

Religion, the First Amendment and America's Public Libraries

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When religion is mentioned in the same breath with libraries, censorship often pops into the minds of many Americans. It is certainly easy to find accounts of religiously motivated attempts to censor. Even a casual review of a popular guide to challenged materials will reveal a religious element in a significant number of cases (Doyle, 2004). The *Banned Books* series devotes one whole volume to books challenged on religious grounds (Bald, 1998). In addition, many of the examples in its other three volumes document attempts to censor based on religious commitments (Sova, 1998). However, broader analyses of the relationship of religion and America's public libraries are more difficult to locate (Archer, 2000). This essay, an extension and expansion of the author's earlier work, explores that relationship.

Though concerned with religion and public libraries, most of the observations contained in this essay could be applied with appropriate adjustments to other types of libraries. For instance, libraries associated with private, religious institutions would need to be mindful of the mission of their parent bodies and the needs of their primary communities.

Throughout this article, two phrases will be used almost interchangeably, intellectual freedom and the freedom to read. The library community, as represented by the American Library Association, uses the phrase "intellectual freedom" to encapsulate in a single positive formulation its opposition to censorship and its advocacy of those freedoms affirmed in the first and fourth amendments to the Constitution of the United States. These are freedom of the press, speech, petition and assembly -- and an implied right to privacy. The Supreme Court has held that the freedom to receive information, that is to read, view, hear, access, explore and otherwise inform oneself as one chooses (usually simply referred to as the "freedom to read,") is an additional and essential corollary of press and speech freedoms (Board, 1982). If people are free to speak or print but not free to hear what is said or to read what is printed, these liberties would be meaningless (Chmara, 2006). Therefore the freedom to read (i.e., to access information) is virtually synonymous with intellectual freedom (ALA, 2010, p. xv).

Freedom of and from religion is often treated separately from other First Amendment freedoms. This study will, in part, examine their interrelationship. In order to place this complex relationship in perspective, it begins with a brief overview of the origins of both religious and intellectual freedom and their expression in the first amendment to the United States Constitution. This extremely brief history is followed by an examination of their place in American public libraries divided into four sections, Collections and Access; Meeting Rooms, Exhibits and Literature Distribution; Subject Headings and Labeling; and Personnel and Patron Issues

While reference to fundamental constitutional principles and relevant court decisions is essential in any such study, the author is not an attorney and makes no claim to legal expertise. Rather, he is a life long advocate of both religious and intellectual freedom, an ordained minister and a librarian. It is from and through those commitments that this examination has been conducted.

Religious and intellectual freedoms are both commonly considered to be human rights. The development of the concept of human rights has a long history which will not be addressed here. Suffice it to say that the most ancient origins of human rights lie in the texts of the world's religions as duty to brothers, sisters, neighbors and the stranger in one's midst (Lauren, 2003). In the West the most well known distillation of these concerns is the golden rule, "do to others as you would have them do to you" of the Judeo-Christian tradition. But this concept, whether in its positive (*do* to others) or negative forms (*do not do* to others), is not limited to the Abrahamic faiths. It exists with varying degrees of centrality in most of the world's religious traditions (Shared belief, n.d.). It affirms the basic value of each and every individual human being and has provided a strong religious basis for the codification of human dignity in law and custom.

So, while human rights as they are delineated today in the United Nations' *Universal Declaration of Human Rights* have much more recent political and secular roots, deep support for them can be found in the teachings of the world's religions. It is probably not sheer coincidence that these twin

rights are listed together as Article 18 (freedom thought, conscience and religion) and Article 19 (freedom of opinion and expression) in the *Universal Declaration* (United, 1948). In the American context religious and intellectual freedom are enshrined together in the first amendment to the United States Constitution. Here, as in the Universal Declaration, they are co-located if not explicitly linked -- protecting one's right to believe, think and feel as one will.

This apparent linkage is not capricious. When the composition and ratification of the Bill of Rights were being debated, the use of royal "licensing" for printers to suppress both political and religious dissent was fresh in the post-colonial mind. At that time it was difficult to separate the political and religious expression given the historical entanglement of church and state in the Great Britain.

One of the earliest and most vigorous English advocates of press freedom was the political and religious dissenter, John Milton. In his *Aeropagitica* he included both explicit political and religious examples while arguing for freedom of the press (Milton, 1958). Thus from its beginnings freedom of the press included protection for more than political opinions.

Roger Williams, the preeminent colonial champion of religious freedom was a colleague if not friend of Milton. It has been claimed that they worshiped in nearby congregations and attended Cambridge at the same time (Gaustad, 1999, p. 62). At the least, it has been established that Williams tutored Milton in Dutch during the time that Williams was completing the *Bloody Tenant of Persecution*, his essay on religious freedom, and Milton was completing the *Aeropogitica* (Chelline, 1982). If they did not directly influence each other, their passion for liberty, both religious and political, grew with certainty from the common soil of Puritan non-conformity.

