



THE RHODE ISLAND STATE COUNCIL OF CHURCHES

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Position Paper on Freedom of Religion

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*To hold forth a lively experiment that a most flourishing civil state
may stand and best be maintained with full liberty in religious concernments.*
Inscription on the Rhode Island State House

*Congress shall make no law respecting an establishment of religion,
or prohibiting the free exercise thereof; ...*
First Amendment to the Constitution (“The Bill of Rights”)

Conclusion

In 2008, the Faith and Order Commission of the Council concluded that “the Council and the Churches of Rhode Island are encouraged by Rhode Island’s democratic traditions and structure, and commanded by our Christian traditions and scripture, to involve ourselves in [public policy] discussion to raise the moral base of our society, and to further the aims of charity and justice.”¹ Hence, with this precedent, we weigh in on the matter of Freedom of Religion.

The Rhode Island State Council of Churches affirms the Constitutionally-protected freedom of individuals and communities of faith to organize their community, worship their God, and serve their constituencies as they choose, provided however that other individuals are not harmed. We recognize the individual’s right to be faithful to the moral teachings of his or her religion, to have free expression of conscience; yet we acknowledge that when laws are broken through acts of Civil Disobedience, the individual then may be required to accept the consequences as a public witness.

In the same way, a for-profit business that is not a community of faith and whose mission is not of a religious nature may not impose the religious values of the employer on the employees in regard to legally proscribed benefits – not only as an overreach of religious authority but also as a hardship for low-wage workers. Also, when a faith-based organization reaches beyond its own membership to offer services to the public, or to engage their members or nonmembers in providing that service to the public, or is a recipient of public funds, that service must be offered without the constraints of personal beliefs or institutional teachings. Furthermore, it may not discriminate against employees by refusing to offer legally-proscribed benefits to employees.

¹ “Authority of the Council in Public Life,” November 2008.

Standing in a long line of prophetic voices, we applaud the right of religious communities to raise moral issues for public debate and to champion the cause of religious minorities and underserved communities, but we draw the line on politicizing America’s pulpits on behalf of particular candidates.

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Rational

The European founders of the American colonies brought with them to these shores a traditional understanding of Church and State as a *single* entity, an “old world” coupling of morality and politics, which not only allowed those in power to control both their subjects’ thoughts and actions, but it also gave them the benefit of moral sanction to use military means to overthrow and colonize non-European countries and exploit non-Christian peoples. The Cross and the Crown governed together.

Roger Williams, a cleric in the Church of England, had been aware of the bloodbaths in England as the monarchy cycled between Catholics and Protestants, and he had witnessed the persecution of the Puritans. When he came to preach to the Puritans in the Massachusetts Bay Colony, he sought a different way – a freedom of conscience – that resulted in his expulsion from Massachusetts for preaching “new and dangerous ideas.” In 1636, he founded the colony of Providence Plantation as a refuge for religious minorities, established as a “lively experiment” in religious liberty and preserved today in Rhode Island’s Religious Freedom Restoration Act. (See Appendix A.)

A century and a half later, Williams work was foundational to the creation of a new nation, unique in most of the world, whose Constitution divorced the roles of “king” and “bishop” and provided for a nation both free from religious control in affairs politic and free from governmental control in matters of faith, worship, and practice. Williams’s “hedge” or “wall” between the “garden of the church” and the “wilderness of the world” was built into our United States’ Constitution.

An examination of the principle of religious liberty raises questions for individuals, communities of faith, and the public at large. Just as our American form of government – with its checks and balances between the Executive, Legislative, and Judicial branches – provides stability for the nation, so, too, is the creative tension between the religious sector and the governmental sector. In reflecting on the relationship between the two, one must be attentive to such concerns as the balance of powers and spheres of responsibility. The American Baptists say it well:

“We declare that this principle [the separation of church and state] does not mean that

the state is indifferent to the church, nor that the church is unconcerned for the state. It means rather that church and state are separate in their institutional life and that neither controls the other.”²

The Rhode Island State Council of Churches turns to this timely discussion now in the face of a blurring of these spheres. (For examples, please see Appendix B.)

Freedom of Individuals

*...every one shall sit in safety under his own vine and fig tree,
and there shall be none to make him afraid...*
Micah 4:4 (KJV)

The American Baptist Resolution on Religious Freedom, adopted in 2006, upholds the freedom of each individual to choose a religion – or no religion – according to the dictates of their conscience, as a basic human right:

The right of every person to choose a religion freely, to maintain religious belief or unbelief without coercion; the right for communities of faith to meet together to engage in public worship, to witness publicly to others, to speak prophetically from religious conviction to government and society, to live out religious beliefs, and to be free from governmental intrusion, coercion, and control in the free exercise of conscience and religion.

The Social Principles of The United Methodist Church (2013-2016) affirms “... policies and practices that ensure the right of every religious group to exercise its faith free from legal, political, or economic restrictions.” And further, “We assert the right of all religions *and their adherents* [italics inserted] to freedom from legal, economic, and social discrimination.”

While there may be exemptions,³ on the surface these unambiguous statements reflect the essence of our Constitution.

