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religion _____
and politics

THREE PERSPECTIVES

Martin S. Kaplan
Raphael J. Sonenshein
A. James Rudin

The American Jewish Committee protects the rights and freedoms of Jews the world over; combats bigotry and anti-Semitism and promotes human rights for all; works for the security of Israel and deepened understanding between Americans and Israelis; advocates public policy positions rooted in American democratic values and the perspectives of the Jewish heritage; and enhances the creative vitality of the Jewish people. Founded in 1906, it is the pioneer human-relations agency in the United States.

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Table of Contents

Foreword iv

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*Church-State Separation
in the United States:
Myths and Realities*

Martin S. Kaplan 1

*Religion and Politics
in American Life*

Raphael J. Sonenshein 23

*Toward a Theology
of Religious Pluralism:
A Jewish Perspective*

A. James Rudin 28

Foreword

These three papers were delivered at a unique event and place: an Evangelical Christian-Jewish conference that was cosponsored by Fuller Theological Seminary and the American Jewish Committee. Fuller, located in Pasadena, California, is one of the world's leading Christian institutions of higher learning.

The January 1997 conference, "Religious Convictions in the Public Arena," was a path-breaking event that brought Evangelical and Jewish leaders together for an intensive and systematic examination of key issues of mutual concern. Special focus was given to the themes of religion and politics, church-state separation, and the meaning of religious pluralism.

Many individuals contributed to the success of the Fuller-American Jewish Committee conference. Chief among them were Fuller's president, Dr. Richard J. Mouw; James T. Butler, associate professor of Old Testament at Fuller; and Rabbi Gary Greenebaum, the Western regional director of the American Jewish Committee. The conference was made possible in part by a grant from Leonard and Phyllis Greenberg of Boynton Beach, Florida.

The American Jewish Committee is pleased to publish these addresses in the hope they will stimulate further exploration of the issues among a larger audience.

Rabbi A. James Rudin
National Director, Interreligious Affairs
The American Jewish Committee

Church-State Separation in the United States: Myths and Realities

Martin S. Kaplan

The interrelationship of myth and reality that affects church-state issues in America has long existed, and will continue to do so. Realities have given rise to myths, and myths have reinforced realities. Those who hearken to the guidelines of Jefferson and Madison that there must be a wall of separation between church and state know their history well, but so do those who remember that America was founded by religious groups who sought religious freedom here, and whose beliefs have had a profound impact on the values that have driven this country for almost four centuries.

History as a Guide

The Pilgrims came here on the *Mayflower* seeking religious freedom, and their heroic journey forever marked this country as a place that would welcome those who sought to express their own religion in their own way. They left England because its established church could not tolerate their beliefs, their differences, and their desire to practice their religion freely, and they renounced their membership in the Church of England.

Those who favor prayer in the schools, government aid for church-supported schools, and an expanded right for religious groups to participate in the use of public space, remind us that

this country was founded by religious groups, and those groups had extensive rights and powers in our early civil society.

The Puritans, who never broke with the Church of England but whose goal was to purify it, established the Massachusetts Bay Colony in 1630, and the Pilgrim colony subsequently merged into the larger Puritan colony. There was no separation of church and state. The Puritans imposed on their new colony the same religious order and discipline that caused them to leave England. Only Puritans could vote or serve in the colonial assembly, and all citizens were taxed to support religion and the clergy.

But just as the Puritans could not abide the rule of the Church of England, other Protestant Christians could not abide the Puritan theocracy of Massachusetts. Baptists in Massachusetts were only a negligible minority, but they were denounced as "the incendiaries of the commonwealth and the infectors of persons in matters of religion." For refusing tribute to the state religion, Baptists were fined, flogged, and exiled. Roger Williams, banished from Massachusetts for denying Puritan authority over his conscience, founded Rhode Island in 1635, offering full religious and political freedom to all who settled there, even Quakers, whose religious views he despised.

Pennsylvania was founded by William Penn, a Quaker, and it provided greater religious toleration, partly because Quakers were being persecuted throughout the other colonies, except in Rhode Island. Even Roman Catholics enjoyed religious freedom in Pennsylvania; at the time of

the American Revolution, only Pennsylvania permitted Catholics to hold public services.

Religious extremism in Massachusetts led to the Salem witch trials in 1692; sadly, civil authorities working together with church leaders hanged eighteen people and stoned one woman to death as part of the religious hysteria of the time. And Quakers who had been exiled from Boston and dared to return were hanged. Remember Barry Goldwater's statement at the 1964 Republican Convention? He said, "Extremism in the pursuit of liberty is no vice." That credo must surely have been part of the Puritan philosophy in Massachusetts.

Since religious liberty as a concept barely existed in colonial America, there is certainly authoritative historical support for those who oppose the degree of church-state separation that currently exists in America. At the time of the Revolutionary War the Church of England was the established church in Maryland, Virginia, North Carolina, South Carolina, and Georgia. The Congregational Church, successor to the Puritans, was officially established in Massachusetts, New Hampshire, and Connecticut. Pennsylvania, Delaware, and Rhode Island provided relatively equal privileges to all Protestants but discriminated in varying degrees against Catholics.

The Anglican Church in Virginia utilized state authority to provide flogging for those who spoke in disrespect of any minister, fines and whipping for failure to attend church services, and death for blasphemy. These rules were later softened, but Quakers and Catholics were

barred from the colony, and all Virginia residents were taxed to support the Anglican Church. During the period shortly before the American Revolution, Baptists in Virginia were frequently imprisoned or publicly whipped. The southern colonies underwent periodic spells of tolerance and intolerance and, in spite of state support, Anglicans were soon outnumbered by members of other religions.