Consequently, though a literal interpretation of intellectual freedom might limit it to affairs of the mind, from its conception, it was a much broader concept. It encompassed thoughts and feelings, reason and emotion as they interact to form both one's transitory opinions and one's most deeply held beliefs -- from the ordering of society and partisan politics to one's artistic tastes and entertainment preferences to one's faith commitments. It is in this broad sense that the freedom to speak, print and read about one's own religion or another's views of religion (pro or con) is an integral part of intellectual freedom. This reading of the first amendment as including *all* views in the freedom to read including religious views is crucial to validating the legitimacy of the presence of religious resources in America's public libraries.

In addition to being assumed in the freedoms of speech and the press, religious beliefs and practice were also singled out for special treatment in the first amendment. This should not be surprising given the history of the abuse of religion by religion and the state under the British crown. Persecution for one's religion in addition to one's politics was a continuing concern of the founders. Most of them, their parents or their grandparents had suffered some degree of religion persecution during the shifting tides of political fortune represented by the succession of the Civil War, Commonwealth and Restoration. They understood that religion demanded special recognition and protection.

The only mention of religion in the original articles of the Constitution is the prohibition of religious tests for public office found in Article VI. This mention was not strong enough to assuage these very real fears during the constitutional ratification process. An affirmation of the freedom of the press and of speech was not enough. Specific protection of religion from the state and the state from religion was required. Therefore, the first amendment affirms both the right to practice one's religion (or no religion at all) in addition to printing and speaking about it and prohibits the state from establishing any particular religion, thus forcing it upon its citizens. The two religion clauses of the first amendment are often summarized as providing freedom of, freedom for and freedom from religion.

The American Library Association's *Library Bill of Rights*, an application of the first amendment to American libraries, affirms in no uncertain terms that access to **all** viewpoints of interest to *all* people in a library's community should be made available to its users. There is no exception for the religious views of authors or readers -- or the lack thereof.

I. Books and other library resources should be provided for the interest, information, and enlightenment of *all [emphasis added]* people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting *all [emphasis added]* points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval (ALA, 2010, p. 49).

Though the Council of the American Library Association has approved formal interpretations of many aspects of its *Library Bill of Rights* including gender and sexual orientation, none has yet been developed specifically for religion. Nevertheless religion is included in “Diversity in Collection Development” an Interpretation of the *Library Bill of Rights*.

Over time, individuals, groups, and entities have sought to limit the diversity of library collections. They cite a variety of reasons that include prejudicial language and ideas, political content, economic theory, social philosophies, *religious beliefs*, [emphasis added] sexual content and expression, and other potentially controversial topics. Examples of such censorship may include removing or not selecting materials because they are considered by some as racist or sexist; *not purchasing conservative religious materials*; [emphasis added] not selecting resources about or by minorities because it is thought these groups or interests are not represented in a community; or not providing information or materials from or about non-mainstream political entities (ALA, 2010, pp. 108).

In other words, public libraries have the same obligation to provide access to religious materials as they have to provide access to any other subject, however controversial. The fact that religious materials may be offensive to some or promote a particular point of view is irrelevant. Readers remain free to choose those views they wish to examine for whatever purpose. This approach is a direct application of the freedom to read independent of the religion clauses of the first amendment.

In spite of this understanding some have argued that providing religious materials which advocate a particular viewpoint (as opposed to merely describing viewpoints) constitutes an unconstitutional establishment of religion due to the use of public funds in their purchase. If a library were to limit its religious collection to materials representing one point of view, one denomination or one religion or even all religions but excluded anti-religious or non-religious views, it could rightly be accused of establishing religion in particular or in general. However, if it treats religion and religious topics as it does all others -- collecting a variety of views for the edification of its users allowing scholars, non-scholars, advocates and opponents to have their say in their own voices -- it should be safe from any such accusation.

While there is little case law dealing specifically with religious materials in public library collections, the cases that do exist do not reference the establishment clause. Rather, when the

provision of religious materials has arisen, courts have based their decisions on the speech and press clauses of the first amendment rather than those of the establishment clause. They have held that while the Constitution bars the establishment of a particular religion, it in no way prohibits libraries from providing information *about* religion in general or particular (Mach, 2006).

Since there is little case law addressing religious materials in public libraries, an examination of the study of religion in public schools, while not directly applicable, can provide an additional helpful perspective. This is true because public schools operate *in loco parentis* and therefore within a more restrictive legal framework. Therefore, anything permissible in them is almost certainly permissible in the significantly less restrictive environment of the public library.

Several relatively recent reports are careful to delineate the difference between teaching religion and teaching about religion, between promoting religion and providing information *about* religion. For example, a report issued in 1995 by an extremely diverse, *ad hoc* collection of religious bodies representing many faith traditions and numerous disparate groups within those traditions states that

Students may be taught about religion, but public schools may not teach religion. As the U.S. Supreme Court has repeatedly said, “[i]t might well be said that one’s education is not complete without a study of comparative religion, or the history of religion and its relationship to the advancement of civilization.” It would be difficult to teach art, music, literature and most social studies without considering religious influences (Religion in Public Schools, 1995).

Another excellent resource, *Finding Common Ground: a First Amendment Guide to Religion and Public Education*, has been prepared and updated by the Freedom Forum at the First Amendment Center, Vanderbilt University (Haynes, 1996).

