

REPORT

from the Capital

Religious freedom commission warns about Iraq in annual report

By Robert Marus

The future of religious freedom in the rebuilt Afghanistan may be in grave danger — and the United States should avoid similar problems as it rebuilds Iraq, according to a federal panel's annual report.

Those observations were among several found in the U.S. Commission on International Religious Freedom's annual report, released May 12. The commission is an independent and bipartisan federal panel charged with monitoring religious liberty conditions worldwide. The commission is also empowered, under the terms of the 1998 International Religious Freedom Act that established it, to make foreign policy recommendations to the administration regarding religious freedom.

At a press conference announcing the report's release, commissioner Nina Shea said trying to promote religious freedom in Afghanistan and Iraq has been "a major focus for the commission" for the past year and a half.

"This is not a theoretical matter but a very real concern in both Afghanistan and Iraq," Shea, director of the Washington-based Center for Religious Freedom, told reporters. She noted that, despite the United States' overthrow of Afghanistan's theocratic Taliban regime and installation of an interim government, Afghan secularists and moderates are increasingly "on the defensive."

The report noted deficiencies in Afghanistan's newly adopted constitution that may undermine its theoretical protections for religious freedom. "Though the constitution provides for the freedom of non-Muslim groups to exercise their various faiths, it does not contain explicit protections [for the right to religious freedom] ... that would extend to every individual," it said.

In addition, the commission pointed out, Afghanistan has two more constitutional problems that pose risks to religious freedom — a "repugnancy clause" that bars any laws "contrary to the beliefs and practices of Islam" and provisions for the country's judicial system that have been interpreted to allow it to enforce Islamic law in some cases.

The report noted that the country's chief justice has told commissioners he rejects the concepts of equality of the sexes and freedom of expression and religion. "With no guarantee of the individual right to religious freedom and a judicial system instructed to enforce Islamic principles and Islamic law, the new constitution does not fully protect individual Afghan citizens against, for example, unjust accusations of religious 'crimes' such as apostasy and blasphemy," the report said.

As Shea told reporters, "Arrests and imprisonment for alleged blasphemy ... have already occurred in the new Afghanistan."

The commission's report recommended that, among other things, U.S. officials give greater support to moderate elements in Afghan society and assign to the U.S. Embassy in Kabul personnel solely charged with monitoring the status of religious freedom and other human rights in the nation.

Likewise, Shea said, the commission is concerned that the United States "ensure what happened in Afghanistan does not happen in Iraq" as that nation rebuilds under U.S. control. Shea noted that religious freedom advocates had some success in getting guarantees for individual



Nina Shea, Director
Center for Religious Freedom

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INSIDE:

- ☐ Reflections 3
- ☐ IRS warning 4
- ☐ Daugherty Report . . 6
- ☐ News 7

⇒ religious freedom included in Iraq's interim constitution. However, it still contains a clause similar to the Afghan one disallowing any laws or practices contrary to Islamic principles. Among the commission's recommendations were for the U.S. administrator in Iraq, Paul Bremer, "to appoint a team of advisors ... to advise on religious affairs and to monitor human rights violations" and for U.S. officials to advocate for language in the country's permanent constitution that would more explicitly protect individual religious freedom and other human rights.

In response to questions about prisoner abuse violations in U.S.-run Iraqi prisons, commissioners said only that they have been recommending, for more than a year, U.S. personnel be assigned to monitoring human rights abuses in the country.

The report also reiterated the commission's recommendations, first announced earlier this year, that Secretary of State Colin Powell designate 11 nations as "countries of particular concern," or CPCs, under the terms of the International Religious Freedom Act.

The nations are Burma, North Korea, Eritrea, India, Iran, Pakistan, China, Saudi Arabia, Sudan, Turkmenistan and Vietnam.

The law enables the State Department, if it follows the panel's recommendations, to enact a number of sanctions against a nation designated a country of particular concern.

