



The Risk of Freedom

briefing

Where to put God?

When the Framers of the United States Constitution laid down that Congress shall 'make no law respecting an establishment of religion, nor prohibiting the free exercise thereof', they were putting into words one of the unspoken maxims of the Enlightenment which, they believed, had drawn the poison from religion, and left people free to worship as their conscience directs. And yet, within a decade of the Constitution's adoption, the militant atheists of France were torturing and imprisoning Roman Catholic priests for their faith, while Ibn al-Wahhab was founding his sect in Arabia, burning books and cutting off heads in order to enforce compliance with his murderous interpretation of the Koran.

secular law must create the space for faith

We used to read of these matters from a position of safety, believing that faith is a private matter, which need play no special part in public life. Tales of persecuted Christians in Somalia, of underground churches in the Soviet Union, of deadly conflicts between Hindu and Muslim — all these things hardly touched us, so much did they seem to belong to the prehistory of mankind, a prehistory that would be transcended into real history as the Enlightenment spreads across the world. And then, all of a sudden, religious fanaticism made itself known, first in the form of the Ayatollah Khomeini and the Shi'ite revival, then in the form of al-Qa'eda, now in the dreadful persecution of Christians in Sudan. The murderous fever incited by such movements has led many people to turn against Islam, as the enemy of Enlightenment. But this, Ibrahim Hooper argues, is to do Islam a great injustice. Freedom of religion, he suggests, is as much a premise of Islam as it is of Christianity. Those who seek to impose Islam by force are traitors to their cause.

In that case, however, how are we to ensure the peaceful co-existence of the many faiths in modern societies? What form should the law take, and how are we to enforce it? The assumption in Western democracies has been that the law must be secular, creating the space for faith, but not imposing it. That seems

to be the natural reading of the Gospels, and also the natural meaning of the 'no establishment' clause. Quite suddenly, however, the clause has become controversial. As Seamus Hasson argues, it is now used not merely to separate state and church, but to censor out religion entirely from the public arena.

Similar issues have arisen in Europe, where militant Islam is beginning to insist on the public recognition of its symbols — not the hijab only, but also the burqa, a form of dress which seems expressly to announce that its wearer does not belong to the community among which she lives. To declare your apartness by hiding your face is felt to be deeply offensive, in a society built on face-to-face negotiation between strangers. Should Western governments therefore forbid the burqa? And if so, will they have to forbid other forms of dress through which religious affiliation is declared — the Sikh turban, for example, the Buddhist robes, the Jewish yarmulka and the costumes of the monastic orders?

The problem was already encountered by Atatürk, in his attempt to recreate Turkey as a modern nation-state. Islamic dress is expressly forbidden by the Turkish constitution, along with other Muslim customs, such as polygamy, deemed incompatible with a modern society of free individuals. Faith has been driven from the public sphere, where it had tried to impose itself as law, to the private sphere, where it could do no political damage. Yet the Turks remain Muslims, even though governed by an entirely secular law.

The issue of religious freedom is not political only. It is beginning to have a radical impact on the workplace, as religious groups claim the right to gather during working hours. What should be the attitude of business to this? To say that the business should remain neutral, and take the part of no religion, is to impose on directors and managers an impossible task. For they too experience the need for faith. As Mary Ballast suggests, any attempt to forbid religion in the workplace will remove one of the most important sources of industrial creativity.

In this issue we hope to explore the concepts and arguments which will permit the peaceable discussion of questions which are both dangerous and unavoidable.

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Publications

websites

on-line at:

www.riskoffreedom.com

The first freedom

Patrick Burke

In the history of the West the first freedom was that of religion: freedom of speech, conscience and association and eventually the free market all followed from that first freedom. The ancient and mediaeval worlds had taken it for granted that unity of religion was part of the foundation of the state, since the laws of the state rested

accept that were free to move to another state. Initially this degree of religious freedom was accepted more as a practical necessity than as the ideal, which remained religious unity. During the century that followed, however, the rising middle classes on the continent became increasingly secular, so that conflicts of religion retreated from the political sphere.

role of the state is limited to this life, and to the prevention of harm. The granting of religious freedom therefore becomes both a religious duty, a duty owed to God, and a political duty, a duty owed to the citizen.