As the Supreme Court noted in 1962 (*Engel v. Vitale*, 370 U.S. 421, 427): "It is an unfortunate fact of history that when some of the very groups that most strenuously opposed the established Church of England found themselves sufficiently in control of colonial governments in this country to write their own prayers into law, they passed laws making their own religion the official religion of their respective colonies."

The religious conflict and persecution of the colonial period led directly to the growing belief that the new nation must develop a system different from Europe's regarding the role of religion in society. The Supreme Court described this history in 1947 in the *Everson* case (*Everson v. Board of Education of Ewing Township*, 330 U.S. 1), and noted that the repetition of many of the Old World practices and persecutions "became so commonplace as to shock the freedom-loving colonials into a feeling of abhorrence. The imposition of taxes to pay ministers' salaries and to build and maintain churches and church property aroused their indignation" (330 U.S. 1, 11). James Madison, with the support of Thomas Jefferson, led the successful effort to disestablish the Anglican Church in Virginia. They

were opposed by Governor Patrick Henry, whose immortal fame rests on his great Revolutionary War declaration "Give me liberty or give me death." But his definition of liberty was limited, and he strongly favored taxation for the support of Christian religions.

The Virginia battles led to the adoption of the Bill for Establishing Religious Freedom in 1786, providing that no one should be compelled to attend or support any religious worship or ministry; that everyone should be free to exercise his own religious opinions or beliefs, publicly and privately; and that religion should have no impact on one's civil capacities. Madison noted in his papers that his landmark "Memorial and Remonstrance Against Religious Assessments" had the universal support of the Baptists, Presbyterians, Quakers, and Roman Catholics. The effort to amend the religious freedom law prior to its passage in order to limit its protections to Christians was rejected. The Virginia experience was of course critical to the adoption of the First Amendment as part of the U.S. Constitution.

The phrase "wall of separation between church and state" appeared in Thomas Jefferson's famous 1802 letter to the Danbury Baptists, supporting their goal to disestablish the Congregational Church in Connecticut. At that time, Connecticut residents who could prove their adherence to another faith were exempt from paying the tax that supported the Congregational Church, but since Baptists were an unpopular minority, it was often difficult for them to prove their membership in a church

and avoid the tax.

My point in all this history is to demonstrate the deep connection between civil authority and religion throughout our early history, and the conflict it created. These historical realities provide compelling guidance for us today to maintain the reality of separation of church and state. The increasing religious freedom and toleration of all religions that has developed over the last 200 years in America has not only provided great strength to this country but has also provided great strength to religion and to all communities of faith in a pluralistic country with an ever-increasing diversity in religion and ethnicity.

By almost any measure, the United States is the most religiously developed nation in the world, with numerous vibrant religions, denominations, and churches competing for members, money, and success. Surely this is not because of establishment, or state support through funding, or use of the public schools or other public venues to spread the word or witness. Religion in the United States is strong today, in the form of many faiths, *because* of the very freedom *and* separation that have existed for 200 years and not in spite of them. We have created a free-market system of religion in America, the equivalent of religious capitalism. Membership in denominations ebbs and flows as each faith competes to serve and provide relevance to those who choose to join or choose to remain members if born into that faith.

Some religions decrease in numbers, some go out of existence and die. The faiths that survive

and grow are those that respond to the religious yearnings of Americans, hence the phenomenal growth of fundamentalist, charismatic, and other churches in America. Within Judaism, many of us thought that both the Orthodox and Reform branches would wither and retreat but, in fact, both have become increasingly more vital.

This religious free-market competition expresses itself not only in changing membership in long-established faiths but in the creation of new communities of faith, unaffiliated megachurches, and numerous other religious groups, a phenomenon that rarely exists in other countries. Like any other institution, when a religion is supported by the state and protected from competition, it becomes complacent, ingrown, and unresponsive to developing and changing trends in society. Has establishment made the Protestant religions more vibrant in Northern Europe than in the United States? Is Catholicism more dynamic in Italy or Spain than it is in the United States? Do religions play as significant a role in the life of societies in Germany, France, and England as they do here? Is membership and attendance at religious services as high in those countries as here?

While there are reasons for the growth and success of individual communities of faith in America that are internal to those faiths, our society's history and philosophy of religious freedom, separation, and competition is a source of strength for all religions and all faiths.

Competition among religious faiths is not a problem. That competition only becomes a

problem when a faith in the ascendancy seeks to extend its power through civil and governmental authority. It is surely sad and ironic that Baptist leaders such as Pat Robertson talk about a Christian nation, and suggest Puritan-style limitations on those who should serve in office, when early Baptists were persecuted in this country by the Puritans.

Prayer in the Schools

Among all the issues relating to religion and the state in America today, perhaps the most sensitive and volatile is that of school prayer. Let us consider a typical school prayer from the 1950s, similar to the type of prayer children might well be asked to recite in the future if a constitutional amendment is adopted: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

That is the Regents' Prayer, adopted by the New York State Board of Regents as part of their "Statement on Moral and Spiritual Training in the Schools," adopted in the 1950s and found unconstitutional by the U.S. Supreme Court in 1962 (*Engel v. Vitale*, 370 U.S. 421). I graduated Monroe High School in Rochester, New York, in 1957, and I remember that prayer well, because I listened carefully but silently as I did not recite it. I did *not* find the Regents' Prayer particularly objectionable; but I surely did not find it meaningful, and it did *not* reflect *my* religion. Even as a high school student, I thought that the measure of a prayer should be its meaningfulness rather than its lack of objec-

tionableness.

