

Cheryl Lau

Harvard University

delivered at the
International Coalition for Religious Freedom Conference on
"Religious Freedom and the New Millennium"
Berlin, Germany, May 29-31, 1998

It is a pleasure to be with you and to share my thoughts, as well as the thoughts of some of the students and the faculty at Harvard University, regarding religious freedom and spirituality in governmental policies. How auspicious it is for all of us to be in Berlin on the fiftieth anniversary of the Berlin airlift. Dr. Helmut Trotnow, Director of the Allied Museum in Berlin, said, "The fight in Germany for freedom and democratic rights began with the airlift. We learned that there are some things you can't take for granted."

What we also cannot take for granted is that religion may well be the most powerful, yet seriously unexamined force in the late twentieth century, on to the new millennium. Today, Europe and America are more religiously diverse than ever before. Moreover, millions of Europeans and Americans have rediscovered religious beliefs in recent years. Yet, in some countries, the secularizing legacy of science and of democratic and market-based cultures over the last two centuries have stripped religion of much of its influence in helping the public. On the other hand, the International Religious Freedom Report, which we received in our packet, has called our attention to discriminatory religious laws in Austria, that Reverend and Mrs. Moon were prevented from visiting church members in France and Germany; and the Sudan, which is breeding widespread rights violations with its push toward Islamic fundamentalism.

As we pose questions in addressing spirituality and government policies, let me weave in my experiences with values and government policy while I was in the United States House of Representatives, and what I saw with the media covering religious issues. Then we'll explore how public debate should handle religious issues, how successful government policies have been in protecting religion, and finally, religion's role in a European peace order.

Let's go to question number one. Whatever our beliefs or non-beliefs, how should we, as we work in government and public life, assess and respond to the political and policy claims of religiously based groups and issues?

I had a wonderful experience, being appointed General Counsel to the US House of Representatives by Speaker Newt Gingrich. I experienced, first hand, the international and

national issues that the House works on, and it has made me realize that government policy involves making choices among competing values. The process by which Congress shapes government policies involves intense advocates, who are concerned that the process not exclude or slight their particular point of view or constituency. It is important that the process of democracy, and the process of deliberation, give those competing voices a fair hearing.

At times, there may appear to be a lack of intellectual integrity that characterizes some of the choices in defining governmental policy, but it is partly a product of a zeal for a particular point of view, that overwhelms the impulse for integrity. I believe that everyone has within them that impulse. We need to do everything we can in our lives, both public and private, to nurture and keep alive a conscience that encourages us to believe in intellectually honest ways. Over the long haul, I have found that in public life, honesty and decency are recognized and rewarded. Those who think they are too clever, eventually discover that their credibility is increasingly questioned. They succeed for a time, but ultimately they do pay a price. There is justice. Sometimes it takes a while, but it does arrive.

The strength of our democracy depends, in part, on an underlying set of values. These include fairness, respect for others, and intellectual integrity in the marketplace of ideas. Those who exhibit these qualities may well attract very little public attention, but what they do have is the satisfaction of a clear conscience, a knowledge that the qualities of character that are there, patiently waiting, and that what matters is at that end.

Working in state and federal government has brought me face to face with many reporters. I am going to exclude Mr. Alan Bach, who is right there in the back of the room with the Orange County Register, because he's very good and conscious about this. With other reporters, however, I've come to believe, as I read what the press covers and writes about news events I've actually been at and participated in, that it is difficult for some reporters to see and understand how religion, faith, and spirituality are having an effect on a broad range of behavior in the world. Ronald Thiemann, who is the Dean of the Harvard Divinity School, says, "Religion in public life is a dilemma for democracy and, heaven knows, it's a dilemma for us." A religious belief is not a qualification for becoming a reporter or an editor. But, without a passing knowledge of the role that organized religion plays in the country, reporters and editors are susceptible to using stereotypes of various religions. This in turn leads readers and viewers of all religions to have fairly strong stereotypes about the press, which makes dialogue all that much harder.

The faith factor in people's lives is extraordinary, but journalists have a dilemma in reporting just the facts. Let me give you an example. A boat unfortunately sank. One survivor was confronted

by a reporter who asked, “How did you manage to get through alive?” The man said, “God got me through.” The reporter said, “Yes. But what really happened?”

There is a fundamental difference in the way most journalists see the truth, and the definition of truth accepted by many people of religious faiths. People of faith believe that what they believe is true, and journalists are trained to believe that it is their obligation to put what they hear or experience to a rational test, so that they can comprehend. For me there is a spiritual dimension to many news stories, and when journalists report on that added ingredient, they more accurately capture the human experience.

