

RELIGION IN THE MILITARY

FINDING THE PROPER BALANCE

Barry W. Lynn

Questions about the proper role of religion in the US military have intensified in recent years. Allegations have been made of favoritism toward evangelical Christianity. At the same time, some service members from minority faiths or who have no religious interest have claimed that their rights are not respected.

The men and women serving in our nation's armed forces are entitled to the same right of religious freedom as members of the general public. However, military service does present unique circumstances and concerns that are not present outside of the military context. In most walks of civilian life, for example, it would be unacceptable for the government to use tax funds to provide chaplains and pay their salaries. In civilian life, religious leaders and houses of worship are supported by voluntary donations, not government support.

The military context is different. Service members are usually stationed away from their homes and may even be sent to foreign lands. These individuals are not able to worship at their home congregations and may in fact be many miles (or even an ocean) away from any congregation they would recognize or feel comfortable attending. Some accommodation must be made for them.

The military chaplaincy was created to provide for this need. Chaplains are charged with an unusual mission that has few, if any, exact parallels in the civilian world: providing for the religious needs of a variety of individuals, including a wide array of Christian faiths and non-Christian beliefs as well. While chaplains are not expected to personally provide every religious service or ritual requested, they may be asked to facilitate others' worship by supplying materials or religious texts or arranging places where believers can meet.

The military's hierarchical nature also presents unique challenges for religious-liberty issues. In the civilian world, federal laws prohibit religious discrimination and provide some measure of protection to employees from unwanted proselytism. It is difficult to replicate this structure in the military context. The hierarchical nature of the chain of command and the military's need to stress discipline can make it difficult for a subordinate to feel entirely comfortable challenging a superior. Thus, any allegation of religious pressure down the chain of command requires heightened scrutiny.

Americans United for Separation of Church and State has been following the issue of religion in the military closely since 2005, when reports reached the organization of improper proselytization, religious coercion, and religious discrimination at the Air Force Academy in Colorado Springs. At that time, Americans United examined many of the complaints and prepared a report, which was later included as part of an official government investigation of the problems at the Academy.¹

Americans United's interest in the issue did not end with the issuance of that report. Americans United has continued to work alongside the Military Religious Freedom Foundation to make sure that religious liberty is respected in the military.

The Roots of Religious Liberty

Members of the armed services are responsible for protecting American freedoms. Unfortunately, it's quite possible that some of them don't know the origin of some of those freedoms. During the debate over religious liberty at the Air Force Academy, several national organizations attacked the stands taken by Americans United and the Military Religious Freedom Foundation. Some claimed that Americans United and the Military Religious Freedom Foundation are hostile to religion and even that separation of church and state is not a valid constitutional concept.²

The First Amendment guarantees five core freedoms: religion, speech, press, assembly, and petition. In the case of freedom of religion, the core right is expressed in just 16 words: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Originally a prohibition on Congress, the First Amendment—and indeed other portions of the Bill of Rights—has now been extended to the states through the Fourteenth Amendment. The words of the religion clauses encompass two key concepts: The government will not make laws that foster an "establishment" of religion (or give any or all religions special preference), and the government will protect the right to engage in religious activities.

This is the genesis of the separation of church and state. Note that the First Amendment does not say that the government will not create an official church, as existed in Great Britain and many other nations at the time the amendment was drafted. Rather, it bars laws "respecting an establishment of religion." The Founders wanted something stronger than a mere ban on a national church, and their words have been interpreted to mean that government will not make laws that advance religion or interfere in theological matters.

At the time the First Amendment was drafted, many states had established churches. Some required people to pay church taxes. Thomas Jefferson and James Madison were great opponents of this system and worked together (aided by dissenting clergy) to end the established church in Virginia and pass a law guaranteeing religious liberty for everyone—Christian and non-Christian.