In December of that year Parliament passed the Act of Toleration, which guaranteed the right to dissent from the Church of England and abolished the obligation to attend church on Sundays. In 1829 Parliament passed the Roman Catholic Relief Act, which gave Catholics almost full political rights. Meanwhile, in the USA, the First Amendment (ratified 1791) had made religious freedom an immovable part of the world's first democracy.

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In England the concept of religious freedom emerged as a freedom of the

individual. England had its own religious wars during this period, between High Anglicanism and Puritanism, and between Puritanism and Catholicism, but these were rather aspects of the political struggle between King and Parliament for constitutional authority. In 1689, following the 'Glorious Revolution' which assured the ascendancy of Parliament and its religion, John Locke published his *Letter Concerning Toleration*. His arguments remain as pertinent today as then. Coercion by the state in matters of religion is contrary both to the nature of religion and also to the nature of the state. It is contrary to the nature of religion because religion is inherently an interior matter of the heart and mind. To be genuine, religion must be free. And it is contrary to the nature of the state because the

for their ultimate validity on a divine guarantee. This changed in the seventeenth century as a consequence of the religious wars sparked by the Protestant Reformation — wars which culminated in the Thirty Years War (1618-1648) and which terminated in the Peace of Westphalia. This treaty already granted a kind of religious freedom, but a very limited one, in that the warring powers agreed that Catholicism and Protestantism could henceforth coexist peacefully, but only as the established religions of the different states, not within each state. The principle of the Peace was *cuius regio eius religio*: each state would continue to have its own established and compulsory religion, which would be whatever was the personal religion of its prince. Those who could not

Freedom of religion remains the touchstone for the freedom of a society. A society that does not grant religious freedom will not grant freedom of speech, the press, conscience or association, even if it purports to grant commercial freedom, and can scarcely be regarded as a free society. One that does grant freedom of religion, even if it places restrictions on commerce, will generally allow these other freedoms, since they follow as a matter of course from the respect thereby granted to the individual. Patrick Burke is emiritus professor of theology at Temple University & director of the Wynnewood Institute.

Islam and religious freedom

Ibrahim Hooper

Islam advocates both freedom of religion and freedom of conscience. That position is supported by the Quran, Islam's revealed text, the traditions of the Prophet Muhammad and the opinions of Islamic scholars both past and present.

Islam came to liberate mankind from all types of enslavement, whether political, social or religious. One of the first leaders of the Muslim community, Umar Ibn Al-Khattab, once told the governor of Egypt: 'How dare you enslave people when they were born free?' In the Quran, God states 'Let there be no compulsion in religion.' (2:256) This verse is the foundation for religious freedom in Islam. God also states that He does not compel belief, and warns all of us against the temptation to force faith on others: 'If it had been the will of your Lord that all the people of the world should be believers, all the people of the earth would have believed! Would you then compel mankind against their will to believe?' (10:99)

God tells the Prophet Muhammad that the message he is bringing to the people is the truth, but his duty is only to convey that message, not to force compliance: 'If they turn away from thee (O Muhammad) they should know that We have not sent

you to be their keeper. Your only duty is to convey My message.' (42:48)

Neither the Prophet Muhammad nor any of his companions, the models for future Islamic behavior, ever forced anyone to embrace Islam. The Prophet did not treat apostasy as an offense to be punished in this life. He pardoned a number of people who embraced Islam, then left the faith, and then embraced it again. Islam has no need to compel belief in its divine truth. As the Quran states: 'Truth stands out clear from error. Therefore, whoever rejects evil and believes in God has grasped the most trustworthy hand-hold that never breaks.' (2:256)

The Council on American-Islamic Relations (CAIR) recently called on the government of Afghanistan to release Abdul Rahman, a man facing the death penalty for converting from Islam to Christianity. CAIR said Rahman's conversion was a personal matter that should not be subject to the intervention of the state. This conclusion was reached after consultation with Islamic scholars of the Fiqh (Islamic jurisprudence) Council of North America.

Islamic scholars say the original rulings on apostasy were similar to those for treasonous acts in legal systems worldwide and do not apply to an individual's choice of religion.