Question Two. How, in our pluralistic society, might we together conceive of an organized political and public space, in ways that allow for a vibrant and tolerant religious debate?

You know, there’s an old joke about the walled city of Verona. Over time, the population of the city grew and grew, and overcrowding became a serious problem. So, one day the bishop decided something had to be done. He called in the chief rabbi, and this conversation began. The bishop said that the overcrowding in Verona had become unbearable. The Jews must leave. The chief rabbi protested, “Leave? But, we’ve lived here for generations. Shouldn’t we at least talk about so drastic a measure?” The bishop replied, “But who should talk? We could have a debate, but everyone in town cares about this issue.” So the rabbi proposed, “Hey, we could talk in the amphitheater. There is room there for everyone.” The bishop replied, “But no one could hear us there. We will have a silent debate.” They agreed.

The big day arrived. Everyone turned out and watched expectantly as the bishop began. He raised his hand to the sky and the rabbi brought down his hand and pointed to his left palm. The bishop held up three fingers and the rabbi held up one finger. The bishop reached under his chair, pulled out a wafer, and placed it on his tongue. Then he pulled out a cup of wine and he drank it. The rabbi pulled out an apple from his chair and ate it. At that point, the bishop jumped up and he said, “You’re right. You’re right. The Jews can stay. We in Verona will have to find another way to solve our problem.”

A crowd gathered around the bishop, excited and perplexed. One person from the crowd said, “We followed that debate very carefully. What exactly was said?” “Ah, the man was brilliant,” said the bishop. “I said, ‘The Lord of all commands that the Jews leave Verona today,’ and the rabbi replied, ‘but the Lord is here in Verona with the Jews too.’ Then I said, ‘There are three aspects of the Trinity—the Father, the Son, and the Holy Ghost that will guide us on this matter.’”

The rabbi said, 'There is only one Almighty God, the King of the Universe.' I responded with the wafer and the wine, by explaining Jesus died for our sins so that we who accept him can be saved, but the rabbi replied with an apple, 'We are all the children of Adam and Eve,' and he is right. We are in this all together. We will work it out together."

Another crowd gathered around the rabbi saying, "Rabbi, rabbi, what happened, what happened?" The rabbi responded, "I have no idea. The bishop said, 'The Jews of Verona have to leave today,' and I said, 'We're staying right here.' He said, 'We'll give you three days to pack.' I said, 'We'll take one week.' Then he ate his lunch, and I ate mine."

The story shows the difficulty of communicating in a world of religious differences. Mindful of that difficulty, let's speak of political liberalism. The central task of liberalism is to guard against the irresolvable political differences generated by diverging religious views. In political liberalism, we respect our fellow citizens' moral and religious convictions by ignoring them, by leaving them undisturbed, and by carrying on political debate without reference to them.

But, this isn't the only way to understand the mutual respect which democratic citizenship depends upon. We should worry about a call for public discourse that rules out religious language, motives, and statements. Such a conception seems to require a strange, and perhaps even impossible, separation between religion and other sources of people's most deeply held values, purposes, and appeals to one other. Do you know what it does? It risks denying the participant the chance to offer witnessing, on the basis of religion or moral beliefs, that may well depart from those occurring within generally accepted views. It risks denying the participant the chance to appear in public discourse, as a person living a way of life and participating in public debate, by offering that as the example.

Is religious discourse acceptable public speech? We can't determine that in advance, but we must allow religious argument to be heard, and then evaluate it on the basis of our democratic principles and constitutional ideas. Further, from speech, there is conduct. Thomas Jefferson is said to have believed that religion should be perfectly free, as long as it is perfectly private in belief, but it must bend to the political will as regards conduct.

In 1990, in its ruling on the Oregon case *Employment Decision vs. Smith*, the US Supreme Court upheld this distinction between belief and practice. The court held in *Smith*, that ceremonial use of peyote by members of the Native American Church could be criminalized by a general prohibition on illegal drugs. This was a stunning defeat for the entire cause of religious

liberty because it retreated drastically from the long-standing interpretation of the free exercise clause of the First Amendment.

Then, the Religious Freedom Restoration Act was born in 1993, because of the widespread rejection of the Supreme Court's decision interpreting the Bill of Rights. In its final form, this Religious Freedom Restoration Act provided that the government may not substantially burden a person's exercise of religion unless the government shows compelling governmental interest, and is the least restrictive means of furthering that compelling governmental interest. This restored the protections for free exercise that existed prior to Smith. Then, last year, the Supreme Court overturned this Religious Freedom Restoration Act, arguing that a constitutional amendment was necessary to undo its decision in Smith.