This law, the Virginia Statute for Religious Freedom, is considered by many scholars to have been a model for the First Amendment. Although Jefferson was in France when the Bill of Rights was written, his influence is felt through his collaboration and correspondence with Madison, who was in many ways Jefferson's protégé. Jefferson, for example, wrote the Virginia Statute for Religious Freedom, but it was Madison who pushed it through the legislature and made it law.

Jefferson and Madison had nearly identical views on religious freedom. Both saw coercion and state sponsorship of religion as a great evil. In this thinking, they were probably influenced by the many centuries of religious warfare and bloodshed that had plagued Europe, as both men were keen students of history.

Yet Jefferson and Madison were not hostile to religion. Evidence for this is found in the great outpouring of support they received from religious leaders. Many members of the clergy were weary of government's attempts to control religion and eagerly endorsed the efforts of Jefferson and Madison to sever the tie.

Jefferson and Madison did not bequeath us a "Christian nation." The United States has never had an established church, and our Constitution grants no special preference to Christianity. In fact, there is only one reference to religion in the Constitution proper: Article VI bans "religious tests" for federal office. The Constitution contains no mention of God.

Again, none of this was done out of hostility toward religion. In fact, the Founders believed that decoupling church and state would lead to a great flowering of religious freedom and diversity in America. Time has proven them right. Some scholars have estimated the number of distinct religious denominations in the country to be as high as 2,000, while people who say they have no religion account for a growing percentage of the population.

The phrase "separation of church and state" was used by both Jefferson and Madison to describe the First Amendment.³ Madison, one of the primary authors of the First Amendment, is considered authoritative on this matter. As president, he vetoed attempts to give churches federal support and even expressed reservations about issuing proclamations calling for days of prayer and fasting. (Jefferson did not issue them at all.)

Madison also had concerns about chaplains both in Congress and in the military.⁴ Madison worried that any entanglement between religion and government would be to the detriment of both institutions.

Despite Madison's concerns, the constitutionality of the military chaplaincy does not appear to be in doubt. A challenge to the chaplaincy on establishment clause grounds was launched in 1979 by two students at Harvard Law School. The case, *Katcoff v. Marsh*, eventually reached the Second US Circuit Court of Appeals, which ruled that the chaplaincy is constitutional, since its primary objective is to ensure the free exercise of religion. (The issue did not reach the Supreme Court, but this is not surprising since the vast majority of cases filed in federal court never get that far.)⁵

The Second Circuit held that the chaplaincy is necessary since service personnel are often sent overseas, sometimes to far-flung places, where they might not

have a house of worship to join. The court did not address the issue of the chaplaincy at domestic military bases, many of which are served by nearby communities with a wide variety of houses of worship. Broadly speaking, the court affirmed the idea that the chaplaincy's permissible purpose is to facilitate the free exercise of religion in circumstances where the military has put people in a situation that otherwise burdens their ability to engage in their religious freedom.

Challenges and Coercion

As we examine this history, we can see its application to the challenges American society faces today, in both military and nonmilitary contexts. One is diversity. Religious diversity flourishes in an atmosphere of tolerance and respect. Our First Amendment, and its attendant church-state wall, have fostered that atmosphere. Yet Americans United found some resistance to these concepts among cadets and staff when it examined the problems at the Air Force Academy.

Another challenge revolves around questions of sharing faith and allegations of proselytism. In civilian contexts, individuals are free to share their faith and invite others to explore it. Indeed, many Christians consider efforts to spread their faith part of the "Great Commission" handed down to them by Christianity's founders. But in hierarchical structures, efforts to share faith are sometimes perceived as unwanted and unwelcome forms of coercion. Concerns are often expressed that efforts to resist such coercion could affect job advancement.

Again, Jefferson and Madison provide some guidance. Jefferson and Madison believed there should be no state-sponsored coercion in religious matters. Thus, in the military context, there must be no sponsorship of events or actions designed to convert someone or to promote certain faiths over others. Interpersonal relations can be guided by commonsense rules: One invitation to attend church may be acceptable. Repeated invitations after no interest has been expressed or implications that acceptance of such invitations is the key to advancement/promotion are not welcome and may in fact be unlawful.