The history of religion, comparative religion, the Bible-as-literature (either as a separate course or within some other existing course), or examinations of other scriptures are all permissible public school subjects. It is both permissible and desirable to teach about the role of religion in the history of the United States and other countries. One can teach that the Pilgrims came to this country with a particular religious vision, that Catholics and others have been subject to persecution or that many of those participating in the abolitionist, women’s suffrage and civil rights movements had religious motivations. If one can teach about these subjects in a public school, it would only seem logical that one should

be able to go to a public library, find a book on the topic and teach oneself.

Unfortunately, given the wealth of religious material from which to choose and a limited budget (no budget is unlimited), even the most well intentioned librarian is likely to be accused of censorship by selection, of favoring one point of view over others. However, this is true of every subject from art to zoology. Librarians are charged with consciously building diverse collections to meet the needs of their communities. No matter how difficult the task nor how heavy the flak, not censorship but selection should be the prime professional duty (Asheim, 2006).

In addition to these highly principled reasons, there are other far more practical rationales for the inclusion of religion in a public library collection. If for no other reason than self-protection, a library should build a diverse collection of religious materials. Mike Wessells, an ardent defender of intellectual freedom and a Pentecostal minister, has frequently made the point to library professionals and religious conservatives alike that one need not fear a diverse collection. Its very diversity guarantees that one's own views will be represented in the stacks. The answer to objectionable material in a collection is not its removal. The answer is to add additional materials which represent other points of view particularly those of the people who presented the challenge initially (Wessells, 1995).

For example, during the 1970s and early 1980s public libraries were often criticized for not collecting materials which appealed to or represented conservative Christians (Thomas, 1983). While later studies have shown that this is no longer true, the point was well taken (Dilevko and Atkinson, 2002). Libraries with a community need for such materials have made a positive effort to see that they were appropriately represented. They followed the basic principle of more information not less, adding new materials not removing old materials to diversify their collections. Unfortunately, in some cases this has contributed to another controversy, that of labeling – which is addressed below. The establishment clause would, of course, enter the picture if one chose only one religion or selection of religions, or, for that matter, only materials which treated religion in a positive manner.

It is highly unlikely that librarians (or their library board members) want to be in the unenviable position of telling citizens that libraries can in theory (if not in practice) have every imaginable viewpoint represented on its shelves on every conceivable topic no matter how controversial or inconsequential but have nothing about religion. Besides, one need not have a religious connection or commitment to

have need for information about religion or religions. As with all topics, one may be opposed to and even offended by a particular religion and still have need for information about that religion. For example, at the American Library Association's 2005 Annual Meeting in Chicago Susan Jacoby, an independent scholar and author of *Free thinkers: a history of American secularism*, noted that it was access to a Bible in her neighborhood public library that led her to become a free thinker and opponent of organized religion (Marty, 2005).

Lastly, the very process of collection building may better prepare one to weather the storms of censorship which are sure to come. Any decent analysis of community needs will include contact with community leaders. If these contacts are seen as a positive opportunity to build relationships with local religious leaders, to create a network of library supporters whose information needs are being met and whose views are represented in one's library, then these folks may come to see themselves as insiders or stake holders in their local library rather than outsiders with no sense of ownership or participation. After all, it is their library too.

Meeting Rooms, Exhibits and Literature Distribution

Any discussion of the use of library meeting rooms and exhibit spaces must address the concept of the public forum. Traditional public forums are places such as public parks and sidewalks where anyone may express almost any view he or she wishes, i.e., to engage in any constitutionally protected speech. The only permissible constitutional restrictions are the time, place and manner of such speech. Content, with a few exceptions such as incitement to riot, obscenity, and slander, may not be restricted. Religious groups throughout the country regularly use such space for many purposes including fellowship, recreation, education and worship -- on the same basis as other community groups.

Public libraries themselves are designated public forums for the express purpose of providing the public with a place to receive (read, view, listen to or otherwise access) constitutionally protected "speech" (information). Libraries may enact and enforce reasonable rules of behavior to facilitate that purpose (Kreimer, 1992). Space within public buildings in general and libraries in particular may be further designated as limited public forums (for example, meeting rooms, auditoriums, reading rooms and exhibits spaces) while other areas may be defined as non-public forums (for example, staff meeting rooms, or training facilities). The definition of appropriate use for a limited public forum may be very broad, such as a community meeting room (available to all community groups), or very narrow, such as the reference area

reading space (for reading) (Minow, 2003, pp. 226-227).

Libraries are free to establish limits on the use of such space as long as they are content and viewpoint neutral (Pinnell-Stephens, 2006). For instance, they may specify educational purposes only but not the subject of the educational activities or the view point of sponsoring groups. They may prohibit commercial activities as a whole but not favor one business over another. Libraries may prohibit or allow the serving of food and drink, prohibit the collection of any entrance fee, or ban amplified music. If a library tries to implement a content or viewpoint based restriction, they must meet the “strict scrutiny” test. And strict means strict.

As law professor Gerald Gunther famously put it, strict scrutiny is “strict” in theory and often “fatal” in fact. In order to survive a case that is judged under the strict scrutiny standard, the government (i.e., a library that restricts speech) must show that there is a “compelling interest” and that the measure is narrowly tailored to use the “least restrictive means” to meet that interest (Minow, 2003, p. 228).