According to the commission, those countries were singled out because of "systematic, ongoing and egregious violations of religious freedom that [their] governments are responsible for or have tolerated."



Michael Young

The commission was divided over India, with a minority of commissioners concluding that toleration of religious freedom violations at the hands of some local and regional Indian governments did not rise to the level of CPC recommendation. Those three commissioners filed a dissenting opinion recommending that India be placed on a separate "watch list" of nations.

The other nations the commission has named to the watch list include Belarus, Cuba, Egypt, Georgia, Indonesia, Laos, Nigeria and Uzbekistan.

This is the fourth time the commission has asked the State Department to declare Saudi Arabia and Turkmenistan as CPCs. However, the department has not yet heeded the commission's recommendations.

Both Saudi Arabia and Turkmenistan have been considered close allies of the United States in the global war on terrorism. Nonetheless, as the State Department's own religious freedom report from 2003 noted, "religious freedom does not exist" in oil-rich Saudi Arabia. As the commission's report said, "The Saudi government forcefully bans all forms of public religious expression other than that of the government's interpretation of one school of Sunni Islam."

Michael Young, the commission's chairman, expressed another continuing frustration of the panel. Even when the State Department has declared a country a CPC, he said, it has not taken any policy steps to promote religious freedom beyond measures the United States has "already taken in the past" to correct other problems in those nations.

The State Department is expected to announce its CPC designations for 2004 before the end of May. —ABP

Federal panels turn spotlight on Turkmenistan violations

When one thinks of international violators of religious freedom, totalitarian communist regimes such as North Korea or China often come to mind — as do theocratic Islamic nations such as Saudi Arabia or Iran.

But members of two federal panels turned a spotlight May 11 on an often-overlooked ex-Soviet state whose violations of religious freedom, they agreed, may be some of the world's worst.

"Overall, Turkmenistan is a severe violator of religious freedom," said Ron McNamara, deputy chief of staff for the Commission on Security and Cooperation in Europe, also known as the U.S. Helsinki Commission.

McNamara's group and the U.S. Commission on International Religious Freedom co-sponsored the briefing for Capitol Hill staff and reporters. It featured experts on religious freedom conditions in the Central Asian dictatorship.

Despite the fact that Turkmenistan President Saparmurat Niyalov is a signatory to the Organization on Cooperation and Security in Europe, the panelists said the nation has failed to meet the human rights protections found in treaties agreed to by that group. In particular, the nation essentially bans religious activity by any groups besides the Russian Orthodox Church and a government-approved brand of Sunni Islam.

Officially, "unregistered" religions are illegal, and congrega-

tions or groups of religious believers who attempt to hold a worship service without the government's express permission face stiff penalties — both of the legal and extra-legal variety.

However, the requirements for registration are stiff, and no group besides Sunni Muslim and Russian Orthodox groups has successfully registered since registration laws were created in the late 1990s.

According to Felix Corley, editor of the Forum 18 news service, the experience of congregations that have made applications for official registration has discouraged others from doing so. He noted that all members of a congregation have to add their names to the registration application. "The last time around, they came around and they went through all the people on the list and harassed them," Corley said. "I mean, they could kick you out of your job, for example, if you're on a state-run job. They could ... remove your child from higher education."

Corley's news agency covers religious freedom issues in Europe. He also noted that the government panel charged with monitoring religious activity in the country and reviewing registration applications is made up of religious leaders — thus having an inherent conflict of interest when it comes to legally authorizing religious groups that may compete with their own.

—ABP

REFLECTIONS

Constitutional, theological issues raised in VMI mealtime prayer case



J. Brent Walker
Executive Director

The U.S. Supreme Court recently declined to review a decision of the 4th U.S. Circuit Court of Appeals in Richmond, which had held that Virginia Military Institute's practice of mealtime prayers violated the First Amendment's Establishment Clause. Usually a "*certiorari* denied" — lawyer talk for the Court refusing to review a lower court decision — is not particularly noteworthy. These orders are not regarded as approving the lower court decision and generally have no precedential effect. Usually they don't even merit a written opinion. And the Supreme Court issues thousands of these orders each term.