In short, we can say that America's doctrine of church-state separation contains three central concepts:

No coercion in religious matters: Individuals must be free to embrace or reject any faith. People have the right to change their minds about religion. The decisions people make about religion—which group to join or whether to join any—are private and are no business of the government.

No one should be expected to support a religion against his or her will: Support for religion—financial, physical, and emotional—must be voluntary. No American should be taxed to pay for the faith of another. All religious groups must be supported through voluntary channels.

Religious liberty encompasses all religions: Americans may join any number of religious groups. In the eyes of the law, all religions are equal. Larger groups do not have more rights than smaller ones. No group was meant to have favored status or a special relationship with the government.

Recommendations for the Military

How should these concepts be applied in the armed services? Americans United believes adoption of the following set of principles would help the military deal more effectively with potential religious liberty concerns. Please note that some of the concepts may reflect current military policies or regulations. The problem is, they are apparently not being enforced with vigor or seem occasionally to be ignored entirely. This must change.

End all sponsorship or other direct support of evangelistic rallies or events designed to persuade service personnel to adopt a certain set of religious beliefs. No branch of the government, including the military, should sponsor an evangelistic event. This includes rallies featuring proselytizing preachers, "Christian rock" bands, revivals, seminars that are in reality covers for evangelism, and similar events. It is not the job of the military to coerce service personnel to adopt new religious beliefs, discard the ones they have, or affiliate with a religious body. The military is required to accommodate the religious needs of its soldiers. This is a far cry from promoting religion.

Reform the chaplaincy. We must return the chaplaincy to its traditional role. Chaplains should be facilitators of religious worship, not promoters of their own faiths. A chaplain's role is to assist soldiers in discharging their religious duties. In some cases, this may involve leading a religious service, but in others, a more passive role might be played. Chaplains must be willing to work with and respect a variety of religious believers. Those who wish to engage in the elevation of one religion over all others or in proselytizing activities on behalf of their own faiths are not good candidates for the chaplaincy. (Obviously, a chaplain has the right to discuss his or her faith if approached and asked about it, but spreading a particular version of religion should not be viewed as the chief goal of the job.)

The armed services might consider moving back toward rules that were in place in the 1980s that roughly proportioned chaplains according to the religious demographics of the military as a whole. Currently, the chaplaincy seems to be heavily tilted toward evangelical/fundamentalist denominations. Members of these denominations often represent traditions that place a premium on recruitment of new members and the aggressive spreading of their particular interpretation of the gospel. They view service members as a "mission field" and consider it their calling to proselytize on behalf of their own faith.

This view is at odds with the traditional view of the chaplain. Individuals who adhere to this perspective will probably make poor chaplains, since their main goal is to win souls for their own religion, not assist individual soldiers with whatever religious needs they may have. These aggressive forms of proselytism are bound to increase friction and interfaith tension in the military. This runs counter to the stated goals of the armed services. Thus, there is nothing wrong with the military leadership acknowledging this fact and screening potential chaplains to determine their views on these issues. Those whose main goal is proselytism should be rejected for service.

In 2008, an Army chaplain from the Unitarian Universalist tradition, writing on a personal blog, reflected on his decision to serve in the armed forces. In doing so, the chaplain provided a succinct description of what a chaplain's job should be:

My primary duty as a military chaplain is to insure that all of the soldiers under my care are given the necessary time, space, materials, and freedom to practice their religion. It is not to proselytize, to convert people to my faith, or to hinder those who hold a faith other than my own. It is to insure that I help soldiers to explore and connect deeper with the religious faith they are called to, be it Christianity, Buddhism, Judaism, Islam, Atheism, Humanism, Paganism, Wicca, Hinduism, or anything else.⁶

This paragraph should be required reading for any individual interested in entering the military chaplaincy. Anyone who is not willing to respect these principles should consider alternative employment.