Right now, in the United States, there may be a constitutional amendment concerning the desecration of the American flag. Following the court's decision, the Native Americans retained the right to use peyote under the American Indian Religious Freedom Act of 1994. Nonetheless, many American Indians with whom I have spoken feel that the court's decision is symbolic of the federal government's generally confrontational stance against indigenous religious traditions.

Question three. If we believe in God, or in humanly transcendent forces that exercise moral claims, however defined, how can we as people in public and government life live and act in concert with our beliefs, especially in our religiously diverse world?

In 1990, three devout Muslim girls appeared at their school in a suburb of Paris with their heads covered. For some orthodox Muslims, the practice is required when men are present. The headmaster in Paris barred the girls from class, claiming that a secular school is no place for the display of religious loyalties, and that religion must be left at the door lest it introduce division and strife into an otherwise harmonious educational process. Well, this incident caused a political row in France that raised worries for the future. One worry was how France was to assimilate its immigrants. The other was not about the friction between Muslims and non-Muslims. It involved the growing split between the devout of all creeds, who want more to say for religion in public life, and others who think religion is best left a private affair.

Similar things have been occurring in the UK. Muslims began demanding equal rights to separate Muslim schools, such as Catholics and Jews have. They want, they said, to protect their children from what they regard as the corrosive effects of modern British society. They

talked about the breakdown of the family, the loss of respect for elders, and sexual permissiveness. The government has been reluctant to comply. One cannot be British on one's own exclusive terms, or on a selective basis, a representative of the home secretary's office responded. Rather than isolating themselves, there is need, said the government, for commitment on the part of the immigrants to full integration and active participation in the mainstream of society.

These tensions have already had their political effects in the UK, as they have in France, and they are likely to continue to do so. These examples raise the most basic questions of equal rights and freedoms for religious, ethnic, and cultural expression on the part of all citizens and residents of West Europe. But, the questions were most sharply and dramatically posed by the Salman Rushdie affair, provoked by the publication of Rushdie's novel, *The Satanic Verses*. All the pent-up emotions associated with these deep cultural tensions surged to the surface with the Ayatollah Khomeini's startling demand that Rushdie be killed for what was regarded as an attack on Islam. There was, of course, an immediate storm of protest in Europe and the United States. Individuals and groups in the United States rallied to the defense of the rights of freedom, of conscience, and free expression. The columnist Anthony Lewis remarked that liberal values are the ones at issue; namely, freedom of mind and word, openness to contrary opinion, and unwillingness to let the individual be swallowed up by the state, the party, and the church. Western nations are committed, bound by the international human rights instruments. Documents, such as the European Convention on Human Rights, obligate the twenty-three members of the Council of Europe, specifically requiring that everyone have the right to freedom of thought, conscience, and religion.

Each of these human rights does raise serious questions about the campaign against Rushdie. The death sentence pronounced by the ayatollah against a subject of the UK for blasphemy was hardly the result of due process by a relevant court. Yet, the law of blasphemy in England and Wales protects only the Christian religion, as Clinton Bennett told us this morning, and thus can't apply to Islam, or for that matter to any but the version of Christianity legally established in England. The justices of the high court admit that the law constitutes a strange dictum, owing to the anomaly of an increasingly plural society where there are no longer any restraints or restrictions on those practicing religions other than Christianity. The law should, in fairness, be extended to protect all religions, but this is dismissed with the claim that where the law is certain, as it is believed to be in this case, the courts may not alter it. Parliament alone may do it.

In the interest in of achieving a European peace order, it may be necessary for government to face and try to resolve the conflict of cultures. The first step in this direction is an awareness, all around, of how complex and how involved the subject is. The second step is having more government officials, like Senator Bob Coffin and Assemblyman Pat Hickey, to participate in

conferences such as this, the International Coalition for Religious Freedom, because their legislative expertise will help us to keep or place free expression, and the exercise of free conscience into our governmental policies. Perhaps then we'll find where the limits lie, when considering the interests of public safety, and the protection of public order. These concepts pose the thorniest of dilemmas for any government. The architects of religious freedom in Europe, in proceeding toward this new millennium, must work on this task with clarity, purpose, and spirituality. Above all, compromise and cooperation are needed to transform the dreams of a new Europe into the reality of a durable and democratic governmental structure.

GFDull@worldnet.att.net