

Political Speech and Action

At its last national conference in Washington, D.C., the Federalist Society included a panel, in which I participated, on religious speech in the political/legal arena. One of the standard arguments the panelists debated is that citizens, presidential candidates, and public officials alike should contend with one another on the basis of a common public reason and not on the basis of their distinctive religious convictions.

There are at least two difficulties with that standard argument. The first difficulty arises from the way the distinction is made between what is religious and what is common or public. The second difficulty lies in the argument's narrow focus on individual freedom versus government's universal mandates, a focus that typically overlooks institutional diversity and pluralistic policy options.

Consider first the distinction between religion and the public commons. If a state or political community recognizes the freedom of diverse faith communities, then, to be sure, the political community, which includes everyone, will be distinguishable from the diverse communities of faith. But the standard argument presumes that convictions and language fit for the political community can be separated from convictions and language fit for each of the diverse religious communities. The distinction takes for granted independent religious and secular realms each largely defined as the opposite of the other. Secular is *not* religious; religious is *not* secular. But this is not reality.

To distinguish a school from a bank, for example, is to recognize two different organizations, but we learn almost nothing about either of them if we define the bank as not a school and the school as not a bank. We need to know what each one is in its own right. Moreover, both are *human* institutions and have many interconnections: schools need money; bank employees must be educated; both contribute to the same society; both depend on the same fire and police protection and public utilities; the same human beings inhabit or use both institutions. Religious convictions, worldviews, and practices typically touch and shape the whole of life, including educational, economic, and political life. Almost everything about our American political system, for example, including the principle of religious freedom, is the outcome of agreements and conflicts in the Christian world of Catholic and Protestant Europe. Granting equal treatment to citizens of diverse faiths in our constitutional system does not set the political system apart from religious convictions; it just means that the political community is no longer constituted as a community of faith.

Furthermore, it is not true that the only thing people of diverse religions have in common is a public reason that can be separated from their uncommon faiths. Citizens may share the conviction that human dignity is a fundamental building block of political life precisely because it is fundamental to all of their diverse faiths. Yet at the same time they may differ on the public policy implications of that conviction. In other words, citizens may differ politically (in the arena where they are common citizens) while they may agree at a religiously deep level (even though they are members of diverse communities of faith).

For all of these reasons, it is perfectly legitimate to ask about the religious roots of the presidential candidates' political philosophies and agendas. Yet it is not right either to denounce or to approve a candidate simply because of his or her association with a particular church or pastor, as some are doing in identifying Sen. Barack Obama with the Rev. Jeremiah Wright. We must listen to the political candidates' own accounts of how their approach to government is rooted in the faith that shapes their lives.

With regard to the second difficulty of too narrow a focus, we should recognize that the Constitution's protection of religious freedom is not narrowly about freedom of individual conscience. The First Amendment speaks of protection for the "free exercise" of religion without further qualification. The fact is that almost all exercise of religion is communal or associational in character. Moreover, the organizational exercise of religion is not simply a matter of worship in churches, synagogues, and mosques. Parents' decisions about how to educate their children and a faith community's decision about how to serve those in poverty are religious decisions for many people. If the government of a political community in which these very same people are citizens also has a stake in the education of children and the alleviation of poverty, there is no reason why government should not give the same treatment to religious parents and religious social-service providers as it does to so-called "secular" parents and providers. Government's obligation to protect the religious exercise of diverse communities of faith should mean equal treatment of all students regardless of the school (religious or otherwise) to which their parents send them and should mean equal treatment of diverse social-service organizations without regard to their religious or non-religious confessions. This would mean genuine public pluralism.

The First Amendment protects freedom of association as well as freedom of religious exercise. These two protections add up to much more than a requirement that government protect only individual conscience in private while remaining free to grant a public monopoly to an imaginary public reason in the political arena. The political commons should be an institutionally and religiously pluralistic commons and citizens should be able to support their political community of shared citizenship in the confidence that they may do so from out of their diverse points of view.

James W. Skillen, President
Center for Public Justice