The Regents' Prayer provides a good model of what might be adopted if organized school prayer is permitted under a proposed amendment to the U.S. Constitution. Do you find it meaningful? Does it reflect your religious feelings? If your child, or a student who is a member of your faith, prayed either with others or alone in school, is this the prayer you would want that student to recite? Does it express the deepest values of your faith? Personally, I find that prayer "plastic," lacking in sincerity and depth, but the New York Board of Regents believed that prayer would constitute moral and spiritual training for me and other students. Nonsense! It is generic and meaningless; and religion by definition is not generic but specific. If religions are not specific and different from each other, why has humanity endured 2000 years of religious adherents killing each other over issues of faith? Prayers that do not reflect the values, traditions, and observances of a specific faith do nothing to enhance that faith, and vague spirituality is more vague than spiritual.

Any prayer that is nonsectarian enough, broad enough, and general enough to satisfy the many different religious groups in our society will be meaningless and phony, a substitute for real religion. Creating such a prayer constitutes a "dumbing down" of religion. Conservative critics like to rail against what they see as the "dumbing down" of the schools—shouldn't they also oppose "dumbing down" of religion? We must not allow the state to get involved in religion because it will create a prayer such as the

Regents' Prayer, which is an insult to those who believe deeply in their own religions. We should resist simplistic efforts such as New York's to improve our society and to increase morality, through the strategy of expressing religious beliefs by the state and through our schools.

Conservatives in America make a point about the rights of parents and yet perhaps the central, most important right of parents is to control the religion of their children. The state, or a majority of students, drafting and requiring a prayer is an interference in the true conservative right of parents having power and responsibility over the religion, religious education, and beliefs of their children. Parents have a right to educate their children in religion in a deep and meaningful way, and not have it demeaned and challenged by the generic plastic prayer that the state may prescribe or that reflects a religion different from that of the parents.

There is a conflict between the proposals for a constitutional amendment to permit school prayer and the Parental Rights and Responsibilities Act, which has also been proposed by religious conservatives. This latter bill would forbid government agencies, including public schools, from "interfering with or usurping the right of a parent to direct the upbringing of the child of the parent." But isn't it clear that, if we expand the current individual right to pray in school to allow student-sponsored prayers at school events, those prayers will interfere with the right of parents to direct the religious upbringing of those children?

Perhaps, though, those who favor prayer in

the schools have something else in mind. Baptists may want a prayer that clearly reflects their beliefs; Roman Catholics may want one that clearly reflects theirs. If a constitutional amendment permits student-initiated or student-sponsored prayer at public school events, as one proposed amendment does, then we can really fight over the choice of prayers. I doubt that many Christian faiths could agree on what that specific prayer should be, but history would remind us that battles over faith are not easily resolved. In addition, this country has a significant non-Christian minority: members of the Jewish faith, an increasing number of adherents to Hinduism, Islam, and other religions, and many who do not believe in any faith, or do not believe in a Supreme Being. Will we have a Christian prayer? One that makes reference to Jesus Christ as our Lord? Or a prayer that reflects the religions of non-Christians? How?

Of course, the proposed constitutional amendments would expect the prayer to be determined at the local or school level. We have precedents for that as well. After all, we had a Congregational Church established in Massachusetts, an Anglican Church in Virginia, and I suppose we could have a Roman Catholic prayer required in one town and a Baptist prayer in another town. School districts throughout this country could adopt prayers that reflected the majority or plurality religious views of their communities. Are we now to have Baptist children, or Roman Catholic children, or Jewish children, where they are in a majority, composing prayers for all to recite? Competition in the

free marketplace of religion will give way to competition over who will decide what prayer will be recited in the schools. This is a recipe for hostility and division, between Christians and non-Christians, and among different Christian denominations. And those prayers would be even more coercive and intimidating to minority students if adopted by their fellow students than the generic variety from the Board of Regents.

Religious liberty must mean more than just being permitted to hold one's own religious ceremonies and participate in one's own prayers. Being truly free must also mean free from being required to hear the prayers of others, and free from being made to feel an outcast, intimidated and embarrassed at wanting to avoid hearing prayers that don't reflect one's own religion. Remember what Roger Williams said when he was banished by the Puritans from Massachusetts? "Forced worship stinks in God's nostrils!"

The U.S. Supreme Court and the Congress, through the 1984 Equal Access Act and the 1993 Religious Freedom Restoration Act, have made clear that voluntary prayers and student religious clubs in school are permitted, and the Department of Justice has published guidelines for all school districts on this subject. Of course there will be errors in interpretation in both directions, but our nation has in place a high degree of clarity as to the rights of students to express religious beliefs in school. And, as one congressman noted, "As long as we have math tests, there will always be prayer in the schools!"

In the January 1997 issue of *Commentary*, a magazine published by the American Jewish

Committee and dedicated to conservative intellectual thought, there is an article entitled "Democracy and the Religious Right" by Peter L. Berger. He states: "By any measure, the United States is the most religious country among the western democracies; yet it is here that the most secularist interpretation has been placed on the relationship between religion and the state." He calls that a "bizarre paradox." I disagree; I believe we are a religious society because of what conservative writers and *Commentary* usually espouse, the free-market competition of ideas governing the marketplace, which is strengthened by separation between religion and state. That is why we have a dynamic religious society, and that is a reality; our need to involve the state to make religion vibrant is a myth.

State Funding of Religion

I view with great alarm the developing trend to permit or require public funding of religious activities in schools, the possible funding of teachers and other services in parochial schools, and the move toward vouchers permitting parents to choose the school of their choice with public funds. Proposed amendments to the Constitution appear to require state funding of religious activities and programs where the state chooses only to fund similar but secular ones. The language of one of the proposed amendments provides that "neither the United States nor any state shall deny any person equal access to a benefit . . . on account of religious belief, expression, or exercise" (H.J. Res. 184, 104th Congress, 2d session, July 16, 1966, R. Armev).

I assume that the word "benefit" includes money, and that the clause is indeed drafted in order to obtain funding for religious purposes.