Garden clubs, Young Republicans, stamp collectors, gamers, the KKK, and local religious groups should all be able to schedule such space on an equal footing. The only option would be to close the space to public use (Mach, 2006).

At least this has been the case until recently. In a December 2006 decision, the Ninth United States Circuit Court of Appeals in San Francisco ruled that Faith Center Church Evangelistic Ministries’ request to hold a worship service in a public meeting room in Contra Costa County’s Antioch library would violate the establishment clause of the first amendment. While rulings in several previous cases in other circuits involving public space in both public schools and public libraries have found that the free speech rather than the establishment clause applied in such cases, the Supreme Court refused to hear this case letting stand the Ninth Circuit’s decision. Thus, the constitutionality of religious groups using library meeting rooms for worship is now less certain (Egelko, 2006, p. B3).

The key factor in the Ninth Circuit’s decision was the use of the room in question for worship and the fact that the religious group specifically requested the room for that purpose. Other uses by religious groups, such as business meetings, prayer, or study, were not prohibited. It should also be noted that the Court did not rule that libraries should or must prohibit worship -- only that they could (Caldwell-Stone, 2007). In addition the Ninth Circuit’s decision is only binding within that Circuit which includes California, Oregon, Washington,

Arizona, Montana, Idaho, Nevada, Alaska, Hawaii, Guam and the Northern Mariana Islands.

Just to make things really interesting in *Citizens for Community Values, Inc. V. Upper Arlington Public Library Board of Trustees* a federal district court in the Southern District of Ohio ruled that a library could not prohibit a group from using a meeting room for worship that was otherwise available to community groups (Caldwell-Stone, 2008). Lastly, in a second *Contra Costa* case the United States District Court ruled on June 19, 2009 that, while the library in theory could ban worship, in practice its policy unconstitutionally entangled government in determining what constituted worship (Landgraf, 2009). Therefore, the American Library Association’s Office for Intellectual Freedom recommendation is that only time, place and manner restrictions for library meeting rooms remain the best (and safest) practice (Caldwell-Stone, 2007).

Exhibits raise similar issues. They are also a form of limited public forum – if the public is allowed to use the space. If any community groups are allowed to mount exhibits, all groups must be given equal access including religious groups. The recent Ninth Circuit decision is unlikely to be relevant for exhibits since it is rather difficult to imagine how an exhibit could be considered worship. The content of exhibits are subject to the same time, place and manner restrictions as meeting rooms. If the library itself mounts exhibits, it may run into legal difficulties over religious displays if those displays are celebratory rather than educational, if only selected traditions are represented, or if non-religious or anti-religious groups are excluded.

Literature distribution and bulletin boards also present challenges similar to community sponsored exhibits. Donated literature cannot be restricted based solely on its content though the time, place and manner most definitely can be used. For instance, a specific table or board in the lobby might be designated for distribution or posting along with rules for quantity, organization, frequency and cleanup.

Subject Headings and Labeling

Librarians organize, describe and display information in its many physical and virtual formats (e.g., books, serials, CDs, DVDs, microforms, documents, web pages, and ephemera) to facilitate user access to it. However, these same activities can create barriers to access when they discourage users by pre-judging content. For example, one only need reread Sandy Berman’s work on prejudicial subject headings to understand how easy it is to perpetuate injustice through the choice of descriptive terms (e.g., race, ethnicity, gender and religion)

(Berman, 1971). With the almost universal adoption of shared cataloging data, the elimination of prejudicial labeling in the form of subject headings has become a concern of the larger profession rather than the local public library cataloger.

Please note the difference between pre-judging the content of a publication and evaluating the presentation of that content. Book reviews, recommended reading lists and lists of award winners are one thing. Stereotyping and prejudicial labeling are another -- though the distinction may sometimes be subtle.

The local preparation of pathfinders and web pages and the development of labeling schemes (both textual and graphic) to guide users to resources of interest without prejudging the material or the user is another example of this drive to describe. Some of the less controversial labeling systems for fiction in wide use today are those employing genre headings such as "Westerns," "Mysteries," "Science Fiction," or "Romances."

However, the wide spread introduction of the label "Christian Fiction" has created quite a stir. "Christian Fiction" is certainly the preferred label by authors who write in this genre -- mostly conservative Evangelical Protestant Christians. On the other hand, there is a great deal of modern fiction that addresses Christian themes written by other Protestant, Catholic and Orthodox Christians (even by unaffiliated Agnostics or by Atheists) that are not so labeled. Some claim that the generic label "Christian" has been preempted by only a portion of the Christian community. On the other hand, some Protestant, Catholic or Orthodox authors object to being included under the label as recently used. If one persists in using such a label, in the interest of equitable treatment there remains the issue of finding suitable labels for other religions. Some libraries have taken an alternate approach and now use the label "Inspirational Fiction" to categorize all such material regardless of specific religious content -- or lack thereof.

Even more problematic is the use of graphic symbols. While a cowpoke's ten gallon hat might be innocuous for "Westerns," religious symbols (e.g., crescent moon, star of David or cross) could be problematic. Some consider the use of such symbols a violation of church-state separation. Some groups find them to be offensive. Simple color coding for various specialized collections keyed to a more nuanced guide to categories reduces (if not eliminates) most objections to one or two word, overly simplistic labels (Ralph and LaRue, 2005).