However, this one — *Virginia Military Institute vs. Mellen* — is unique and interesting for several reasons.

First, Justice Antonin Scalia, joined by Chief Justice William Rehnquist, wrote a vigorous dissent from the denial. This is highly unusual. Rarer yet, Justice John Paul Stevens, joined by Justices Ruth Bader Ginsburg and Stephen Breyer, wrote an opinion in response explaining the Court's refusal to review the case.

The Court usually exercises its discretion to review a case when it is needed to clear up conflicting decisions of lower federal courts. Justice Scalia correctly pointed out two 1997 cases from the 6th and 7th circuits upholding the practice of commencement prayers at state colleges and universities. He reasoned that those decisions sufficiently conflicted with the 4th Circuit's ruling in the VMI case to justify granting review.

In response, Justice Stevens opined that there was no conflict here because the cases were quite different. He drew a distinction between annual ceremonial prayers at commencement exercises with daily mealtime prayers in a state-run military academy. He observed that the characteristics of VMI — "its emphasis on submission and conformity" — distinguish it from the more traditional institutions of higher learning. Even though the students did not have to recite the words, they were required to be present and listen to the prayer.

Second, this case reminds us that constitutional principles must be applied in concrete fact situations. And, particularly in church-state cases, context is all-important. It is true that ceremonial graduation prayers at state colleges and universities are generally tolerated, while similar prayers have been declared unconstitutional in public middle and high schools. The Supreme Court, in *Lee vs. Weisman* (1992), struck down a middle school commencement invocation and benediction given by a Jewish rabbi because of their coercive effect on those who chose to attend. And, although such coercion is usu-

ally not present to the same extent in higher education, the 4th Circuit — one of the most conservative appeals courts in the land — ruled here that such coercion was present. The 4th Circuit panel wrote: "VMI's adversative method of education emphasizes the detailed regulation of conduct and the indoctrination of a strict moral code. ... VMI cadets are plainly coerced into participating in a religious exercise." So, the military environment and pressure to submit and conform made this case more like *Lee vs. Weisman* than the typical college ceremonial prayer case.

Finally, the VMI case provides an opportunity for people of faith to ponder the theology of prayer and the risks associated with government sponsorship or encouragement of religion exercises. (See Andrew Daugherty's article on page 6 of this issue).

People of faith understand that any state-sponsored coercion, however mild, violates principles of religious liberty and First Amendment protections. Coerced prayer simply is an oxymoron; for prayer to be prayer, it must be completely voluntary. Although in this case the prayer was delivered by a "student chaplain," not college officials, and although the prayers were allegedly "non-denominational" (itself a theological oxymoron), the 4th Circuit was correct in understanding that there was sufficient coercion to conform in this case to trigger an Establishment Clause violation.

The 4th Circuit's decision, of course, does not ban grace before meals even at VMI. The way to solve the issue is pretty easy. Why not simply have a 30-second moment of silence before meals to allow students who choose to do so to pray each in his or her own way? Then you have a win-win situation. College officials would be accommodating the practice of voluntary student prayer, but at the same time avoid endorsing a watered-down, one-size-fits-all blessing. Most importantly, it would eliminate the coercive environment that is so antithetical to genuine, heartfelt prayer.

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IRS issues election-year politicking reminder to churches

The Internal Revenue Service has warned churches and other houses of worship they risk losing their tax-exempt status if they engage in partisan election-year politics.

The IRS, in a routine advisory issued every four years since 1992, said religious groups are "prohibited from participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office."

Churches, charities and schools — known as 501(c)(3) groups for their section of the tax code — may hold nonpartisan voter education forums or voter registration drives, but may not endorse any candidate.