In addition, the Supreme Court appears to be in the midst of changing the meaning of the word "neutrality" as applied to the First Amendment in a direction that will permit or even require a greater degree of state funding of religious institutions. In 1930, the Supreme Court approved public funding to purchase secular textbooks for both private and parochial school students (*Cochran v. Louisiana State Board of Education*, 281 U.S. 370), and in 1947 it approved local funding of bus transportation for students to Roman Catholic schools (*Everson v. Board of Education*, 330 U.S. 1). In *Everson*, the Supreme Court also confirmed the obvious: that neutral application of law requires general government services, such as ordinary police and fire protection, to be provided to religious organizations and functions. Justice Black stated that the First Amendment "requires the state to be . . . neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary" (330 U.S. 1, 18).

The Supreme Court discussed the neutrality concept in *Schempp*, a 1963 decision that prohibited morning Bible reading as prayer in the public schools of Pennsylvania. Justice Clark wrote that "the concept of neutrality . . . does not permit a state to require a religious exercise even with the consent of the majority of those affected" and that the majority's right to free exercise of religion does not require the practice

of that religion in the public schools. He stated that the Free Exercise Clause of the First Amendment recognizes the right of every person to practice religion, "free of any compulsion from the state," and neutrality required that. Justice Clark disputed the suggestion that our society creates a "religion of secularism" unless the majority can practice their prayers in the public schools, but confirmed "that the state may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion" (*Abington School District v. Schempp*, 374 U.S. 203, 225-226, 222).

Subsequently, the Supreme Court struck down efforts to pay part of parochial teachers' salaries (*Lemon v. Kurtzman*, 403 U.S. 602 (1971)), and barred New York State paying for repairs to parochial schools and providing tuition reimbursement for parochial school children (*Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756 (1973)).

In 1985, by a 5-4 margin, the Supreme Court struck down the federal government's plan for implementing "Chapter One" services for private school students needing remedial education in the *Aguilar* case (*Aguilar v. Felton*, 473 U.S. 402 (1985)). New York State had proposed that public school teachers provide those services to parochial school students in the parochial schools. Because of the *Aguilar* decision, New York has provided those services in rented mobile units parked near the parochial schools.

But the Supreme Court has permitted state funding for an interpreter for a deaf student in parochial schools (*Zobrest v. Catalina Foothills*

School District, 509 U.S. 1 (1993)). And, in a 1994 case, five Supreme Court justices criticized the *Aguilar* ruling, and suggested it should be overturned (*Board of Education of Kiryas Joel Village School District v. Grumet*, 512 U.S. 687 (1994)).

In 1994, the Supreme Court held that if a school district permitted school property to be used for the presentation of all views on an issue, then it could not exclude the presentation of a religious view on that issue. The Court held that such a bar would be discriminatory against religion, and required that religious viewpoints on the issue also be permitted to be expressed (*Lamb's Chapel v. Center Moriches Union Free School District*, 508 U.S. 384).

Perhaps the most important recent case is *Rosenberger*, a 5-4 decision in 1995 in which the Supreme Court held that since the University of Virginia, through student activity fees, funded extracurricular activities and student publications, it was required to also fund the publication *Wide Awake*, a Christian publication dedicated to evangelism (*Rosenberger v. Rector and Visitors of University of Virginia*, 132 L. Ed. 2d 700, 115 S.Ct. 2510 (1995)). In this case, the Supreme Court shifted the meaning of neutrality and held that if the school supports any student publications, it must support all, even those that are clearly religious in purpose. The Court held that funding a religious publication is neutral if the state is funding other publications, and distinguished the mandatory student fees from a tax levied for the direct support of a church or group of churches.

In dissent, Justice Souter, writing for four justices, correctly noted that this was the first time that the Supreme Court had approved direct funding of core religious activities by an arm of the state, pointing out that *Wide Awake* is not a publication simply offering a viewpoint on an issue. Funding of *Wide Awake* constituted the first use of "public funds for the direct subsidization of preaching the word," which Justice Souter thought clearly was "categorically forbidden under the Establishment Clause" of the First Amendment (115 S.Ct. 2510, 2535).

In January 1997, the Supreme Court announced that it would reconsider the 1985 *Aguilar* case (which prohibited public school teachers from teaching in a parochial school), having received an appeal by New York City and a group of parents of parochial school students asking it to do so. If the five justices who criticized *Aguilar* in 1994 vote to overrule it, then the Supreme Court will permit public school teachers to enter parochial schools to provide federally funded remedial education to impoverished and low-achieving students. Coupled with the requirement that the new interpretation of "neutrality" requires funding proselytizing publications in the *Rosenberger* case, I believe there are significant changes ahead in church-state separation even without a constitutional amendment.

If the state must fund the religious preachings of *Wide Awake*, since it chose to fund secular publications, on the basis that neutrality now requires funding for both religious and secular extracurricular activities, then what is left of the

bar against state funding of religion in America? And if the Supreme Court rules that public school teachers may teach in parochial schools for specified purposes such as remedial learning, then what if Congress adopts a national program to improve science education for all students, and provides for public school teachers to teach science in parochial schools as well? How can that be distinguished? What will be left of the First Amendment's bar against funding parochial schools?

This constitutes a remarkable change in attitude toward public funding of parochial school education. Only seventy-five years ago, in 1922, Oregon passed a law requiring all children to attend public schools, with the purpose of causing the closure of Catholic parochial schools in the state. The American Jewish Committee responded by filing one of its first *amicus curiae* briefs in the Supreme Court of the United States on behalf of the Roman Catholic parents. The Supreme Court unanimously struck down the Oregon law, making clear that parents could not be required to send their children to public school if they preferred to send them to a religious school of their own choice.