"Labels and rating systems: an interpretation of the *Library Bill of Rights*," recently revised, provides a helpful distinction between directional and prejudicial labels. It states that "Labels on library materials may be viewpoint-neutral

directional aids designed to save the time of users, or they may be attempts to prejudice or discourage users or restrict their access to materials. When labeling is an attempt to prejudice attitudes, it is a censor's tool (ALA, 2010, pp.155)."

If nothing else, the desire to provide guidance to religious fiction and other religious materials requires librarians to educate themselves as to the appropriate, non-prejudicial language employed and appreciated by the various religious groups which fill the American landscape. For instance, how many librarians know that Islam is the religion, that its adherents are Muslims but that its beliefs and practices are Islamic -- or that the adjective "Mohammedan" is highly offensive to Muslims?

Personnel and Patron Issues

The focus of intellectual freedom in public libraries is the right of users to exercise their first amendment rights to receive information. However, occasionally issues will arise involving library employee or library patron free speech rights to self-expression or freedom of religious practice.

These issues might involve anything from persons wearing modest symbols of their faith (such as a cross, crucifix, or star of David), to persons who insist on proselytizing on company time, to the enforcement of a dress code for library staff or users (for example, prayer coverings such as kippahs or head scarves) (Whitehead, 1995, pp. 31-32). They could even include a patron who refuses to be served by a specified gender because his or her religion forbids cross gender contact or a reference librarian who conscientiously objects to providing information on abortion because it contradicts a basic moral teaching of his or her faith.

With regard to claims of conscientious objection to providing information on objectionable topics, as a conscientious objector to participation in all war, this author notes a significant difference between the two positions. In the case of conscientious objection to providing information which one holds to be immoral, one is making one's objection after having accepted employment by an organization one of whose core values is intellectual freedom. The library's very purpose is to provide its users with access to all of the constitutionally protected speech it possesses regardless of the personal views of its employees.

A more relevant parallel to this situation is the person who has already joined the military and only afterward becomes a conscientious objector to participation in all war. In good conscience, he or she can claim conscientious objector status and, if not granted, refuse further participation if prepared to

take the consequences. Library employees are under no legal compulsion to seek, accept or continue to be employed in a job whose conditions they find morally objectionable. They always have the option of seeking other employment. They are not being forced to continue employment in a job which violates their conscience. A claim of conscientious objection in such a case stands the principle on its head.

If only the resolution of other such issues were this simple. They often involve a conflict among first amendment rights of expression, employer rights and employee obligations and are frequently regulated by municipal ordinances or state legislation. While employees do not lose all first amendment protections while on the job, neither are libraries as employers obligated to accommodate all employee or patron expressive behaviors. Conflicts rise between the expression of religious convictions and the right to be free of harassment in the workplace.

The law offers no clear resolution to this conflict. Such cases show a chronic tension between competing interests – the rights of employees to express their religious beliefs and yet be free from discrimination in the workplace. Two recent commentators note that the courts have largely ignored the “uniquely significant tension in religious harassment, treating all types of harassment identically (Minow, 2003, p. 312).”

Unlike the principled defense of the purchase and retention of library materials or the advocacy of diverse collections, patron and personnel issues are often more effectively addressed by creative conflict transformation rather than by an appeal to the courts. Employee and supervisor training and clearly written and enforced harassment policies are crucial in order to minimize potential workplace disruptions and protect the competing rights of all involved (Montgomery and Cook, 2005, pp. 66-67).

Given the incredibly rich diversity of religious traditions now represented in America it behooves all public library employees and especially those in contact with the public to familiarize themselves with the beliefs, practices and customs of the groups present in their communities. The more aware they are of potential sensitivities, the more open minded they can remain and the more non-judgmental they can appear, the more prepared they will be to avoid unnecessary conflicts of first amendment rights (Gouker, 1987). If they are building collections with diverse religious resources, they should have the resources on hand to meet this challenge (Archer, 2005, 2008).

Conclusion

Determining the appropriate place of religion in the American public libraries is a serious and growing challenge. Meeting that challenge can mean better service for all. To that end the American Library Association’s Intellectual Freedom Committee recently developed a “Q & A” on religion in American libraries (American, 2010).

Libraries with genuinely diverse and inclusive collections and services provide their users with the opportunity to inform themselves about their own traditions and that of their neighbors – near and far. If they choose, they may learn about the beliefs and experiences which drive the actions of their friends and enemies past, present and future. Such a better informed society can only be a good thing for the republic.

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Supplementary Document Religion in American Libraries, a Q & A

By American Library Association

Introduction

It has often been said that there are three topics that one does not discuss over dinner: sex, politics and religion. These are three of the most personal, deeply felt and highly charged of human concerns. It should come as no surprise that they are often at the heart of library controversies. Recently, religion has become the explicit focus of several court cases involving libraries.

