

## Issue Snapshot:

### Constitution Enshrines Freedom of Religious Expression, *not* just Worship

**Take away:** Religious expression is being driven out of the public square by asserting that the Constitution enshrined a 'freedom of worship', but in fact the language is: "nor prohibiting the free exercise thereof." Far from bringing calamity upon the world, the same religion that brought us the Christmas holiday brought us another: Independence Day.



Every year around Christmas the secular humanists and atheists ratchet up their assault on religion in the public square. Lawsuits and the threats of lawsuits are their first weapon of choice. However, they have had great success in persuading religious people to voluntarily withdraw from the public sphere on the basis that one should not "impose one's religious views on others." If groups such as the Freedom From Religion Foundation succeed, they will discover that their own liberties are threatened.

What constitutes a 'religious sentiment'? Ask this: "What do you believe about the origin of the universe?" If you invoke a 'singularity,' that will be regarded as 'non-religious.' If you invoke a Creator, that is deemed 'religious'; your perspective will not be allowed in public schools. Still, while the answers may have been different, the question was the same.

Another example: opinions on the definition of marriage are not particularly religious. However, because those who support the traditional viewpoint often have religious *reasons*, their viewpoint is deemed unacceptable in the public sphere. Yet, the answers merely reflect two sides of the same coin, or question.

The truth is that all sides of most issues have elements commonly regarded as 'religious' in nature. Arguments on the basis of 'fairness' and 'equal rights' are moral arguments; but isn't morality the stuff of religion? The goal of secular humanists is to have only *their* side of the coin allowed as 'social currency.' It would be as if someone seriously suggested that henceforth, people could only use the 'heads' side of the coin in public, but people could not use 'tails', because 'tails' is 'religious.' Obviously, the thing cannot be done: the coin must be used in its entirety if it is going to be used at all. The atheistic inquisition into the 'religious' nature of certain positions can easily be turned against them.

While the Christmas holiday is often targeted for agitation because of its religious nature, it should be noted that religion, and Christianity in particular, is largely responsible for another holiday celebrated in the United States: Independence Day. From the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Implicit in this statement is the question, "Where do our rights come from?" America's founders invoked *a Creator*. From the foregoing, we can see that if the question were put to us today, the atheists would object, because a religious *rationale* for advocating for life and liberty would not be permissible.<sup>1</sup> However, they are only able to make that objection at all because religious people, arguing from 'religious' principles, secured for them a free nation. History shows that just as pacifists only exist in countries with armed warriors protecting them, atheists can only thrive in countries where *true* freedom of thought is fiercely guarded, not just inside our skulls, but in the issues we find important and our ability to advocate for them within society.<sup>2</sup>

<sup>1</sup> As an interesting contrast in the trajectories of roughly opposite perspectives, consider the French Revolution which devolved into a 'reign of terror' and the murder of tens of thousands of people. The French 'Declaration of the Rights of Man' allowed for religious views, "*provided their manifestation does not disturb the public order established by law.*" Rather than secure the rights of Frenchmen, this led to their slaughter for the slightest degrees of dissension, until finally a despot took over: Napoleon.

<sup>2</sup> No doubt, atheist groups would be welcome in North Korea, but I doubt they'd consider themselves very 'free.'

In order to reconcile the role of the Christian religion in the foundations of America with the desire to curtail religious opposition to the steady advance of liberal agendas, the Constitutional provisions concerning religious liberties have had to be 're-interpreted.' As a case in point, consider comments such as those by Barack Obama, who suggests that when our Constitution enshrines a 'freedom of religion,' this amounts to a "the right to worship as we choose."

Of all the freedoms we cherish as Americans, of all the rights that we hold sacred, foremost among them is freedom of religion, the right to worship as we choose. It's enshrined in the First Amendment of our Constitution -- the law of the land, always and forever.<sup>3</sup>

But consider the actual words of the first amendment:

Congress shall make no law respecting an establishment of religion, *or prohibiting the free exercise thereof*; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

On Obama's view, the Constitution only protects religious viewpoints expressed in the course of '*worship*.' This sentiment is echoed among the secular humanists, like for example by the FFRF director Dan Barker who recently said, "Christians can do whatever they like in their churches and private property, but in the American public square, there is room at the inn for all of us."<sup>4</sup>

But is this true? Consider the case of Hosanna-Tabor Church and School v. EEOC. In this case, Hosanna-Tabor fired someone who refused to adhere to their religiously prompted standards. The Obama Administration and atheist groups took the side of the employee and pushed the case to the Supreme Court. The basic argument was that the employee was fired for 'religious *reasons*,' whereas the employee did not perform 'exclusively religious functions.'<sup>5</sup> In other words, religious liberty extended only insofar as the employee might be praying, leading a worship service, or reading from a Bible.

Evidently, the 'freedom of worship' is not a high enough fence to keep secular humanists out of 'churches and private property.'<sup>6</sup> In this as in many other cases, it is not the position but the *rationale* for it that excludes it from currency in our society. It is not hard to see how interrogating motivations and rationales can endanger everyone's liberties, not just those of 'religious' people, because on some definitions, *all* people are religious.

## SOLUTION

Christians cannot continue to retreat, because the whole point of the secular humanist approach is to leave less and less territory for them to retreat *to*. Christians should point out the danger of dismissing the appropriateness of issue advocacy on the basis of perceived motive. Because the court system has been so widely used to advance the battle lines in favor of the secular humanists, it is imperative that judicial nominees at all levels be grilled over whether or not the Constitution enshrines a 'freedom of worship' or a 'freedom of expression.' Ultimately, efforts need to be made force judges to interpret law according to its plain and intended reading,<sup>7</sup> but in the meantime, removing federal jurisdiction on such cases might be an appropriate stop-gap measure.<sup>8</sup> The premise that mere expression of religion is the same as an establishment of religion must be flatly rejected as absurd; it is completely at odds with a plain reading of the first amendment and common sense.

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<sup>3</sup> [www.huffingtonpost.com/2012/08/10/president-obamas-remarks-\\_n\\_1766576.html?utm\\_hp\\_ref=religion](http://www.huffingtonpost.com/2012/08/10/president-obamas-remarks-_n_1766576.html?utm_hp_ref=religion). [Accessed 12/8/12]

<sup>4</sup> [http://lacrossetribune.com/news/opinion/dan-barker-find-a-place-for-all-beliefs-in-public/article\\_ef11d97e-3e6b-11e2-b604-0019bb2963f4.html](http://lacrossetribune.com/news/opinion/dan-barker-find-a-place-for-all-beliefs-in-public/article_ef11d97e-3e6b-11e2-b604-0019bb2963f4.html) [accessed 12/8/12]

<sup>5</sup> *Miraculously*, the Supreme Court *unanimously* ruled in favor of Hosanna-Tabor, but this doesn't change the nature of the arguments raised against the church and school by the EEOC and secular humanists.

<sup>6</sup> The HHS Mandate requiring religious organizations to subsidize behaviors they are morally opposed to is another example of the inability of the 'freedom of worship' to protect people on their own "churches and private property."

<sup>7</sup> <http://www.americantraditions.org/Articles/SAVING%20OUR%20CONSTITUTION%20FROM%20JUDGES.htm> A fine discussion about root solution to judicial activism and using the courts to further pet agendas. [Accessed 12/8/12]

<sup>8</sup> Under the authority of Article III, Section 2, of the Constitution. State Constitutions will have different provisions.