View skeptically extra-legal claims by conservative religious and legal organizations. Some conservative groups claim that chaplains have a religious-freedom right under the First Amendment to proselytize. This assertion is unlikely to stand up in court. In the 1980s, a chaplain at a Veterans Administration hospital sued under Title VII after he had been told to stop proselytizing by his superiors.

The Seventh US Circuit Court of Appeals ruled that the hospital had the authority to curb the chaplain's actions. Although much of the opinion deals with this aspect of the dispute, one section did state that the Veterans Administration may also have the duty, under the establishment clause, to crack down on proselytism. Observed the court in *Baz v. Walters*:

The V.A. provides a chaplain service so that veterans confined to its medical facilities might have the opportunity to participate in worship services, obtain pastoral counseling and engage in other religious activities if they so desire. If there were not a chaplaincy program, veterans might have to choose between accepting the medical treatment to which their military service has entitled them and going elsewhere in order to freely exercise their chosen religion. This itself might create a free exercise problem. (The First Amendment "obligates Congress, upon creating an Army to make religion available to soldiers who have been moved by the Army to areas of the world where religion of their own denominations is not available to them.") But, at the same time, the V.A. must ensure that the existence of the chaplaincy does not create establishment clause problems. Unleashing a government-paid chaplain who sees his primary role as proselytizing upon a captive audience of patients could do exactly that. The V.A. has established rules and regulations to ensure that those patients who do not wish to entertain a chaplain's ministry need not be exposed to it. Far from defining its own institutional theology, the medical and religious staffs at Danville are merely attempting to walk a fine constitutional line while safeguarding the health and well-being of the patients.⁷

Remind chaplains of the distinction between public and private events. It is to be expected that there would be a difference between a private funeral service for a fallen soldier and a public event, such as an induction or graduation ceremony. A private funeral will reflect the religious views of the deceased and

will feature prayers, worship, and liturgy that come from that tradition. It should also be done in consultation with the family members of the deceased and reflect their wishes, not the chaplain's.

A public event is different. The audience will consist of service personnel of many religious traditions (as well as those who hold no particular beliefs). Secarian prayer, proselytism, and other denomination-specific practices are inappropriate at such events. If there must be prayers at public events, they should be nonsectarian. Furthermore, the military should adopt policies stating that any chaplain who takes advantage of a public event to proselytize or promote his or her specific faith should be corrected.⁸

It is fair to point out there is some debate over what constitutes "nonsectarian" prayer. People may differ on whether terms such as "Lord" or "God the Father" are appropriate. That discussion will continue, but as it does, it should be noted that there is a consensus on what types of prayers are not nonsectarian. Those that end "in Jesus' name" or reference specific tenets of a certain faith do not meet that standard.

The chief of chaplains for each respective branch should take the lead in ensuring that public events do not become occasions for proselytism. Manuals and other materials distributed to chaplains should stress this issue, if they do not already do so. Furthermore, there must be enforcement. A chaplain who knowingly and repeatedly violates these standards should be disciplined in the same manner any other officer would be for disregarding orders or violating policy.

Religious coercion along the chain of command should be banned. High-ranking officers should be reminded that there is to be no religious coercion or pressure through the chain of command. Officers should never show preferential treatment to coreligionists, pressure subordinates to join their faith, or imply to subordinates that adopting different religious beliefs will be advantageous. Those who do should be held accountable through the proper channels. How, where, and when someone worships should be a private matter. An individual's religious preference should have no bearing on performance reviews, promotion, or duty assignments.

The military should strive to instill a healthy respect for religious diversity in all of its officers. This issue can be discussed at an appropriate point during officer training. The logical place for such a discussion is alongside instruction about racial diversity and what constitutes sexual harassment. The military strives for a workplace that does not tolerate racial discrimination or sex-based discrimination. Likewise, it should not tolerate any form of religious discrimination (or its converse, preference based on shared religious beliefs). Existing policies that cover racial and sex-based discrimination can most likely be modified to address religious issues.