This Q & A provides guidance to libraries and librarians in protecting First Amendment rights to five freedoms: freedom of the press, speech, petition, assembly and religion. Courts have consistently held that for freedom of the press and speech to be meaningful, people must have the right to receive information: that is, to read, view, hear or access what they choose. In addition, the freedom of (and for) religion has been understood to include both the right of individuals to believe and practice their religion (the “free exercise” clause) and the right of individuals and the state to be free from religion (the “establishment” clause).

In most cases involving religion and libraries, these latter freedoms of, for and from religion are not at issue. Rather, the constitutional principles at stake are usually freedom of expression and the corollary freedom to access the expression of others. For instance, most challenges to materials with religious content infringe on the rights of persons to access constitutionally protected speech rather than limit the practice of religion or one's beliefs. However, sometimes the religion clauses may conflict with each other or with other First Amendment rights (e.g., in the use of meeting rooms or exhibit cases by religious groups, the distribution of religious literature and attempts to proselytize by patrons or staff). This Q & A will also address the most common of these conflicts.

For the purpose of this Q & A “religion” refers to all that touches on the ultimate—God, the gods, or one's understanding of the ultimate foundation of life. It includes formal organized systems of belief and practice and informal individual

spiritualities. It also refers to adherents of older religions (e.g., the major world religions), newer religions (e.g., those designated cults by some) and no religion (e.g., agnostics and atheists). Lastly, while this Q & A is most clearly applicable to public libraries, it should in most cases be appropriate for school and academic libraries. Private libraries, especially those associated with religious institutions, may apply these guidelines as appropriate in conformity with their institutional mission.

Collections

What types of religious materials may libraries buy for their collections?

Librarians have a professional responsibility to be inclusive rather than exclusive in collection development. Libraries serve all members of their communities and within their budgetary constraints should address all information concerns of all members—including religious information needs. Collections should reflect those needs by providing access to diverse religious thought without becoming a proponent of any of them. Articles I and II of the *Library Bill of Rights* are clearly inclusive regarding audience (“all people of the community the library serves”) and materials (“all points of view on current and historical issues”). For additional information, see “[Diversity in Collection Development: An Interpretation of the Library Bill of Rights.](#)”

May libraries collect religious fiction?

Yes. Collection development and materials selection should be done according to standards set forth in library policy that are tailored to the community that the library serves. These may include: contemporary significance or permanent value, community interest and/or demand, artistic and literary excellence, cost and format. Religious fiction is not easily classified despite attempts to define genres such as Christian Fiction and Inspirational Fiction. Nevertheless, excluding religious fiction would be a violation of the *Library of Rights*: “Materi-

als should not be excluded because of origin, background, or views of those contributing to their creation. Librarians should distinguish between providing access to religious fiction and the appearance of supporting or endorsing a particular religious belief.

May libraries label religious materials in their collections and, if so, what kinds of labels are appropriate?

Yes, but some considerations are necessary. People of all persuasions and traditions have sincere, heartfelt concerns when their government in the form of a public library addresses religious issues. As long as the selection of materials to be labeled is inclusive of all such persuasions and traditions and the labels used are viewpoint-neutral directional aids and not pejorative, this practice would not violate the *Library Bill of Rights*.

This practice of applying specific religious symbols to materials—such as using a cross to label Christian fiction—violates the establishment clause of the First Amendment and the *Library Bill of Rights*. Some libraries seek to avoid entanglement with religion by instead using a non faith-specific label to identify “inspirational fiction,” including material that does not have religious-based content. For additional information, see [“Labeling and Rating Systems: An Interpretation of the Library Bill of Rights”](#) and [“Questions and Answers on Labeling and Rating Systems.”](#)

What practical advice can be given for writing collection development policies for materials about religion?

Collection development policies should reflect the goals and objectives of the library as set forth in its mission statement and incorporate professional standards established in the *Library Bill of Rights* and *Code of Ethics of the American Library Association*. The policy may include a reference to the role of the library as a limited public forum providing access to the marketplace of ideas. For example, the library provides free access to different points of views and ideas. Collection development shall be content-neutral so that the library reflects a diversity of ideas including controversial points of view.

Are religious websites different or special?

No. Library users have the right to access any and all constitutionally protected speech, including religious speech. Religious content is no more or less protected than any other type of speech. If guides to websites are developed by the library,

they should follow principles similar to those used in preparing guides for print collections.

Meeting Rooms

Should library policy allow religious groups to use library meeting rooms?

Yes. Courts have consistently held that libraries may not exclude religious groups from their meeting rooms solely because the group is religious in character or because the meeting may include religious activities. Many precedents exist for the use of public facilities (e.g., school auditoriums or park pavilions) by all types of community groups, including religious groups for religious purposes. Courts that have considered the question have consistently held that libraries are limited public forums for the receipt of information. In turn libraries may designate areas within their facilities as limited public forums for community use in the exchange of information and may create rules for their use. As with collections, these rules should be content-neutral and address only behavioral restrictions (time, place and manner). Consistency is crucial: all groups should be treated the same and subject to the same rules, such as rental fees, frequency restrictions, noise policies or food bans.

What if a religious group wants to collect money as part of their meeting?

The same policies regarding money should apply to all groups. If nonprofit groups are allowed to collect membership dues during meetings, then religious groups may collect an offering. If no group may collect money for any purpose while using a library meeting room, then collecting an offering should not be permitted.

