, *aid all religions*, or prefer one religion over another" (*Everson v. Board of Education of Ewing*, 330 U.S. 1 [1947]; emphasis mine).

[6] At the root of the notion that state neutrality between belief and disbelief is somehow fairer than neutrality between beliefs is the assumption that disbelief is man's default nature, the lowest common denominator between us all. Thus, it is thought, it is less oppressive for a religious person that God's name be stripped from official expression than for an irreligious person to hear mention of His name, since acknowledgment and remembrance of God is an unessential part of our being.

[7] Considering the presence of religion in nearly every human society throughout history, this assumption is false on its face. It also violates the spirit of the Establishment Clause, since it asserts an ultimate truth - that God does not exist - and establishes it as an official belief system over the belief in God.

[8] Banishing religion from the public square does not result in a vacuum, but in the monopoly of irreligion. A recent episode of the Fox television network cartoon "King of the Hill" featured a character at school taking part in a mock trial, forced to swear on a Harry Potter book since the Bible had been banned from schools - *something*, after all, had to take the scripture's place. The lesson: an extreme wall of separation between religion and state is impracticable to the point of absurdity.

Discrimination

[9] Since Christianity is the predominant religion in America, it can be assumed that if a more accommodating interpretation of the Establishment Clause prevails, official expressions of Christianity will outnumber those of other religions. It is argued that this scenario is necessarily bad for Muslims, Jews, and other minorities, and that the current interpretation of the Establishment Clause provides relief from discrimination.

[10] The result of that interpretation, however, is that observant Muslims are discriminated against, along with religious people of all faiths. A Muslim student in Ann Arbor, Michigan, was publicly reprimanded by her community college instructor for beginning her class presentation with the words, "In the name of God." The teacher cited "separation of church and state," told the student that the words were "inappropriate and unacceptable in an American classroom," and threatened to prevent her from giving future presentations if she repeated the phrase (Cohen).

[11] In 1990, the US Court of Appeals, Third Circuit, ruled on the basis of the Establishment Clause that the Philadelphia public school system was correct in firing a Muslim teacher because she wore a *hijab*, a headscarf worn by women as part of Islam's

emphasis on modesty. In ruling for the state, the court upheld a Pennsylvania law requiring the termination of instructors who wear religious garb. The law was originally enacted in 1895 to prevent Catholic nuns from teaching in public schools (Southern Poverty Law Center), and has also been invoked to force Jewish teachers to remove their yarmulkes (Gustav).

[12] When it banned prayer in school in 1962, the Supreme Court wrote that when "the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain" (*Engle v. Vitale*, 370 U.S. 421). Since the courts have enforced irreligion as the officially approved religion, religious minorities - indeed, people of all faiths - have felt a coercive pressure to conform to it.

[13] Realistically speaking, in the very worst-case scenario, government accommodation of religious expression in this majority Christian nation might indeed result in some cases of pressure on religious minorities. That situation would be no worse than the current pressure to conform to irreligion, and Muslims would then at least have a legal standing on which to argue for their right to religious expression.

[14] Furthermore, from an Islamic perspective, the likelihood that Christian expression would, for demographic reasons, outnumber that of other faiths, is not a valid objection to broader government accommodation of religious expression. Islam does not hold that if it is not the prevailing religion of a society, then irreligion must prevail. Islam considers Christianity a revealed religion, vastly preferring it to atheism, even considering atheism a form of polytheism, as it attributes God's power to other than Him (Phillips). And the Qur'an tells Muslims:

And nearest among them in love to the Believers (in Islam), you will find those who say, "We are Christians": because among these are men devoted to learning. And men who have renounced the world, and they are not arrogant (Qur'an, 5:82).

Religion, Law, and Society

[15] In some quarters, religion has a bad reputation. Certainly history testifies to the way in which faith has been misused to subjugate, humiliate, and colonize. Considering the cruelty of the anti-religious Hitler, Stalin, and Mao, however, we realize that religion has no monopoly on atrocity. To paraphrase a slogan: religions don't kill people, people kill people. On balance, religion's positive contributions to society far outweigh the negative.

[16] The German philosopher Friedrich Nietzsche observed that traditional morality (which he despised) could not exist absent a belief in God. He declared that "God is dead," and instead urged man to live by "appropriation, injury, overpowering of what is alien and weaker; suppression, hardness . . . exploitation" (258). This idea became the foundation of German fascism.

[17] It is not true that all people who do not believe in God behave immorally, or that all people who believe in God behave morally. Founding father Gouverneur Morris was correct, however, when he observed, "religion is the only solid basis of good morals" Sparks:

III, 483). A central concept in Islam is *taqwa*, translated as "fear of God" or "God-consciousness." Law is codified morality, and a society built upon law artificially divorced from religion and unrestrained by consciousness of a higher authority (*taqwa*) runs the risk of adopting characteristics of Nietzsche's social darwinism.

[18] Aside from providing the ethical and moral framework of society, religion tends to inculcate in its adherents the conviction that they must refrain from illegal and immoral activity because they are ultimately accountable for their actions, regardless of whether they are caught by worldly authorities. Religion contributes to a strong family unit, the building block of society; it fosters an economic safety net by encouraging charity, and provides a source of strength for those recovering from addiction to alcohol, drugs, gambling, and other social diseases.

Conclusion

[19] In reality, there is nothing neutral about banishing the mention of God's name from official expression; doing so asserts a certain truth about the nature of man, the universe, and God's existence. Accommodating religion is not the same thing as establishing an official religion.

[20] Islam does not require the protection of irreligion to shield Muslims from encountering other religions in the public square. While it cannot be pretended that incidents of discrimination might not occur under a more flexible interpretation of the Establishment Clause, it would be no worse for religious minorities than the discrimination that occurs from the refusal to accommodate religion now.

[21] The contribution of religion to law, ethics, and social stability cannot be ignored, and is an asset for any society. Government can allow religion's positive effects to be maximized by ceasing to interfere with its free expression, and joining hands with religious people in appropriate ways to help tackle some of society's worst problems.

[22] Muslims should join the call for an interpretation of the Constitution that accommodates religion, rather than stifles it, and support initiatives that would tend to promote religiosity in public life.

Works Cited

Cohen, Judi S.

2000 "Apology offered to Islamic student." *The Detroit News* (5 January).

Gustav, Niebhur, R.

1991 "Teachers Wearing Religious Attire Face School Ban." *The Wall Street Journal* (8 February): B2.

Nietzsche, Friedrich Wilhelm

1989 *Beyond Good and Evil*. Amherst: Prometheus.

Phillips, Bilal

1999 *The Fundamentals of Tawbeed (Islamic Monotheism)*. Houston: Darussalam.

Snow, Tony

1997 "Religion Ruled Out of Public Life." *St. Louis Post-Dispatch* (24 December): B7.

Southern Poverty Law Center

2002 "Veiled in Controversy." (14 January) [<http://www.tolerance.org/teach/current/event.jsp?cid=271>].

Sparks, Jared.

1832 *The Life of Gouverneur Morris*. Boston: Gray and Bowen.