

RELIGIONS AS WAYS OF LIFE[†]

*James W. Skillen**

Thank you, Judge Sykes. It is an honor to be part of this panel with our fellow panelists, and to be with you addressing this important topic.

The focus that I would like to offer in these opening remarks is on the distinction between what I would call—when we talk about religion—*ways of worship*, which usually suggest prayer, theology, ecclesiastical institutions, mosques, temples, etc., on the one hand, and *ways of life*, on the other hand. Certainly, Judaism, Christianity, and Islam are the latter kind of religion. They have to do not only with the way people worship but with the way they conduct their whole life. They have to do with the way they raise their children, the way they serve neighbors and the poor, and the way they engage in public life more generally. Religions as ways of life entail every institution of life and cannot be reduced to only one part or aspect of life.

So, to talk about religion only as an isolatable element or only as a way of worship, which then needs to be connected to politics, education, leisure, or something else, starts with the assumption that religion is only an institutional variable and misses the deeper, broader meaning of religion.

Now, the constitutional protection of the free exercise of religion in the First Amendment¹ neither defines religion nor gives the government the authority to do so. Consequently, we may not read into the amendment that it protects only private worship and not the ways of life that religious people are conscience-bound to live. That is to say, the First Amendment does not state that if you do this or that, or if you behave like this or that, then you are religious. And if you are not religious in the way just prescribed, then you do not have First Amendment protection. Free exercise, it seems to me, is a reference to a freedom people should enjoy in order to give allegiance to their God.

[†] This Address was presented as part of a panel discussion, “Religious Liberties: the Role of Religion in Public Debate,” at the Federalist Society for Law & Public Policy Studies 2007 National Lawyers Convention, November 15, 2007. The panelists included: the Honorable Michael W. McConnell, United States Court of Appeals for the Tenth Circuit; Professor Robert Audi, University of Notre Dame; Professor Kent Greenawalt, Columbia Law School; Dr. James W. Skillen, President, The Center for Public Justice; moderated by the Honorable Diane S. Sykes, United States Court of Appeals for the Seventh Circuit.

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¹ U.S. CONST. amend. I.

Thus, religious freedom may really have to do with all areas of life, including education, welfare, and any number of other contexts in which our deepest convictions direct the way we ought to live before the face of God. Or for those who do not acknowledge God, it means freedom to live without reference to God. It is at that level that questions of how we should shape science policy and stem cell research, of how we should consider the unborn, or of how we should educate our children are deeply religious questions. Language arising from these deepest convictions must not be excised from public debate and cannot be expressed in a common, secular language. At the level of deepest convictions, we are bringing to the fore our basic views of life, our worldviews, our understanding of who humans are, and are not simply talking about worship.

Obviously, if we are engaged in political or legal debate, our language should be about public policy and legal matters. Therefore, there are all kinds of extraneous arguments that would not be relevant to a particular debate about public issues. But I do not think anyone should be excluded from the debate or from political participation because they are using language that others believe is too religious.

Now, Western Christianity has itself been partly responsible for the ambiguity in the use of the words “religion” and “secular.” *Saeculum*, the Latin word from which we derive *secular*, really means “of or pertaining to this world,” and in the High Middle Ages there was a distinction between a religious vocation, or what came to be referred to as “religious” in the narrower sense of that term, and vocations that were not ecclesiastical but “secular.” But, *saeculum* did not mean by any stretch “unrelated to God” or not of faith or not Christian. In fact, in the medieval view, everything was related to God and was mediated through the Church to God.

At the point when the Church lost its preeminent position and everything outside the church became disconnected from it the *saeculum* gradually came to be seen as something unrelated to God because it was no longer related to the Church. I think that is the root of the way we tend to talk rather easily about the “secular” as something not religious, when in fact for many people—many Christians, Jews, and Muslims—all that pertains to life in this world is related God.

The big question we face, therefore, in constitutional adjudication and in political argumentation more broadly is how to understand government’s relation to religious ways of life among citizens. This certainly includes the question of how government should be related to churches and similar organizations. But it also has to do with how government should be related to schooling, social welfare organizations, various kinds of public media, and politics itself. It is at this point that we need to make the distinction between government and other

institutions and organizations, any of which may be quite religious. If there are those whose ways of life in the service of God lead them not only to worship God but also to educate their children, serve their neighbors, and join in political debate in distinctive ways, it is wrong to discriminate against them on the grounds that they are illegitimately carrying religion into so-called secular life.

The main impetus of the Enlightenment/post-Enlightenment period has been to say that if something is not identifiably religious in the sense of being connected with a church, synagogue, temple, or mosque, then it is secular and nonreligious. And religious freedom is to be protected and enjoyed only in private life. It seems to me that the direction in which we need to move, by contrast, is to say that religions in the broader sense of ways of life should be free to work their way out in the education of children, in social welfare, and so forth. And the way government should relate to the variety of religions in society is by making room for them by making room for a diversity of school systems, a diversity of social welfare services, and so forth, all of which should enjoy equal treatment under the law.

The key purpose of the Establishment Clause, then, is to guard against any faith or non-faith gaining a monopoly in the public square. The worry that religion will become dominant, that it will become overwhelming, that one religion will throw others out, indeed has to be guarded against so that there is equal treatment for all—genuine pluralism in public life as well as in private life. Religious freedom and non-establishment thus come together in a unitary purpose.

Thank you.