Muslims have always believed that faith is meaningless if forced and that a forced conversion is a sin. In his *Freedom of Expression in Islam* Mohammad Hashim Kamali notes that the Quran 'has explicitly declared freedom of religion a norm and principle of Islam' (see publications). He also notes that Islamic scholars support that conclusion by stating that no one may be compelled to embrace Islam, that Islam validates the freedom of the individual to propagate his or her faith through sound reasoning and argumentation and that true faith results from personal conviction, not from mere imitation.

Freedom from coercion also implies freedom to practice another faith.

Muslims are proud of the story of the Caliph Umar who received the keys to Jerusalem from the Christian patriarch Sophronius in the 7th century. When the Caliph was asked to pray in a Jerusalem church he refused, saying he did not want provide a pretext for Muslims to appropriate a Christian holy site.

Religious decisions should be matters of personal choice, not a cause for state intervention. Faith imposed by force is not true belief.

Ibrahim Hooper is National Communications Director for the Council on American-Islamic Relations (CAIR). (see website column.)

Religious minorities and the secular state

Ayaan Hirsi Ali

Many, if not most, recent immigrants into Europe have come from failed or failing states, in which political obedience is extracted not by consent but by force. They have not gone through the process of individualization, rationalization and secularization that the Enlightenment spread across Europe. Their mere arrival in Paris, London and Berlin from Africa, Asia or the Middle East will not lead to the sudden

For some immigrants, the secular state means nothing, religious loyalties are the only loyalties they have.

acquisition of secular values or a toleration of alien beliefs and customs. It may be generations before the old morals are replaced with new ones. Meanwhile religious attitudes that might have been a source of survival or even wealth in the country of origin lead to conflict and a stunting of opportunities when brought into the public arena of a Western democracy.

Until recently the attitude of Western journalists, academics and politicians, has been to diagnose the problem in socio-economic terms. Not only does this enable them to take refuge in Marxist dogmas; it also shifts the entire blame for social conflict on to the host community, so presenting a comforting and self-deceived picture of the immigrants as innocent victims of an intolerance that they do nothing to cause. Poverty, the theory goes, is the cause of migration; and poverty is the cause of the failure to integrate. The best way to break the poverty cycle is through affirmative action. By providing good food, health care, social housing and communal facilities, the state and its social workers will solve the integration problem. Resistance comes from the host community, which must be carefully policed for its 'racism and xenophobia'.

The results of that way of thinking are everywhere with us. All extraordinary demands made by the incoming minorities in relation to their faith, culture and traditions must be accommodated. All resistance by the natives must be condemned and if necessary penalized. And the bureaucratic state must cover the ever-increasing cost of supporting communities that see no interest in integrating with the surrounding society. Sure, there is plenty of religious intolerance. But it is directed from the immigrant communities, not to them. And when the second or third generation from the ghettos begins to turn their resentment on the host community, it is not surprising if the resulting conflict takes on a religious

form. The secular state means nothing to them, and religious loyalties are the only loyalties they have.

But there is an alternative to that socio-economic approach, and it is one that increasingly many political thinkers in Europe now favour. This approach puts the emphasis on socio-cultural variables. Those who favour it do not deny the existence of discrimination or the need of the natives to adjust; but they also put a great deal of the responsibility to integrate on the shoulders of the immigrants, demanding

that they learn the language of the host community, that they seek employment for themselves and do not rely on the state to provide for them, and that they take the initiative to explore the culture

and habits of the society to which they have come.

The aim of this approach is to generate a genuinely political allegiance in the incomers — one that can displace religious affiliation from the dangerous pre-eminence that it occupies in a ghettoised community, and permit the incomers to acknowledge the right of others to be other than they. Anti-political practices, such as the importation of wives from the country of origin, and the radicalisation of the mosque, are to be discouraged through strong legislation. Immigrants who have an issue with the state or town where they live must engage in dialogue through the accepted modes of democratic dissent. The responsibility for violence should be laid at the feet of those who perpetrate it, and not blamed on the 'xenophobia', or 'Islamophobia', of the peaceful majority.