If the Supreme Court now rules that public school teachers can teach in parochial schools for the specified purpose of remedial education, I believe we will see a significant expansion of defined special purposes and public funding. And if the Constitution is amended to provide that a state cannot deny "equal access to a benefit" because of religion, I believe we will see an expansion from only funding school transpor-

tation under the *Everson* case (1947) to general vouchers.

Vouchers are, of course, being strongly promoted as an alternative to public education, and if the principle of "neutrality" continues to be changed from meaning no active hostility against religion to meaning equal treatment for religion-based institutions and activities, then the result could be vouchers being made available to all parents, who would then have the right to send their children at public expense to public, independent, or parochial schools.

Those who propose private school vouchers as a basic right to supplant public education must recognize that vouchers will create a balkanized system of education in America, and would encourage every ethnic, separatist, religious, and racial group to organize schools for their own. After all, if the state provides per-pupil funding that can be used at any public or private school, what is to prevent parents using those funds to send their children to Nation of Islam schools? Or Branch Davidian schools? Or Church of Scientology? Nothing, of course. This is not the United Kingdom, with its extensive government power to deny rights and no constitution to require equal treatment.

Neutrality in the United States would require that, if funds are made available for each student to use at the school chosen by his or her parents, that right will not be limited to specified religions or ethnic groups. After all, if Roman Catholics and Jews should have the right to state funding for their existing religious schools, why shouldn't others? In the past, only those

groups that have had the financial means and the commitment to create *and* support their own schools have done so, and parochial schools are primarily Roman Catholic or Jewish, and some Protestant.

However, if the right to funding precedes commitment, we will have schools that reflect every group in our society. Some parents will want black separatist schools. Some will want Moslem schools. Some will want Spanish-language-only schools. And that will lead to a conflict between the "parents' rights conservatives" and the "English as official language" conservatives.

State Constitutions

The proposed amendments to the Constitution would do more than change the First Amendment. They would also preempt and overrule similar provisions of almost all the constitutions of the states. While some might think that church-state separation is a creation of the U.S. Supreme Court, that is simply not true. Not only did the U.S. Constitution follow the example of Virginia, so did almost all the other states, many of which have more stringent church-state separation provisions in their constitutions than does the U.S. Constitution. Massachusetts is one example, and efforts to amend that state's constitution to permit the legislature to consider state funding of parochial schools have been unsuccessful.

An amendment to the U.S. Constitution may be approved by Congress, and ratified by the requisite number of states, without Mas-

sachusetts having ratified it. However, the proposed amendments specifically, and possibly by virtue of the Fourteenth Amendment as well, would override the constitution of Massachusetts, permitting a majority in the Massachusetts legislature to provide parochial school funding even though there have not been enough votes to amend the Massachusetts constitution to permit consideration of such funding.

On January 15, 1997, a state court judge in Wisconsin ruled that the use of public funds for religious school tuition violated the Wisconsin constitution. Are Wisconsin voters to be overridden on their constitution as well? And doesn't this proposed constitutional amendment conflict with "states' rights," a sacred principle of conservatives? Why should an amendment to the U.S. Constitution overrule the Massachusetts or Wisconsin constitutional provisions relating to church-state separation? The doctrine of church-state separation is deeply embedded in the constitutional structure not only of the United States but of most of the states, and has been for 200 years. Referring to church-state separation, Justice Jackson stated in his 1947 dissent in the *Everson* case: "This policy of our Federal Constitution has never been wholly pleasing to most religious groups. They all are quick to invoke its protections; they all are irked, when they feel its restraints" (330 U.S. 1, 27 (1947)).

The judicial trends in favor of changing the meaning of the neutrality principle, and the political trends in favor of amending the Constitution, may succeed in weakening the wall of

separation between church and state in America. This will cause an immense change in the structure of our schools and the funding of religious institutions. For those who favor that change, let me recall of the old adage: "Be careful what you wish for. You might just get it." I fear the divisiveness and hostility that would result, tearing our social and political fabric. I caution communities of faith not to seek conflict with each other in our civil society, and I repeat Madison's warning in his great "Memorial and Remonstrance" that true religion does not need the support of law.

Martin S. Kaplan is national chairman of the Interreligious Affairs Commission of the American Jewish Committee. He is a senior partner in the Boston law firm Hale and Dorr and a former chairman of the Massachusetts Board of Education.

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Religion and Politics in American Life

Raphael J. Sonenshein •

Our subject tonight is religion and politics. We in this room have much in common *personally*, as human beings: a strong faith, deep values, and communities dedicated to the highest moral purposes. But in the *political* realm, the relationship between Jews and evangelical Christians has thus far not been a match made in Heaven.

Jews and evangelical Christians represent "polar voting blocs" on some key issues. But even more so, many Jewish voters express discomfort with the religious right.

Why do people of deep, abiding faith find themselves so far apart in the political arena? It must be particularly surprising to those of you who feel that many evangelical Christians think quite highly of Jews and the State of Israel. And don't we all agree on the need for religious values in public life? Let me try to explore this from the standpoint of how the Jewish community sees the world.

Of course, Jews are not monolithic, nor are evangelical Christians, and I am not a spokesman for all Jews. In fact, we have our own internal debate between the majority of Jews and an intense, highly valued Orthodox minority, both here and in Israel. But there are more patterns that define the broad Jewish community.

We are a religious people who fervently favor

the separation of church and state, even in Israel where we could impose a theocracy if we wished. Why is this so? I will suggest four reasons: (1) the search for a safe space, (2) fear of anti-Semitism, (3) a belief in science and learning, and (4) support for Israel.

Our history has often been the search for a "safe space" within which to practice our religion. The separation of church and state provides such a safe space for Jews. What seems like a cruel barrier to many evangelical Christians seems like a protective wall to many Jews.

