A New Civil Religion
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We memorialize this weekend those valiant pioneers who settled Utah and the surrounding areas. They were a people persecuted and driven out of what was then the United States because of their religious beliefs. They came seeking to worship Almighty God according to the dictates of their own conscience.

Almost three centuries before, in a like manner, God-fearing believers, most notable of which were the Pilgrims, left Europe with its state religions and came to America to seek freedom of worship. As a consequence of this, the deepest taproots of the U.S. and Utah in the past have lain in the very essence of our humanity—our faith in God. Some of our coins still contain the phrase “In God We Trust.” Our pledge of allegiance states that we are “one nation under God, indivisible, with liberty and justice for all.”

The recent controversy in Utah and the nation regarding the constitutionality of certain public prayers casts a serious cloud over the reality and meaning of the sacred in our society.

There seems to be developing a new civil religion. The civil religion I refer to is a secular religion. It has no moral absolutes. It is nondenominational. It is nontheistic. It is politically focused. It is antagonistic to religion. It rejects the historic religious traditions of America. It feels strange. If this trend continues, nonbelief will be more honored than belief. While all beliefs must be protected, are atheism, agnosticism, cynicism, and moral relativism to be more safeguarded and valued than Christianity, Judaism, and the tenets of Islam, which hold that there is a Supreme Being and that mortals are accountable to him? If so, this would, in my opinion, place America in great moral jeopardy.

For those who believe in God, this new civil religion fosters some of the same concerns as the state religions that prompted our forefathers to escape to the New World. Nonbelief is becoming more sponsored in the body politic than belief. History teaches well the lesson that there must be a unity in some moral absolutes in all societies for them to endure and progress. Indeed, without a national morality they disintegrate. In Proverbs, we are reminded that “righteousness exalteth a nation: but sin is a reproach to any people.” [page 70] (Prov. 14:34.)
The long history and tradition of America, which had its roots in petitions for divine guidance, is being challenged.

The new civil religion is different from that envisioned by Benjamin Franklin, who seems to have first used the term “civil religion.” (M. Marty, Pilgrims in Their Own Land, 1984, pp. 155–66.) Franklin’s “civil religion,” as I understand it, was envisioned to replace the state religions of Europe, with their forced taxation and oppression. Franklin no doubt envisioned that this vacuum would be filled with a patriotism reflected by national symbolism, pride, ethics, values, and purpose. His eloquent statement concerning divine intervention in the Constitutional Convention clearly indicated he was not opposed to religiosity.

Free Exercise Clause

The new civil religion isn’t really a religion as you and I would use that term to describe a faith or a church or a synagogue of people that worship Almighty God and espouse a code of moral conduct. This new civil religion teaches a sectarian philosophy that is hostile to traditional religion. It has its own orthodoxy. It could even end up in an ironic violation of the U.S. Constitution that says that there shall be no religious basis for office. (Article IV, U.S.
Constitution.) Will irreligion become a test for office? May I share with you several examples that illustrate this?

Every American has been taught that the “freedom of religion” is the “first freedom” guaranteed by the Bill of Rights. The First Amendment to the Constitution recognizes the “free exercise of religion” as the preeminent position among constitutional rights as intended by the Founding Fathers.

Most Americans are unaware, however, that two years ago this most fundamental right was substantially eroded. For decades, whenever government tried to pass a law that interfered with any right guaranteed under the Constitution, the law was given careful scrutiny by the courts. Government was required to show that first, it had a “compelling governmental interest” that justified the interference with a constitutional right, and second, that this “compelling governmental interest” could not be achieved through some other, less intrusive means. This strict scrutiny of law was applied even to rights that have been created by the courts, though they are not specifically found in the Constitution—such as the right to privacy, which is the basis for the legalization of abortion.

In the case of Oregon Employment Division v. Smith (110 Supreme Ct., 1595, 1990), however, this strict scrutiny and the burden on government to demonstrate a “compelling interest” was abandoned in cases involving the free exercise of religion. According to the court, religious exclusions to public policy are “a luxury we can no longer afford.”

As a result, any government (federal, state, or local) can now pass any law that infringes upon individual religious liberty as long as the law applies generally to everyone.

Establishment Clause

The civil secular religion also teaches that the establishment clause of the First Amendment—companion to the “free exercise” clause—should be applied to prevent religious organizations from working cooperatively with the government to bring about worthwhile public policy. There are many laudatory public purposes, such as education, literacy, public health, welfare, and assistance to the poor where charitable institutions, including churches, can and should work with government assistance programs for the public good.

There are numerous examples, however, where governments have tried to provide accommodation to religious institutions which provide public service through tax incentives, grants of educational materials, or other commodities—only to be challenged in court for fostering religion in violation of the establishment clause.