Nonprofit groups may not make donations to campaigns, raise funds for candidates, distribute campaign literature or "become involved in any other activities that may be beneficial or detrimental to any candidate," the IRS said in a recent notice.

Rep. Walter Jones, R-N.C., however, said clergy should be able to endorse candidates from their pulpits as a matter of free speech. Jones is the lead sponsor of a bill, the Houses of Worship Political Speech Protection Act, which would allow clergy endorsements without the threat of losing tax-exempt status. In 2002, the House defeated the bill 239-178; Jones has since reintroduced it.

"It's time to return the freedom of speech to the churches and synagogues in our country," Jones said at the National Catholic Prayer Breakfast. "God has been the quarterback on this and has led this effort to the 10-yard line."

But the Houses of Worship Political Speech Protection Act faces stiff opposition from some in the faith community who say the measure would divide congregations along political lines and violate their autonomy.

"The legislation proposed by

Rep. Jones is one of the worst bills pending in Congress. It would pervert, not protect, houses of worship," said Brent Walker, executive director of the Baptist Joint Committee on Public Affairs.



Brent Walker

Churches risk their tax-exempt status only when they engage in electioneering, he said.

Current law allows ministers to preach on

moral and ethical issues and protects the rights of clergy to participate in the elec-

toral process as individual citizens. It also permits churches to promote good citizenship through voter registration drives and educational projects, Walker said.

Existing law simply keeps groups from functioning both as tax-exempt ministries and partisan political action committees, he noted.

"The Jones bill would do America's houses of worship no favor. It would compromise their autonomy, turn pulpit prophets into political puppets, and politicize and divide our houses of worship," Walker said, pointing out polls indicate overwhelming opposition to the measure.

Churches & Political Campaigns

By K. Hollyn Hollman

Each campaign season we are reminded of the many issues that challenge our nation. As Christians, we are called to engage the issues, to seek justice, and to elect leaders who we believe best reflect our values and goals. Campaigns also bring questions about the legal boundaries for churches under the tax laws. The following summary reflects available guidance from the Internal Revenue Service. See *Tax Guide for Churches and Religious Organizations*, Internal Revenue Service publication 1828 (Rev. 9-2003).

1. When churches get involved in political issues, don't they necessarily violate the constitutional separation of church and state?

No. The First Amendment's religion clauses do not prohibit political activity by churches. In fact, the First Amendment protects the religious expression of churches in many ways, including their



right to speak out on important issues. Churches, however, like other organizations that are exempt from taxes under the Internal Revenue Code Section 501(c)(3) and are eligible to receive tax-deductible contri-

butions, must abide by certain restrictions on lobbying and campaign activity to retain the special treatment they receive under the tax laws.

2. Are the IRS restrictions on participating in campaigns for elected office different from those that limit the amount of lobbying allowed by religious organizations?

Yes. While the Internal Revenue Code limits the amount of activity a tax-exempt organization can devote to attempting to influence legislation (no substantial part of the organization's activity can be devoted to lobbying), it actually *bans* intervention in political campaigns. As stated in the IRS Tax Guide on this topic: "Under the