Should food and beverages, including sacramental items, be permitted?

Again, the same policies about food and beverages should apply to all groups. If alcohol is not permitted for any group, then the use of sacramental wine would not be allowed; however, it would be wise to avoid rules that, even though unintentional, privilege one religion over another. For instance, the Catholic Mass and the Jewish Seder include the use of wine while many but not all Protestant groups use grape juice in their observance of the Eucharist. Any fees related to cleaning services should apply equally.

May libraries prohibit worship services?

The safest course of action is to provide the same access and apply the same rules of use (time, place and manner) to all community groups. No court has ever ruled that a library must exclude religious groups or religious worship. Only one case has addressed the “worship & lquo; question. In Faith Center Church Evangelistic Ministries v. Glover, the Ninth Circuit Court of Appeals held that the Contra Costa, California, library could exclude worship services from its meeting rooms when a group self-identified its meeting as a worship service.

¹ In doing so, the Ninth Circuit cautioned that the library could not prohibit groups from engaging in other religious activities, including reading, Bible discussions, Bible instruction, praying, singing, sharing testimony, and discussing political or social issues. The Ninth Circuit then asked the trial court to determine if Contra Costa could apply its policy without violating the Establishment Clause by requiring library staff to decide whether a particular religious activity was worship. On remand the trial court ruled that Contra Costa's policy required library staff to determine whether the proposed use of the meeting room constituted a worship service, a violation of the Establishment Clause. The trial court permanently enjoined the Contra Costa library from enforcing its ban on worship services. For additional information, see Deborah Caldwell-Stone, [“Supreme Court Refuses To Review Library Meeting Room Policy Denying Access to Groups Conducting Religious Worship”](#) and [“Court Prohibits Library’s Practice of Prohibiting Religious Activities In Meeting Rooms.”](#)

Is a hymn sing permissible?

All groups should be subject to the same policies regarding noise. For instance, if a meeting room were soundproofed, there would be no reason to prohibit a hymn sing or, for that matter, a workshop for local rock music percussionists.

What should be considered when drafting a meeting room policy?

- In general, the following areas should be covered:
- Restrictions on length of meetings
- Frequency of using a room (e.g., no more than once a week/month)
- Rental fees for room or use of equipment
- Costs for cleaning if food or beverages are allowed
- Noise policies
- Consequences of not following policies
- An appeals procedure

Above all, policies should be applied equally to all groups.

Exhibits and Displays

Should religious groups be allowed to use library exhibit or display space?

Libraries are not required to open display or exhibit space to community groups. If libraries choose to open their exhibit and display space to community groups, space should be provided on an equitable basis to all groups that request it, regardless of the beliefs or affiliations of individuals or groups requesting their use. A library may wish to consider the amount of such space and its location when deciding whether to open it to community groups. Article II of the *Library Bill of Rights* states, “Materials should not be excluded because of the origin, background, or views of those contributing to their creation” and “Materials should not be proscribed or removed because of partisan or doctrinal disapproval.” For additional details, see &lquo; “Exhibit Spaces and Bulletin Boards: An Interpretation of the Library Bill of Rights.”

What practical advice can be given for writing exhibit or display space policies?

[“Exhibit Spaces and Bulletin Boards: An Interpretation of the Library Bill of Rights” states:](#)

Written policies for exhibit space use should be stated in inclusive rather than exclusive terms. For example, a policy that the library's exhibit space is open “to organizations engaged in educational, cultural, intellectual, or charitable activities” is an inclusive statement of the limited uses of the exhibit space. This defined limitation would permit religious groups to use the exhibit space because they engage in intellectual activities, but would exclude most commercial uses of the exhibit space.

- Some of the considerations that may be included in writing policies are:
- Rules or guidelines of the governing body (school board, library trustees, etc.)
- How often a group may use display or exhibit space
- The length of time for a display
- The kind of materials that may be displayed and any limits on the library’s liability
- Whether the library will require or give priority to display requests that highlight the library collection(s)
- Whether the library will require or give priority to display requests that are aimed at the library’s primary constituency

- Whether the library will allow notices soliciting funds, announcing meeting times, or giving contact information for the sponsoring group
- Whether to require that displays be viewpoint-neutral, educational, or informative
- Whether to prohibit single-holiday displays (allowing displays of all holidays or observations of the season or of the month) and
- Giving the library the right to refuse displays and providing due process for appeals of decisions.

Literature Distribution

Should the library allow religious groups to distribute religious literature in community distribution space?

If the library provides space for community groups to leave literature, religious groups should be allowed to do so on an equitable basis to all groups that use this space, regardless of the beliefs or affiliations of individuals or groups leaving such literature.

Policies covering the number of individual items of literature, the size and definition of such items and the length of time that items will be left out for distribution should be considered.

Accommodating Religious Beliefs

The issues addressed so far (collections, meeting room, exhibits and literature distribution) are all related to the primary purpose of libraries, to serve as a limited public forum for the receipt of information. The key word here is “receipt.” Libraries provide space where people may read, view, listen to or otherwise access information or expression of interest to them.