Freedom of Religious Institutions

We affirm the autonomy of communities of faith to practice their faith without interference by any other faith community, the state, or members of the general public, and further, that the Constitution assures that the assets of local and federal governments will protect these communities. This autonomy extends to a religious organization’s right to order their internal relationships around gender differences, dietary laws, the role of women and minorities, whom they will serve and how they will serve them. This freedom extends to a faith community’s right to raise funds, to set up

² American Baptist Resolution on Separation of Church and State, Adopted by the American Baptist Convention, 1961, and modified by the Executive Committee of the General Board in March 2005.

³ Consider, for example, such exemptions or accommodation to religious groups such as Islam, Christian Science, and Judaism who object to autopsies; to Native Americans’ use of peyote in worship; and to the Amish in the observance of traffic signals.

private schools, hospitals, service organizations, and other institutional entities as voluntary organizations, separate from public entities and funded by private, rather than public, contributions.

Yet, how far does religious liberty extend? Are there no limits to “free exercise”? Do religious organizations have *unbridled* authority to impose their particular beliefs and values on their constituents? Might the state sanction activities that impose harm or are illegal? For example, would the state have the authority to intervene if children were being abused in a church-run school under the Proverbs’ injunction, “Spare the rod and spoil the child...”? Furthermore, what if members of the general public were being served by that school? Would the government be justified in intervening differently in this case?

And do individual members of a religious group have the right to deny health care for themselves or a child based on religious beliefs? Might they refuse life-saving blood transfusions or vaccinations based on their beliefs? Does government have the right to override not just religious institutions, but also the jurisdiction of parents or guardians in the care for a child or a dependent person?

In the same vein, do hospitals operated by religious organizations that serve the public have the right to withhold treatments and procedures for patients that are legal but run contrary to the beliefs of that organization? Also, do they have the right to limit health insurance coverage for their employees based on those beliefs? What if that institution receives public funds? Would the government then have the right to order those treatments and procedures – and to mandate health care coverage – or withdraw those public funds?

Furthermore, does the state have the right to intervene in matters of practice, such as polygamy, or the use of illegal substances in worship (peyote in Native American worship and, provisionally, wine in Jewish and Christian services during Prohibition), or even free speech where it is deemed “hate” speech and inciting of violence against a person or group of persons, particularly LGBTQ and transgendered persons?

And, in light of the sanctity of life, does a person have the right to limit his or her own life through physician-assisted suicide or, the state, to take family planning decisions out of the hands of women and their partners. Conversely, does the state have the right to take the life of someone convicted of a crime?

Where do we find the requisite balance between religious individuals and religious institutions and our local and federal governments that are founded for the common good?

Governmental Responsibility in a Pluralistic Society

For happily the Government of the United States gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.

George Washington to the Hebrew Congregation in Newport, 1790

When Washington wrote this particular letter in August of 1790, the new President must have been aware of the effect it would have on the fledgling nation, but he could not have known the extent of its influence today. The history behind Washington’s Letter not only gives us an understanding of the values of the early colonists and our Founding Fathers – that individuals have the right to believe in and practice their religion – but also insight into two fundamental tenets of American democracy: religious liberty and the separation of church and state.

From the issues highlighted in the Appendix, we see that our Founders’ idea of religious freedom has been extended into new territory to impose a religious organization’s particular beliefs and principles not only on its own membership but also on members of the general public. While we affirm the rights and responsibilities of a religious community to manage its internal affairs, e.g., to hire, fire, and supervise its ordained clergy, we deplore a religious institution’s partisan efforts to impose its particular teachings on *everyone* – especially when such teachings impinge upon the health and welfare of and discriminate against particular segments of the public.

This does not mean the faith community has nothing to say. Given that the overwhelming Biblical witness in both the Hebrew Bible (e.g., Isaiah 61) and the New Testament (e.g., Luke 4) is “to bring Good News to the poor,” we claim the prophetic role of our religious communities, to speak up for the values of justice and compassion. But we also acknowledge the government’s role to assure equal treatment for all persons, to protect the dignity and rights of all its citizens, and to protect them from discrimination based on any faith community’s ideological teachings. *The government must remain neutral in matters of faith* [italics used for emphasis].

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APPENDIX

A. Religious Freedom Restoration Act

Religious Freedom is protected in Rhode Island through the "Religious Freedom Restoration Act," Chapter 42-80.1-3, adopted in 1993, stating:

- (a) Except as provided for in subsection (b), a governmental authority may not restrict a person's free exercise of religion.
- (b) A governmental authority [any department, agency, commission, committee, board, council, bureau or authority or any subdivision of state or municipal government] may restrict a person's free exercise of religion only if:
 - (1) The restriction is in the form of a rule of general applicability, and does not intentionally discriminate against religion, or among religions; and
 - (2) The governmental authority proves that application of the restriction to the person is essential to further a compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest.