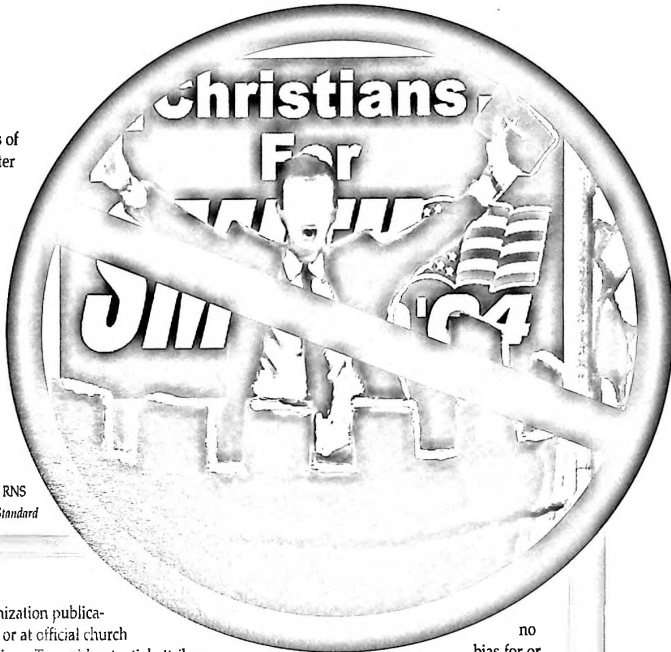
In 1995, the IRS revoked the tax-exempt status of the Church at Pierce Creek in Binghamton, N.Y., after the church paid for a full-page ad in *USA Today* in 1992 criticizing then-presidential candidate Bill Clinton.

The Federal Election Commission, concerned that some political committees are skirting campaign finance laws, is currently weighing proposed rules that also could require some non-profits — including churches — to register as political committees subject to stricter registration and disclosure rules.

The IRS said it would examine violations on a case-by-case basis, but warned it has the power to assess fines and prohibit additional political expenditures in cases of “flagrant” violations.

— RNS

with additional reporting by Ken Camp, Baptist Standard



Internal Revenue Code, all IRC Section 501(c)(3) organizations, including churches and religious organizations, are *absolutely prohibited* from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made by or on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity.” (Emphasis added) *Tax Guide for Churches and Religious Organizations*, (Rev. 9-2003), p.7.

3. Does the political campaign prohibition mean that church pastors cannot be involved in politics without jeopardizing their church's tax status?

No. The ban on political campaign activity is not intended to restrict the free expression of church leaders speaking for themselves, as *individuals*. Nor are the rules intended to keep such leaders from speaking about important *issues* of public policy from the pulpit. “However, for their organizations to remain tax exempt under IRC 501(c)(3), religious leaders cannot make partisan comments in official

organization publications or at official church functions. To avoid potential attribution of their comments outside of church functions and publications, religious leaders who speak or write in their individual capacity are encouraged to clearly indicate that their comments are personal and not intended to represent the views of the organization.” *Tax Guide for Churches and Religious Organizations*, (Rev. 9-2003), p.7. Church leaders should be particularly careful not to endorse candidates in sermons, church bulletins, or other communication channels of the organization.

4. Does the political campaign prohibition mean that churches cannot allow candidates to speak at church events?

No. “Depending on the facts and circumstances, a church or religious organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status. Political candidates may be invited in their capacity as candidates, or individually (not as a candidate).” *Tax Guide for Churches and Religious Organizations*, (Rev. 9-2003), p.8. If a candidate is invited to speak at a church event as a candidate, the church must take steps to ensure that it demonstrates

no bias for or against the candidate.

For example, the church should provide an equal opportunity for all candidates seeking the same office, avoid indicating support for or opposition to the candidate, and make sure no political fundraising occurs. *Id.*

K. Hollyn Hollman is general counsel for the Baptist Joint Committee on Public Affairs. The information contained in this article is taken largely from *Tax Guide for Churches and Religious Organizations*, Internal Revenue Service publication 1828 (Rev. 9-2003). The publication is available from the IRS website at www.irs.gov. This general guidance in a complicated area of law does not govern all conceivable issues. For legal advice or specific inquiries, consult with a lawyer directly.

For more information, see also, “Politics and the Pulpit: A Guide to the Internal Revenue Code Restrictions on the Political Activity of Religious Organizations,” available on the “publications” page of the Pew Forum on Religion & Public Life website at <http://pewforum.org/publications/>.