I have chosen to emphasize this subject because the twin religious clauses of the Bill of Rights—“Congress shall make no law respecting an establishment of religion nor prohibit the free exercise thereof” (First Amendment, U. S. Constitution)—are golden threads which in the past have permitted those who believe in God to publicly affirm that there is a higher power that “rules in the affairs of men.” These religious clauses have fostered the creative impulses and the vitality of religion in an open heterogeneous society. They have freed this country from the terrible religious violence that has existed in Europe over the centuries and from which our forefathers in this country sought to escape. One author described these religious clauses in the Constitution as “the Articles of Peace.” (Father J. Murray, We Hold These Truths, 1960, p. 45.)

The establishment and free exercise clauses should be read together to harmonize the importance of religious liberty with freedom from government regulation. Rather, today in our nation the establishment clause is being used to restrict religious institutions from playing a role in civic issues, and the free exercise clause denies to individuals their religious liberty. It does not accord the equivalent to what the Constitution accords to secularism—the new civil
religion.

One basic difference between Franklin’s concept of a civil religion and the new secular religion is that the new secular religion rejects in large measure the basic concept of Anglo-Saxon-American jurisprudence. Our traditional jurisprudence has held that God is the source of all of our basic rights, and that the principal function of government is only to secure those rights for its citizenry. May I quote from the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; … that to secure these rights, governments are instituted among men.”

In contrast, the new civil religion I speak of finds its source of rights by invoking the power of the state. It seems to have little purpose, few common values for morality except self-interest. Most recently that power was invoked by the Supreme Court in a case known in legal circles as Lee v. Weisman. This is the case that resulted in the Supreme Court’s banning ceremonial prayer at public school exercises. Commenting on the case, Edwin Yoder, distinguished columnist for the Washington Post, observed that “the decision is more than a natural extension of the original school prayer decision of 1962. It more closely resembles a promotion of secularity in the public forum—a result which some of the framers of the First Amendment establishment clause probably did not so much as dream of.”

Yoder further states: “Religion has a legitimate public ceremonial and community function which may be stunted by such decisions. It is far from clear why children, even of tender years, need to be protected from religion, even on special ceremonial occasions.” There are natural safeguards in a God-fearing people that promote respect for law and order, decency, and public civility. That restraining influence is the belief that the citizenry will be accountable to their Creator for their conduct under a high moral law. This respect for and adherence to moral law transcends the constraints of the civil and criminal codes. In a people who are not God-fearing, however, these characteristics are notably absent.

When recently viewing residents of Los Angeles lawlessly looting business establishments and happily carrying out stolen goods, when viewing the daily television fare, and when confronted with the overwhelming social ills of this country, we can hardly say that our citizenry have been overexposed to moral teachings. One of the responsibilities of government under their police powers is to protect the health, safety, and morals of the citizenry. Our governments have not succeeded well in this duty of protecting morals, especially to the coming generation.

The new civil religion is, in my opinion, coming dangerously close to become a de facto state religion of secularism. Litigation—and the fear of litigation—have made school boards and local governments reluctant to publicly defend moral principles. As a consequence, fewer public institutions are willing to take the stand in defense of moral values.

With the public religion now turning increasingly toward the secular, I wonder how this nation will preserve its values. In my view, there is a substantial governmental interest within the limits of the religious clauses of the Constitution in public prayer and expressions of all faiths which acknowledge the existence of deity. Such prayer and expressions accommodate the abiding values shared by a great majority of our citizenry. They give meaning to a transcendent spiritual reality and idealism which, in the past at least, were quite firmly held by the people of our society. The very essence of our concern for human welfare and alleviation of human suffering lies in our spiritual feelings and expressions.

So now we find ourselves in a situation where, unlike the Pilgrims, the Mormon pioneers, and others, there is nowhere to go to escape a new civil de facto secular state religion that
continually limits public religious expression and fosters instead the secular values and expressions. How do we preserve the essence of our humanity?

Surely we must begin in our homes. We must teach our children and grandchildren.

The moral teachings of all our churches must have an honored place in our society. The general decline in the moral fabric of the citizenry places a greater responsibility on homes and churches to teach values—morality, decency, respect for others, patriotism, and honoring and sustaining the law.

We can exercise our right, with all other citizens, to vote for men and women who reflect our own values. We can also express our views as all other citizens have a right to do in the legislative process of both the state and the nation. With all others, we can claim our rights of free expression. We can petition for the redress of grievances.

We must hold to our beliefs and do what we can, for there is no desert to flee to in order to have full freedom. There is no place across the waters for the Pilgrims.