B. Examples of Current Issues

Culture Wars: In the summer of 2016, Sojourners magazine published an article entitled "Religious Freedom or Culture War?" and noted that "Some who decry threats to 'liberty' seem to have a unilateral or ideological agenda," *i.e.*, religious liberty for me but not for thee. They cited the matter of contraceptive coverage in employer health plans under the Affordable Care Act and local ordinances objecting to transgendered persons using restrooms according to their identified gender.⁵

Education: In the early 1960s, the Supreme Court outlawed what is now the current prohibition on state-sponsored religious practices in public schools. However, "a string of charter schools in three Arizona cities are learning some unusual things," according to a current article in Church & State

⁵ "Religious Freedom or Culture War?" Sojourners, August 2016, pp. 10.

which notes, “The American Government course looks to be drenched in religion. It’s based on 28 principles that supposedly are required for sound government. Many of them are religious in nature.” Their objection is that these are not private, sectarian schools, but an arm of the public education system funded with public money.⁶

Immigration: Because of our Biblical injunction to “Welcome the stranger,” (Deuteronomy 10, one of almost 100 references to welcoming the sojourner in the Hebrew Bible alone) the call by public figures for a ban on Muslims entering the United States, based solely on their religion is a concern. While Rhode Island’s governor opened our doors to Syrian refugees, Indiana’s governor not only withdrew his state’s help to Syrian refugees, “he also tried to convince the [Roman Catholic] archdiocese of Indianapolis to cease its ministry to them,”⁷ a threat Archbishop Joseph Tobin defied. At the same time, United Church of Christ congregations in the Southwest have been criticized by the state for their assistance to Mexicans and other Central Americans lost in the desert and held in “camps,” especially women and children. Two UCC pastors were arrested for Civil Disobedience during Holy Week in efforts to stop raids on undocumented persons in Los Angeles this year.⁸

Science: The American Civil Liberties Union has been raising concerns about measures that states are passing to embolden teachers to promote their religious beliefs in class. In an article published two years ago, they wrote, “... the Louisiana Science Education Act ... purports “to empower teachers, principals and other school administrators to hold ‘open and objective’ discussion of scientific theories, including, but not limited to, evolution, the origins of life, global warming and human cloning.”⁹ These are laudable objectives but not when they are used as a ruse to promote creationism and intelligent design and to debunk global warming. Our own Senator Sheldon Whitehouse has been urging his Senate colleagues to heed the effects of global warming in the face of lobbyists for big oil who claim that global warming is a hoax.¹⁰

Contraception: Hobby Lobby and other for-profit businesses have argued that they are exempt from the obligation to provide contraception coverage for their employees under the Religious Freedom Restoration Act of 1993 (RFRA). The author’s concern is that “RFRA was intended to protect religious freedom, not to abridge it. When one person uses a law to impose their religious beliefs on another, religious freedom suffers.”¹¹ This would be true also of pharmacy employees who refuse to fill prescriptions for birth control, stating their religious beliefs.

Federal Tax Code: Currently, all 501(c) (3) nonprofits, including religious institutions, are prohibited from using their resources to intervene in elections by endorsing or opposing candidates for public office – although they can speak to the issues. However, there are those who seek to overturn the so-called “Johnson Amendment” which they claim violates free speech. “Repealing the

⁶ Rob Boston, “Skousen’s Scandalous Schools,” *Church & State*, Vol. 69, No. 9, October 2016, pp. 6.

⁷ *Sojourners*, Op. cit.

⁸ UCC News, April.

⁹ “When Teachers Preach,” *STAND*, Vol. 1, Issue 2, Summer 2014, pp. 18.

¹⁰ Whitehouse.senate.gov

¹¹ Alex J. Luchenitser, “A New Era of Inequality? Hobby Lobby and Religious Exemptions from Anti-Discrimination Laws,” *Harvard Law & Policy Review*, Vol. 9, 2015, pp.63.

no-politicking rule would inevitably lead some house of worship to focus on supporting candidates in exchange for financial and other aid.”¹²

Use of Public Funds or Property: Many states have a constitutional provision that provides a clear ban on public funds used for religious purposes. However, in November 2016, Oklahoma voters had an opportunity to strike down that provision sparked by the fate of a Ten Commandments display on the grounds of the state capitol, arguing that they “are an important component of the foundation of the laws and legal system of the United States of America and of the State of Oklahoma.”¹³ Closer to home, challenges are being made to Massachusetts’ use of public funds for structural repairs for houses of worship through its Community Restoration Act.¹⁴

Social Action: While we think of religious liberty being invoked by conservatives to advance their agendas, progressives are now invoking the protection clause of the First Amendment to advance causes of their own, according to an article in September’s Christian Century, where churches are defying local ordinances to install solar panels on historic churches in Massachusetts and establish tent cities on their grounds in California and Michigan, citing a religious imperative to take care of the poor.¹⁵

¹² American United Executive Director Barry W. Lynn in “Trumpling Church Politicking,” Church & State, Vol. 69, No. 8, September 2016.

¹³ Sarah E. Jones, “Showdown,” Church & State, Vol. 69, No. 7, July/August 2016.

¹⁴ Simon Brown, “Massachusetts Mistake,” Vol. 69, No. 8, September 2016.

¹⁵ The Christian Century, September 28, 2016, pp. 16.