Andrew Daugherty
Assistant to the
General Counsel

Daugherty REPORT

Secret Service Prayer

Whenever you pray, do not be like the hypocrites; for they love to stand and pray in the synagogues and at the street corners, so that others may see them. Truly I tell you, they have received their reward. But whenever you pray, go into your room and shut the door and pray to your Father who is in secret; and your Father who sees in secret will reward you. — Matthew 6:5-6

The National Day of Prayer has been celebrated every year since 1952. Permanently set as the first Thursday in

May during the Reagan administration, this day is set aside to acknowledge the "prayerful spirit" of our national tradition, supposedly observed in the spirit of political nonpartisanship.

Still, this high-profile celebration of public prayer reveals the temptation of associating God with Americanism and mistaking public forms of piety for heartfelt religious devotion. In a 1976 essay in the *Journal of Church and State*, the late Frank Staggs asserts that civil religion is "any political structure assuming the dimensions of religion."

Highlighting another high-profile celebration, the White House prayer breakfast, Staggs asked if such a publicly pious act was "a nation on its knees before God" or "was it the church on its

knees before Caesar?"

Staggs's pointed questions are appropriate. Especially during a campaign season, imitation can truly be the (in) sincerest form of flattery. Many are suspicious when government officials even appear to be using religious practices such as prayer for political show and tell. For public officials wishing to avoid the trap of hypocrisy, it is ironic when the flashes of cameras carefully record the flashy spectacles of their public piety. To be sure, prayer rarely compels prophets to make friends with politics.

Even for a country in crisis, there is no prescription for airtight guarantees of security or success, political or otherwise, when it comes to prayer. Neither is there any reason to believe that public displays of piety, however opulent, will create such a prescription. No, the only prescription for prayer proffered by Jesus himself is: "Don't do it in public,"

rather, "Do it in private." Yes, corporate prayer is appropriate, but in the context of worship with other believers and without government sponsorship.

Despite Jesus' instruction that genuine piety does not insist on public recognition, the history of public prayer practices in the United States is well-documented; from the National Day of Prayer and the National Prayer Breakfast to legislative prayer. Legislative prayer, for instance, by historical precedent and its ceremonial nature, has been held by the U.S. Supreme Court not to violate the Establishment Clause.

Nevertheless, the distillation of values, voices and viewpoints may offend the sensibilities of the most faithful Christians among us, who follow after one who taught that serving the poor and practicing prayer should be done "in secret." In particular, the intimate nature of prayer is further reflected in the Gethsemane narrative of the Gospels, where Jesus is found praying alone apart from the disciples. Jesus was always retreating from the crowds to pray (and sometimes praying all night long!), withdrawing to deserted places to be alone (Luke 5:16; 4:42; 6:12; 9:18). (Quite a contrast from the National Prayer Breakfast).

Stately, high profile occasions of public prayer may make for a great photo opportunity, but the effectiveness of prayer is not measured by how many people see and hear it. The sacred experience of prayer can only be measured by the faithfulness and generosity of God alone who sees and hears it. Generic mentions of God and benign expressions of prayer in the public square, although perhaps constitutional, are inadequate substitutes for heartfelt religious service.

Prayer as a practice of private devotion, when wisely nurtured in the context of a community of faith, nourishes the faithful toward union with God. Prayer, in the secret and sacred places of our hearts, empowers the church's prophetic witness to the world. The sort of life produced by such *pietas* (or this kind of piety) is a secret that even Jesus could not eventually keep.

Stately, high profile occasions of public prayer may make for a great photo opportunity, but the effectiveness of prayer is not measured by how many people see and hear it. The sacred experience of prayer can only be measured by the faithfulness and generosity of God alone who sees and hears it.

Oklahoma public school will allow Muslim student to wear headscarf

The school district of Muskogee, Okla., will allow a sixth-grade Muslim student to wear her hijab, or religiously prescribed headscarf, to school under a settlement announced May 19.