Libraries are not traditional public forums for expressive behavior by patrons or employees except when libraries explicitly designate space for the exchange of information such as meeting rooms or exhibit cases. The following questions are related to the religious views that patrons and employees bring with them into the library. Because of this context they are more community relations and employment issues rather than intellectual freedom issues.

A. Patron Religious Beliefs

What accommodations should librarians make for religious beliefs of patrons?

While libraries and librarians should respect the diverse

religious traditions of their communities, libraries exist to serve the information needs of all users in their communities. Library policies should be applied equally to shelving of religious books, service to patrons, or access to religious web sites as they would be to any other shelving, service or web access. In addition privileging one religious tradition over others could violate the establishment clause of the First Amendment.

What about religious dress and symbols?

Dress codes for patrons, if a library has one at all, should be limited to maintaining public health and safety.

What about special shelving requests for scriptures and other religious materials?

Placing specific materials on shelves according to religious point of view or status within a given faith community rather than according to the cataloging system used in the library can make it difficult for users to locate such materials. It would be a violation of the *Library Bill of Rights* to give special treatment to a specific sacred text or to limit access to such a text. It is appropriate to add additional titles or versions of a text to the collection to meet community needs or interest but not to remove or sequester them. The scriptures or religious materials of all religions should be treated equitably.

Attempting to accommodate competing and quite possibly conflicting demands for special shelving for specific items may be impossible given physical constraints. On the other hand, if a library sets aside tables or shelves for specialized materials or purposes such as atlases, directories, college guides, dictionaries or local history, it would be appropriate to set aside shelving for scripture, as long as all scriptures are treated equally, including texts that occupy a similar status among other groups (e.g., *The Humanist Manifesto II*).

How about gender relations?

Generally, library staff members should serve both men and women equally regardless of gender. For example, if a person comes to the reference desk with a highly personal question of a sexual nature (health, birth control, rape, etc.) and expresses a desire to talk with a person of the same gender, libraries may accommodate special requests but are not required to do so.

Patrons are always free to seek or not seek service from any staff person they wish.

B. Employee Religious Beliefs

What accommodations should libraries make for the religious beliefs of employees?

Employee rights to self expression including religious expression are more restricted than those of the general public for the simple reason that they are employed for a purpose. The workplace is not a public forum for the unfettered expression of one's views. For additional guidance, see ALA Policy 53.1.12 and "[Questions & Answers on Speech in the Workplace.](#)"

What are the library's responsibilities in accommodating employee religious observances?

As a general rule, employers should accommodate employee religious observance when it does not substantially interfere with the library's mission of providing access to information to the public. Such accommodations should be equitable for all religions. Informal accommodation among staff (e.g., trading coverage of service points on holidays) is one approach.

What limits should/may libraries place on the wearing of religious symbols by employees?

Libraries are limited public forums for the receipt of information *by the public*, not for speech *by employees*. Employers may regulate employee speech including symbolic speech that interferes with the mission of the library. In general, the wearing of modest symbols or statements of one's belief (religious, political, etc.) may be permitted. However, if the display of such expressions interferes with the library's mission, all such expressions should be banned regardless of expressive content (e.g., no religious or political jewelry, message buttons, or message t-shirts).

Can employees proselytize or witness to personal beliefs?

One employee's personal expression can easily become another person's harassment. Employees should respect each other's freedom to practice their religions and to be free from the religion of others. Failure to respect the wishes of coworkers can result in charges of harassment for the individual. Failure to respect and deal with claims of harassment by an employee can result in charges of fostering a hostile work environment for the library. Once again, libraries should be careful to avoid favoring one religion over another. In the workplace, people are free to believe as they want but their behavior, including speech (even religious speech), may be regulated. For

additional information, see Karen Sutherland, "[Freedom of Speech in the Workplace: The First Amendment Revisited](#)" or Eugene Volokh, "[Freedom of Speech vs. Workplace Harassment Law—A Growing Conflict](#)" or "[The Free Speech/Workplace Collision.](#)"

Can libraries establish dress codes for employees?

Dress codes for employees, if a library has one at all, should be limited to maintaining public health and safety and the ability of the library to execute its mission. Therefore, the library should have a substantial mission-related reason for any dress restrictions. For instance, it is hard to imagine a mission-related rationale for banning such religiously sanctioned apparel as yarmulkes, veils, head-coverings, shawls or burqas that is not rooted in cultural or religious prejudice.

Can an employee refuse to answer questions on the basis of individual conscience?

No. Article VII of ALA's [Code of Ethics](#) states that: "We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources."

There is no valid parallel between claims of individual conscience and "conscientious objection" to military service. Enlistment or commissioning is voluntary; once in, military service is compulsory. The conscientious objector's claim is that he or she cannot perform his or her duties in good conscience and should be released from them. If a library employee claims conscientious objector status, she or he is free to seek other employment if unable in good conscience to continue to perform her or his primary responsibility of meeting the information needs of the public. For additional information, see "[Guidelines on Religious Exercise and Religious Expression in the Federal Workplace.](#)"

¹Decisions of the Ninth Circuit Court of Appeals apply only to states within the Ninth Circuit [California, Oregon, Washington, Arizona, Montana, Idaho, Nevada, Alaska, Hawaii, Guam and the Northern Mariana Islands]

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