Military leaders must understand that a good soldier can hold a variety of beliefs or nonbeliefs. Men and women of many different backgrounds feel called upon to serve their country through the armed services. Many are Christians, but others represent non-Christian traditions or nontheistic approaches to life.

Unfortunately, the mind-set of some military leaders seems grounded in simplistic “God-and-country” rhetoric—that is, their belief is that one cannot be an effective soldier unless one has also adopted, at the very least, some form of religious belief. At its most extreme, this view manifests itself as “Christian soldier” rhetoric—the belief that the most effective soldiers are those who view their work as an evangelistic mission or those who loudly proclaim to have a personal relationship with Jesus Christ.

These are dangerous views, and they are fallacious as well. There are indeed atheists in foxholes. They have always been there and always will.⁹ Effective soldiers come from many different religious and nonreligious traditions, just as they come from different racial and socioeconomic backgrounds.

Service personnel should have a better understanding of our rights and their origins. Members of the military are expected to defend American rights and freedoms, possibly sacrificing their lives for them. It is difficult to expect anyone to do such things if these freedoms remain abstractions or are shrouded in obscurity.

As part of their regular classroom training, military personnel should be told about the rise of religious freedom in America. They should be told how our nation came to be home to so many different religious beliefs and taught about the role separation between church and state played in securing these liberties. It is not safe to assume that this information is common knowledge among the American people. Public-opinion polls show that is not the case.

Soldiers should be taught to respect religious differences. It should be made clear to them that respecting someone else’s religious choice in no way de-emphasizes their own. A soldier can truly believe that his chosen faith is “right” and “true,” while still respecting a fellow soldier’s decision to affiliate with another faith group. There should be zero tolerance for those who fail to respect the views of others or who engage in activities such as slurs or assault due to religious differences.

In recent years, some public schools have adopted curriculum materials designed to instill respect for religious pluralism. This material could easily be adapted for military use. Such materials are not designed to change anyone’s religious views; rather, they stress the point that people can believe deeply in their own faith tradition while still respecting the equal rights of others and working toward common civic goals.

End the quasi-official status of evangelical groups. Several evangelical organizations seek to convert members of the military. This is their right, but they must do so outside of official channels. These organizations have no right to use the power and prestige of the military to spread religious messages.

In 2006, a group called Christian Embassy came under scrutiny after it released a video that included interviews with several high-ranking military officers at the Pentagon. The Department of Defense’s inspector general later concluded that seven officers acted inappropriately by appearing in the film, which Christian Embassy used for fund-raising.

It was also reported that the group had free access to the Pentagon. In fact, during the investigation, some officers told the inspector general that they believed Christian Embassy had some type of permission or authority to be in the Pentagon. The office recommended that the organization's special access to the Pentagon be discontinued.

Following the Christian Embassy flap, other reports surfaced of close relationships between branches of the military and evangelistic organizations. In May 2007, Americans United and the Military Religious Freedom Foundation protested Army and Air Force sponsorship of an evangelistic rally at Stone Mountain Park in Georgia. The event was sponsored by Task Force Patriot USA, a group that says it exists for "the purpose of sharing the fullness of life in Jesus Christ with all U.S. military, military veterans and families." Military cosponsorship of the event was subsequently dropped.¹⁰

Branches of the military should cease working with these organizations. The military should not sponsor evangelistic events or even promote them. Doing so may imply that the military endorses a certain brand of Christianity. The military, as an arm of the government, may not endorse any form of religion. Enforcement of this basic constitutional principle must come from the highest sources and filter down the chain of command.

Conclusion

The First Amendment guarantees all Americans religious-freedom rights. At the same time, the unique demands of military service place special controls and regulations on religious free exercise that might not survive in other contexts.