Our experience throughout history has confirmed the danger to all minorities of government by religion. To us, the great power of democratic government should be denied to all religious groups, because if it is not, it will inevitably be held by the strongest or the most numerous. We have instead believed in the faith of the Founding Fathers, who were highly religious but also determined to keep church and state separate.

I went to school before the school-prayer decision. In the third grade, I refused to recite the official prayers because they were inconsistent with my religious beliefs. I was punished! Needless to say, I was overjoyed by the 1962 court decision. It was as if I could breathe again.

We deeply fear anti-Semitism, which is often cloaked in religion. Governments ruled by faith, whether religious or political, often find Jews an inconvenience, an obstacle, even a danger. I was brought up on stories of Father Coughlin, who railed from the pulpit against Jews in the 1930s. I don't have to look far for his successors today;

Louis Farrakhan, also a minister, is all too visible. The 1992 Republican national convention spotlighted the very speakers who most unnerve us.

Jews are children of the European Enlightenment. We believe in science and learning. My two bothers are also professors, and my mother could not have been prouder if we had all been elected president!

We have always maintained a line between faith and science. Many Jews reject the intellectual relativism of the politically correct left. And any philosophy that treats scientific knowledge as a matter of religious faith will deeply disturb Jewish parents. Indeed, Jewish scientists have often been the victims of political purges in repressive societies both left and right.

The security of the State of Israel is critical to Jews. We have finely tuned antennae for how people see Israel. When the left seemed to abandon Israel in the 1970s, Jews began to question the Democratic Party. But we also closely examine expressions of support. Is support for Israel merely for a transition phase before the eventual disappearance of the Jews? Or is it an expression of national strategic interests that could change with shifting world events? Or is it really heartfelt? Does it assume a permanent Jewish presence? We are expecting to stay around.

Understanding where some of us differ, and why, is the first step toward dialogue. Then we can see where we have some common ideals. To paraphrase the Passover question, "How can this night be different from all other nights?"

A good analogy is the Jewish relationship with the Catholic Church. When I was young, the relationship could hardly have been worse, but it has improved enormously. And I don't believe that Jews and evangelical Christians are nearly as far apart as Jews and Catholics once were.

Let us think about common ground. While Jews greatly fear a church-state alliance, we have always been concerned about threats to the "free exercise" of religion. I know as someone who kept kosher as a youngster that this free exercise was no theoretical issue. Certainly an official religion was a danger to me, but so was an underdeveloped notion of free exercise. And I am concerned about the free exercise of religion, not just for Jews, but for everybody. On this issue, we probably share an ideal of religious pluralism.

In fact, this free-exercise issue helped forge a broad "coalition of faith" several years ago. The Religious Freedom Restoration Act of 1993 was intended to rectify a series of Supreme Court decisions that seemed to limit the free exercise of religion. A broad array of "people of faith," in which the Jewish community was strongly represented, came together. Great change is possible if the field of battle is redefined. And each success makes a new alliance possible.

President Mouw spoke of the need for patience, and I fully agree. But we need one more virtue: curiosity. We need to learn more about evangelical Christians. They are not monolithic. The American Jewish Committee

polled evangelical Christians and found that Jewish fears of anti-Semitism were not supported by the data. I value our immune system against anti-Semitism, but we must learn when it is in overdrive.

We are also heartened to hear about the social-justice interests of evangelicals: a true common ground in these very hard-hearted times. We don't have to agree on the role of government to agree that people cannot be allowed to starve in the streets.

A working alliance of people of faith around issues of common ground would have great power in the political arena. It would be especially urgent in helping those in greatest need and in restoring the integrity of our political system. Political life has become diminished. We have too many manufactured ideas and too little sincerity. The public hungers for leaders with spirit and soul. The politics of renewal will come from the heart, and all of us can help move it along.

The best approach to restoring the religious spirit in public life is to achieve something of lasting value for the people, and to help make our civic arena live again. On some things, we may never agree. But in matters of faith as well as in politics, first principles are often more powerful than political positions.

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Toward a Theology of Religious Pluralism: A Jewish Perspective

A. James Rudin

Why does the concept of religious pluralism arouse such intense reactions among people? No one, it seems, is neutral about it.

Some people compare pluralism to a symphony orchestra with individual members or groups playing different instruments. By themselves, these individuals or groups are only soloists, but playing together they make beautiful orchestral music. Using this analogy, pluralism means no individual or group is more dominant or more important than any other orchestra members.

Of course, the reverse of this analogy might be also true. Instead of a harmonious symphony orchestra, pluralism can also mean a dissonant, cacophonous sound, discordant and disruptive.

Those who distrust pluralism believe it undermines religious beliefs and weakens spiritual identities. Still others may grudgingly concede that while theological diversity does exist, they are unhappy about its existence. In their hearts they believe: "I know there are many religions in the world, but if I had my way, I would want everyone to believe as I and my religious group do."

Pluralism, whether desired or not, means that all groups and individuals have a distinctive contribution to make to the well-being and

enrichment of society. Pluralism means a religion with a large number of members is not superior to a religion that appeals to only a few. And a majority is not permitted to dominate or persecute a minority. Obviously, this kind of pluralism has not been accepted throughout the world. It remains a distant goal for many people and many societies.

But here in the United States, religious pluralism has flourished as in few other places in the world. As a direct result of the religious strife in Europe, especially the Thirty Years' War, the Spanish Inquisition, and the excesses committed in Britain against religious dissenters during the seventeenth and eighteenth centuries, the framers of the U.S. Constitution provided specific safeguards for religious liberty, and by doing so provided a seedbed for the growth of religious pluralism.

The Constitution forbids "religious tests" for public office, and the First Amendment guarantees the free exercise of religion and the prevention of any one group or groups from becoming America's officially established religion. A singular hallmark of America is its strong emphasis on religious freedom.