Nashala Hearn, an 11-year-old, was suspended twice last fall for wearing her hijab, which officials said violated the school's policy banning "hats, caps, bandannas, plastic caps or hoods on jackets" in school buildings.

Through the civil liberties group The Rutherford Institute, Hearn and her family sued the school district. In late March, the Department of Justice intervened on the family's side in the case.

The settlement is a six-year agreement that will allow Hearn to wear her hijab to school. The settlement also requires the school district to change its policy to allow religious exemptions from the dress code.

The settlement was welcome news to Muslim groups and also to Jewish organizations that, because some Jewish boys wear yarmulkes, are concerned for the freedom of public school students to observe their religious traditions.

"There are likely no Jews in Muskogee who wear yarmulkes in the public schools," said Paul Miller, president of the American Jewish Congress, which filed a friend of the court brief in the Hearn case in early May.

"Nevertheless, this settlement will prevent issues like these from interfering with the practices of any who might, in the schools or in public or civic employment settings," he said.

— RNS

"This settlement reaffirms the principle that public schools cannot require students to check their faith at the school-house door."

— R. Alexander Acosta,
assistant attorney general
for civil rights

Charles Campbell argued that Moore "took the law into his own hands, and he broke it." Moore's lawyers argued he had the right to acknowledge God, as well as to disobey an order that he felt was unjust.

The court, in its decision, said the case was about judicial arrogance, not religious faith.

Moore was elected to the state's highest court in 2000 after riding a wave of popular support for his crusades to display the Ten Commandments in Alabama courtrooms.

— RNS

"We conclude ... that the sanction of removal from office was not plainly and palpably wrong, manifestly unjust, or without supporting evidence."

In fact, the evidence of Chief Justice Moore's violations of the Canons of Judicial Ethics was sufficiently strong and convincing that the Court of the Judiciary could hardly have done otherwise than to impose the penalty of removal from office."

— Special Court of Review
in its 35-page ruling

Haynes: 'World's greatest experiment' in religious freedom must be preserved

Charles Haynes did not know he would be receiving a painting of colonial Providence, R.I., and its historic First Baptist Church in America when he praised the founder of both that city and congregation.

The First Amendment expert, a senior scholar at the Freedom Forum First Amendment Center in Arlington, Va., received the framed print April 29 in recognition of receiving the 10th annual Associated Baptist Press Religious Freedom Award. Haynes was singled out for his work to advance religious liberty in America's public schools since the mid-1990s. He is the principal organizer in an effort to create a set of consensus guidelines on teaching about religion in schools.

In an acceptance speech that focused on the need to preserve religious freedom as enshrined in the Constitution, Haynes told the story of Roger Williams, the Rhode Island colony he founded and a group of religious refugees who moved there.

He said the first Jewish families to settle in the New World came to Rhode Island in 1654, after being kicked out of their earlier homesteads in Brazil by an intolerant

Portuguese governor. A more indulgent previous viceroy, Haynes said, had tolerated the Jews there before — but had not ensured their absolute religious freedom.

— ABP

Removal of Ten Commandments judge upheld by Alabama court

A special court of review has upheld the removal of Alabama Chief Justice Roy Moore from office following a legal dispute over his display of a 5,300-pound Ten Commandments monument in the State Judicial Building.

The seven-member court unanimously ruled April 30 that Moore's removal from office last year was "proper" because he violated state ethics codes when he defied a federal court order to remove the monument.

Moore was tossed off the bench last November by a state Court of the Judiciary. Alabama Gov. Bob Riley appointed seven retired judges to serve on the special court to hear Moore's appeal of his removal.

The decision appears to be Moore's last avenue of appeal on the state level. But, still defiant, Moore held out the possibility of appealing to the U.S. Supreme Court, which last year refused to hear his case.

In arguments held in February, Assistant Attorney General

"Toleration by government is not enough — it can be taken away. It can be limited, because it is not freedom."

"A lot of people in America believe it should still be that way."