The military may, for example, place restrictions on efforts by service personnel to proselytize the native population of Muslim nations or ban such activity outright. Such regulations have been promulgated and are in effect in both Iraq and Afghanistan. The belief is that efforts to convert Iraqis and Afghans from Islam to conservative Christianity reinforce the perception that the United States is engaged in a type of "religious war," which could disrupt efforts to bring stability and effective governance to both nations.

We believe that the military may exercise control over and curb activities by chaplains and other military personnel, since those persons are acting as official agents of the government. Such controls would likely not survive in a civilian context, nor would they be desirable. In the military, they are both needed and required.

Likewise, it is not unreasonable to expect officers in a hierarchical chain of command to refrain from religious coercion or from closely aligning themselves, in an official capacity, with certain religious groups at the expense of others. A theologically diverse military that reflects the makeup of the nation at large is in our country's best interest.

These regulations are not designed to stifle religious freedom. To the contrary, requiring chaplains to be respectful of all faiths and to refrain from engaging in heavy-handed forms of proselytism protects religious liberty.

Demanding respect for religious pluralism along the chain of command is not just reasonable, it is vital.

At all times, any soldier is free to explore the faith of his or her choosing. But that act must be voluntarily initiated and free of even the hint of coercion. A military whose chaplaincy or hierarchy is too closely aligned with one narrow expression of Christianity and sees its goals partly in theological terms (“saving souls,” “winning converts for Jesus,” “advancing the kingdom,” etc.) is bound to eventually fail to meet its objectives and end up doing a disservice to the very people it is pledged to support—the American public.

Notes

1. The Air Force report can be viewed at http://www.foxnews.com/projects/pdf/HQ_Review_Group_Report.pdf.
2. This historical review is based on several sources, primarily Isaac Kramnick and R. Laurence Moore, *The Godless Constitution: The Case against Religious Freedom* (New York: W. W. Norton, 1997); Leo Pfeffer, *Church, State, and Freedom* (Boston: Beacon Press, 1953); and John M. Swomley, *Religious Liberty and the Secular State: The Constitutional Context* (Buffalo, NY: Prometheus Books, 1987).
3. Jefferson’s famous letter to the Danbury Baptists, which contains the “wall of separation between church and state” reference, can be read at <http://www.au.org/resources/history/old-docs/jeffersons-letter-to-the.pdf>.
4. See Madison’s “Detached Memoranda,” at http://press-pubs.uchicago.edu/founders/documents/amendI_religions64.html.
5. See full text of the ruling at <http://www.usafa.edu/isme/ISME07/Rosen07.html>.
6. Collected from <http://celestiallands.org/wayside/?p=62>.
7. The full opinion may be read at <http://openjurist.org/782/f2d/701/baz-v-n-walters-sh-d>.
8. The US Supreme Court has endorsed this standard for prayers held before meetings of government bodies. See *Marsh v. Chambers*, <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=463&invol=783>.
9. The Military Association of Atheists and Freethinkers maintains a list of active-duty and retired service personnel who identify as nontheistic. It can be viewed at www.maaf.info/expaif.html.
10. See <http://www.au.org/media/church-and-state/archives/2007/07/military-backs-a.html>.

About the Author

The Reverend Barry W. Lynn is the executive director of Americans United for Separation of Church and State, a Washington, DC-based organization dedicated to the preservation of the Constitution’s religious liberty provisions. In addition to his work as a long-time activist and lawyer in the civil liberties field, Lynn is an ordained minister in the United Church of Christ, offering him a unique perspective on church-state issues. A member of the Washington, DC, and US Supreme Court bars, Lynn earned his law degree from Georgetown University Law Center in 1978. In addition, he received his theology degree from Boston University School of Theology in 1973. Lynn is the author of *Piety & Politics: The Right-Wing Assault on Religious Freedom* and a coauthor of *First Freedom First: A Citizen’s Guide to Protecting Religious Liberty and the Separation of Church and State*.