These constitutional guarantees have allowed a vigorous pluralism to develop in the United States. But pluralism is highly challenging to many because religion, after all, offers ultimate answers to questions about life and death and about the very purpose of existence. To affirm that there are multiple—but nonetheless authentic—religious responses to these questions is sometimes difficult for believers.

Pluralism asserts there are many genuine spiritual paths to follow. Pluralism also maintains that each path is legitimate and that every religious expression represents spiritual truths that must be respected and protected from assault.

Pluralism compels individuals to acknowledge there are various ways to achieve a spiritually fulfilling life. While all religions are true for their adherents, pluralism posits the claim that no one religion contains all the truth for everyone.

With such bold assertions, is it any wonder that the concept of religious pluralism can affirm our deepest faith commitments and profoundly challenge them at the same time?

A pressing task today is the development of a theological foundation for religious pluralism. Such a theology of pluralism, as I like to call it, is no easy assignment, but it is urgently required. People of faith and the faiths themselves need to plumb the depths of their spiritual traditions to discover the necessary religious support for pluralism.

It is not enough that we simply live together as unique faith communities, hopefully without tension or conflict. Rather, our faiths must sustain and nurture our shared existence in a pluralistic setting. Unless that happens, the cruel winds of religious bigotry and extremism, combined with political and cultural turbulence and economic dislocation, can spell disaster.

Believers have no trouble affirming and celebrating the truth of their own religion. It is much harder, but equally important, for people

of faith to acknowledge the truth and legitimacy of other religions.

Today, it is no longer sufficient, much less desirable, for separate faith communities merely to live side by side. Instead, religious faith must provide a genuine spiritual mooring in a world where people who believe differently can live together in peace.

A theological underpinning would ensure pluralism's permanence no matter what the political, economic, or social conditions of a society may be. A pluralism rooted in religious affirmations is more enduring than even a well-intentioned sense of tolerance for the diverse spiritual beliefs that are extant among one's neighbors.

A theology of pluralism is also needed to complement the constitutional safeguards that are currently ours in the United States. Developing a theology of pluralism, however, must not be perceived as some kind of surrender to the contemporary age. It is not a "cop out" to the exigencies of modernity. Nor is a viable theology of pluralism an example of moral relativism in the modern age. It is a recognition that there is and apparently will continue to be a wide variety of religious expressions operating under a universal God.

Let me be clear: As a Jew who has lived through the middle and latter part of this century, I believe a strong religious pluralism is a necessary antidote, a powerful counterforce, to the horrendous totalitarianisms that have dominated so much of this century.

Obviously, in a century that has produced

fascism, communism, and Nazism, two world wars, the Holocaust, and endless ethnic and religious wars, the need for a viable, theologically rooted sense of pluralism is self-evident. In fact, it can be argued that modern totalitarianism, in whatever its evil form, is the absolute antithesis of the kind of pluralism I am advocating.

While some people think theology is a set of eternal beliefs etched in stone, I believe theology constantly changes from generation to generation. As we well know, in the past some theologians provided strong religious sanctions for believing that women, blacks, Jews, and American Indians were inferior human and/or spiritual beings. Fiercely held tenets about hell as a place of punishment after death are now challenged by the belief that we pay for our sins here on earth through guilt, shame, and disgrace.

Theological concepts attributing masculine characteristics to God are under severe attack. And theologians are constantly reinterpreting the Bible's meaning, the definition of prayer, the nature of God, and such concepts as sin, miracles, and revelations.

It is now time to devote the same energy, talent, and time toward the development of a theology of pluralism. And to that end, the second part of this paper is an exploration of establishing a Jewish religious foundation for pluralism. In this exploration, I want to thank Rabbi Alan Mittleman of Muhlenberg College, a former interreligious affairs specialist at the American Jewish Committee, for his insightful efforts in this important area of inquiry.

From the very beginning of its existence as a religious tradition, Judaism has had to confront, sometimes in friendly ways, sometimes in murderous hostility, the presence of other religious traditions. Through the long centuries, Jews and Judaism have been compelled to make sense of non-Jews and of religions that are not Judaism.

But then Christianity, Islam, Buddhism, and Hinduism have had similar problems of relating to their neighbors, and in some cases to adherents of a religion that predated their own. In the case of Christianity, this has created special problems because of its Jewish origins, its Jewish roots, and the claim, held by many Christians, that their religious faith is, in fact, the spiritual successor to Judaism.

While I certainly have some quite specific ideas and suggestions on the subject, Christianity's relationship to Judaism and, indeed, to other living faiths is best left to Christian theologians and scholars. But because our two faith communities are so interrelated by fate and faith, and by history and Scripture, neither I and my Jewish colleagues nor Christian theologians can act in isolation from each other. In a very real sense, "the whole world is watching" what we achieve, or fail to achieve, in the area of a theology of pluralism.

Two traditional Jewish teachings are helpful in articulating a theological case for pluralism. The first is the concept of the "universal" and the "particular" that is found in Judaism. That Judaism and its followers, the Jewish people, are a "particular" people and religion is a continuing leitmotiv. The Hebrew phrases *am s'gulah* (a

treasured people) and *am hanivhar* (a people chosen) represent this basic idea.

But always running as a parallel stream was the constant awareness of the perpetual dichotomy between being a particular religious community and living in a universalistic world, a world filled with diverse faiths and cultures. There is a rich diversity in God's world with which the ancient rabbis were fully aware.

The biblical story of the Tower of Babel represents a warning against an arrogant attempt to "depluralize" the world. Babel is an early expression of totalitarianism. It was perceived as a direct challenge of the ultimate universal force, God. The tower was an attempt to force a false unity down the unwilling throats of a diverse society. To my Jewish ears, the later cries of "error has no rights" and "only one way to God" are echoes of the Babel story.