One consequence of this approach is that customs and edicts of faith that are incompatible with the long-constituted freedoms of Western societies are to be treated for what they are: crimes against those on whom they are inflicted, including family members. The moral and cultural relativism that has characterised the followers of the socio-economic diagnosis in fact shows a deep disrespect for the immigrant communities — a belief that they are too primitive or too remote from the human normality to be held to account for their crimes. This attitude fosters the disintegration and isolation of immigrants, and impedes their search for happiness.

Those who come to Europe from failed and failing states are coming in search of freedom; to enjoy freedom they must also learn to grant it. And to achieve prosperity they must learn to be a part of the communities into which they have come. Those, surely, are the axioms from which a creative solution to Europe's crisis will derive.

Ayaan Hirsi Ali was a member for the Dutch Parliament from 2003-2006. She is an author and film maker and currently a fellow at AEI.

The enterprising spirit

Mary Ballast

Twenty years ago it would have seemed eccentric for an accountancy business to set aside office time for prayer, a law firm to organize classes in the Talmud or a multinational computer hardware manufacturer to arrange 'vision quests' directed by a shaman. Yet those are only a few of the ways in which religion is beginning to stake its claims in American business. There are now 10,000 Bible and prayer groups meeting regularly in American workplaces; firms like Taco Bell, Pizza Hut and Walmart hire army-style chaplains of all religious flavours for the benefit of their staff; and business schools teach philosophers like Michael Novak, whose defence of the capitalist economy as an instrument of God's

grace has had a profound impact on the think-tanks that advise the big corporations; or the sociologist Peter Berger who argues that religious values promote the trust and entrepreneurship required by a free economy. According to Novak and Berger wealth creation,

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far from being an expression of 'materialist' values is a spiritual exercise, with a deeply theological meaning. All this feeds into the current religious revival in America. It is now impossible for businesses to exclude religion from the workplace or to tell people to confine it to the home. For increasingly many people the workplace is their home.

The old idea, that you encouraged religious freedom by telling people to keep quiet about it, is therefore no longer feasible; nor was it ever credible. A religion is not something you keep to yourself: it is something you share. But what if your workmates

regard your faith with distrust and hostility? The only solution, it seems to

me, is to run religion on business principles: to set up, in the workplace, a market in faiths, inviting workers to choose their own group, their own practice, their own chaplain. By emphasizing choice we defuse the explosive absolutisms for which religion is notorious.

Mary Ballast is a management consultant

Private freedom, public risk?

Kevin J. 'Seamus' Hasson

The issue of religious freedom concerns conflicting truth claims in public; what does freedom require? One extreme wants to use the powers of the state to coerce the consciences of those with whom they disagree. I call these 'Pilgrims', after the brave but obtuse people of Plymouth Colony who fled to the American wilderness in search of religious autonomy and then couldn't bring themselves to uphold it. Only members of their official churches could vote. That meant, at one point, that of the three thousand people then living in the colony, all of whom were legally required to attend one of the official churches and support it with their taxes, only 230 enjoyed the franchise. There are still Pilgrims in America. They can be found insisting on displaying a town crèche while excluding a menorah, for example, or demanding that a Muslim congressman take his oath of office on a Bible he doesn't believe in, rather than the Koran he holds sacred. For the Pilgrims, their truths trump others' freedom.

At the other end of the spectrum are those I like to call the Park Rangers, after a particularly memorable example of their zeal. In 1989, in the Japanese Tea Garden of San Francisco's Golden Gate Park, a parking barrier had somehow been abandoned in the tea garden, and was ruining the aesthetics of the place. For five years parkgoers complained. For five years the bureaucrats (with a little poetic license, the 'Park Rangers') did nothing. Then, in 1994, a group of New Agers discovered the abandoned parking barrier and pronounced it a Shiva Lingam, that is, a manifestation of the Hindu god Shiva. They now were coming regularly to worship it.

Whereupon, the Park Rangers roused themselves and sprang into action. They announced that they couldn't possibly allow worship on (not to mention of) public property. Religion, after all, belonged in private. The parking barrier had to go.