— Charles Haynes
Senior Scholar
Freedom Forum
First Amendment Center

indulgent previous viceroy, Haynes said, had tolerated the Jews there before — but had not ensured their absolute religious freedom.

The Fourth R: Conflicts Over Religion in America's Public Schools

Joan DelFattore, 2004

- ✓ Alliance of Baptists
- ✓ American Baptist Churches USA
- ✓ Baptist General Association of Virginia
- ✓ Baptist General Conference
- ✓ Baptist General Convention of Texas
- ✓ Baptist State Convention of North Carolina
- ✓ Cooperative Baptist Fellowship
- ✓ National Baptist Convention of America
- ✓ National Baptist Convention U.S.A. Inc.
- ✓ National Missionary Baptist Convention
- ✓ North American Baptist Conference
- ✓ Progressive National Baptist Convention Inc.
- ✓ Religious Liberty Council
- ✓ Seventh Day Baptist General Conference

In 1994, Lisa Herdahl and her family regularly attended a Pentecostal church in rural Pontotoc County, Miss. Five of her children also attended North Pontotoc Attendance Center, a K-12 school that had long included devotional prayers and Bible classes as part of its curriculum.

Believing public schools were not the appropriate place to teach religion, Herdahl filed suit to have the popular religious practices halted. Shortly before the case went to trial, hand-made signs began popping up all over Pontotoc County with the words "Religious Freedom" painted inside a picture of a schoolhouse. Heartened, Herdahl's children believed the message signified the community's support for their family's cause. "No, I don't think so," Herdahl had to tell her children, explaining that most of the folks in town did not have quite the same definition of religious freedom as they did.

Noting the irony, author Joan DelFattore uses this anecdote in *The Fourth R* to illustrate how polarized perspectives have become regarding religion's place in America's public schools. From 19th century battles between majority Protestants and Catholics over the wording of official school devotionals to late-20th century court decisions striking down most organized forms of school-sponsored prayer, DelFattore's book reveals America's meandering path toward genuine "religious freedom" in our public schools. She traces that history with the notion that the nation has inevitably, if grudgingly, been forced to recognize its religious pluralism and evolve from a highly majoritarian view of school prayer toward an increasing deference to individual choice.



Public schools have long been a battleground when it comes to religion. Balancing the government's responsibility never to advance religion with the individual's right to free exercise has often proven to be difficult.

Revealing little bias, DelFattore traces the progress that has been made in reconciling those twin objectives. With school-sponsored prayer and devotional Bible

readings a common practice in America's first century of existence, the only question appeared to be *what brand* of Christianity would be used in public schools.

The turning point in *The Fourth R* is the landmark 1960s Supreme Court cases *Engel vs. Vitale* and *Abington vs. Schenpp* that officially ended the practices of school-sponsored daily classroom prayer and devotional Bible readings. DelFattore details the various attempts by school prayer proponents to reinstate the barred practice and the compromises that have been reached, including the Equal Access Act of 1984.

For those not familiar with legal and constitutional history or how federal government works, DelFattore does a fantastic job describing, in layman's terms, the facts and history pertinent to the book's topic.

Politicians and advocacy groups on both sides of the debate (including the Baptist Joint Committee) are also profiled and recurring characters engaged in the political tug-of-war are developed to create a compelling storyline. The result is a surprisingly entertaining look at the history of religion in public schools and a summation of contemporary issues still waiting to be resolved.

— Phillip Jordan, BJC Intern

REPORT from the Capital

J. Brent Walker
Executive Director
Larry Chesser
Editor
Jeff Huett
Associate Editor
Lindsay Bergstrom
Design Editor

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Baptist
Joint
Committee

200 Maryland Ave., N.E.
Washington, D.C. 20002-5797

Phone: 202.544.4226
Fax: 202.544.2094
E-mail: bjcpa@bjcpa.org
Website: www.bjcpa.org

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