A Jewish theology of pluralism can be successfully developed, it seems to me, by drawing upon the traditional rabbinical concept of the seven Laws of Noah as first articulated in the second century of the Common Era. Because of its source, in *Tosefta*, and because of its age, this Noahide concept cannot be simply dismissed as a modern invention cynically designed to meet the peculiar needs of our modern age.

On the contrary, the Noahide laws represent an early, earnest, and effective religious interpretation of the spiritual diversity that is a permanent feature of God's universe.

The children of Noah—that is, non-Jews—were required to obey seven specific laws: (1) the establishment of courts of justice, (2) the prohi-

bition of idolatry, (3) the prohibition of blasphemy, (4) the prohibition of bloodshed, (5) the prohibition of sexual immorality, (6) a ban on robbery, and (7) the prohibition of eating meat that was ripped from a live animal.

The rabbis carefully linked these seven laws to a time in history that predated the revelation at Mt. Sinai. By so doing, they were able to anchor the Noahide laws in a distant time frame, and not in their own generation. While Jews, following Sinai, are commanded to observe and carry out 613 divine commandments, people who are not Jews are obliged to fulfill only seven.

One of the best known rabbinic sayings, "The righteous of the world have a place or a share in the world to come," indicates that there is "salvation outside the synagogue." For Gentiles, *ha-goyim*, to be saved, it is not necessary to assume the yoke of the Torah that Jews have historically accepted. The biblical verses from both Isaiah and Micah buttress this belief: "My house is a house of prayer for all peoples" and "Let all the peoples walk each one in the name of God, but we will walk in the name of the Lord our God forever."

With its extraordinary emphasis on the prohibition of idolatry, the Noahide formula is a brilliant attempt to balance the universal with the particular as experienced by the rabbis 1800 years ago. Following the development of the Noahide laws, intense debate within Judaism still raged over the status of Christianity. Was Christianity a valid expression of religious truth? Or was it a form of religious idolatry, with its

emphasis upon a man-God? Did the Incarnation and the Trinity enhance the possibility of Christians becoming Noahides, or did these theological beliefs diminish that chance?

Do Christians merit the Noahide title? Is Christianity still intimately linked to the God of Israel, even though it takes a form different from Judaism? Should Jews engage in commerce and other forms of contact with Christians? Should the oaths and vows of Christians who invoke the name of God be accepted as truthful?

Since Jews are "already with the Father, the God of Israel," what is the position and status of Christians? Moses Maimonides, who had much greater contact with Islam, expressed doubts about whether Christianity had fully removed itself from idolatry. But other rabbis of the medieval period had more positive views of Christianity.

By the twelfth century, fully a thousand years after the rabbinic definition of Noahides, many rabbis had defined Christianity as a Noahide faith because of its reverence for the Hebrew Bible and its active attempts to bring the knowledge of the God of Israel to the world. While Jews and Christians clearly differed on biblical interpretations and on the precise knowledge of God, nonetheless, by the twelfth century, many Jewish religious leaders had granted Christianity a special status.

Despite my admiration for the authors of *Tosefta*, I am well aware that the seven Noahide laws carry us only so far in a quest for a theology of religious pluralism, and with it an understanding of Christianity. As many scholars have

correctly noted, the twentieth-century German Jewish philosopher Franz Rosenzweig reached roughly the same conclusions as the medieval rabbis, but he did so without employing the Noahide laws.

For Rosenzweig, who utilized modern philosophy, Christianity was the Gentile, non-Jewish way to reach God, but just as Gentiles can achieve spiritual salvation outside of Judaism, the reverse is equally true. Jews, "already with God" and rejoicing in the life of Torah, need no intermediary nor a change of religious identity to be saved, to be with the One God at the End of Days.

That being said, the early Jewish concept of a Noahide who obeys the seven prescribed laws represents an ancient theological legitimization of what today we call religious pluralism. Going one step further, the Noahide laws give legitimacy to pluralism because they firmly place pluralism within the will of God; they are a God-given doctrine of faith with all its caveats and limitations. If this is so, and I believe it is, it means that 1800 years ago rabbis were theologically affirming the value of non-Jewish religions.

And those same rabbis early recognized what is so apparent today: there will always be a wide spectrum of religious expressions, beliefs, and thoughts in God's world. Sadly, we have through the centuries tried many terrible ways to eliminate that God-ordained diversity. For some groups, it meant simply praying for the conversion of the "other." In other cases, it meant more than pious prayers. It meant forced

conversions, coercion, manipulation, expulsion, and worse.

And as every Jew keenly knows, throughout the past two centuries some Christians have trained their full arsenal of temporal and spiritual weapons upon the Jews. This assault upon Jews and Judaism on the part of Christians has frequently included the odious "teaching of contempt" by which the Jewish people and their religion were abased and attacked.

But to no avail. Religious diversity has endured; indeed, it has grown in scope and richness.

It is, after all these years, at last time to come to terms with religious diversity, and to cease all attempts to move Jews away from their traditional faith. Well publicized denominational resolutions, academic courses of instruction aimed at "evangelizing" Jews, and active campaigns of conversion that target Jews or any other group fly in the face of a God-ordained diversity that exists among God's children.

In this paper I have offered a starting place for developing a coherent Jewish theology of pluralism. I urge my Jewish sisters and brothers to move further in this quest. The concepts of the universal and the particular combined with the Noahide principles offer starting points, and are certainly not the end of the discussion, I also urge my Christian colleagues to go and do likewise.

We have tried everything but religious pluralism in the past, and in so doing we have inflicted terrible suffering upon those who do not

share our faith. Because of this wretched record, just perhaps, we can finally understand that religious pluralism might be the will of the God whom we all worship. •

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