There are many Park Rangers among us, from public school principals to zoning commissioners. Their strategy for dealing with diversity is to drive it

underground. As long as we all sound the same, and no one is mucking up our public spaces with their private religious beliefs, the Park Rangers say, all will be well. Now we don't deal with diversity by pretending we're all male, or white or Irish. Why should we deal with religious diversity by pretending we're all agnostic? The First and Fourteenth Amendments use the same standard for evaluating government religious preferences as they use for weighing government racial and ethnic preferences. Nevertheless, anglophiles don't sue to stop St. Patrick's Day parades, and European Americans don't try to enjoin African-American history month. Such suits would be laughed out of court. These practices are not the harbingers of apartheid or ethnic cleansing but merely government acknowledgments of ethnic and racial elements of our culture. The same should be true of religious elements of culture. Lawsuits claiming that a government nativity scene or menorah may lead to the next St. Bartholomew's Day should be equally laughable. Why aren't they? Because for Park Rangers, religion involves more than identity. It also inevitably involves truth claims, and truth claims in public are presumed to lead to oppression. So, in the name of freedom for all, religion

must be banished to the private sphere. Park Rangers are the opposite of Pilgrims. For them, their freedom trumps others' truths.

The solution is to recognize that authentic freedom for all of us is grounded in the truth about each of us. Yearning for the true and the good is a universal human experience. So is

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the phenomenon of conscience: We find it to be neither infallible nor omniscient, yet certainly authoritative. Conscience drives us to seek the true and the good and then demands that we embrace what we believe we've found. Obedience to conscience (even if it later turns out to have been mistaken) is the price of maintaining our integrity. Finally, our social impulse is a universal experience as well. It drives us to express in culture what we find essential about ourselves — including our place in the cosmos.

These truths, and not relativistic doubts, are the basis for an authentic religious pluralism. They establish our freedom to seek, embrace and express what we are convinced is the true and the good. And they allow us to recognize the same freedom for others who are seeking, embracing and expressing what we are equally convinced is the erroneous and inadequate. We have the same freedoms because we have the same duties. Others are as free (within broad limits) to obey their presumably mistaken consciences as we are to obey our presumably correct ones.

Kevin J. 'Seamus' Hasson is a lawyer and the founder of The Becket Fund for religious liberty. (see websites).

Publications

The Right to be Wrong: ending the culture war over religion in America by Kevin J 'Seamus' Hasson, Encounter Books, 2005. An engaging and forceful brief on behalf of free religious expression, written with wit and a lightness of touch.

Washington's God: Religion, Liberty, and the Father of our Country by Michael Novak Basic Books, 2006. A way of exploring the extent of the separation between church and state intended by the founding fathers of America.

Freedom of Expression in Islam by Mohammad Hashim Kamali, Islamic Text Society, 1997. Offers the first and only detailed presentation in English of freedom of expression from both the legal and moral perspectives of Islam.

Christianity and the Crisis of Cultures by Pope Benedict XVI with a foreword by Marcello Pera, Ignatius Press, 2006. A collection of three lectures concerned with the relationship between secular and spiritual views.

Caged Virgin: An Emancipation Proclamation for Women and Islam by Ayaan Hirsi Ali, Free Press 2006. A courageous feminist critique of Islam and the treatment of women. Ayaan Hirsi Ali's biography ***The Infidel*** contains details about her role in the making of ***Submission***, the film she made with Theo van Gogh and which led to his murder.

Letter concerning toleration by John Locke published 1689: the first call for a clear distinction between matters of religion and government and for tolerance for the a variety of religious denominations. See text at: <http://www.constitution.org/jl/tolerati.htm>

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WWW.

Council on American-Islamic Relations: CAIR's mission is to enhance understanding of Islam, encourage dialogue, protect civil liberties, empower American Muslims, and build coalitions that promote justice and mutual understanding. <http://www.cair-net.org>

Fiqh Council of North America the group of Islamic scholars that decides judicial issues for Muslims. It explicitly opposes terrorism. <http://www.fiqhcouncil.org>

The Becket Fund is an interfaith, legal and educational institute dedicated to protecting the free expression of all religious traditions. <http://www.becket-fund.org/>

The growing presence of spirituality in Corporate America by Michelle Conlin www.businessweek.com

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