

# Religion and the Law

by Rebecca Bynum (January 2014)

According to the Internal Revenue Manual 7(10)69, Exempt Organizations Examination Guidelines Handbook, text 321.3(3), an organization is defined as a “church” if it has the following broadly and neutrally defined characteristics: (a) a distinct legal existence, (b) a recognized creed and form of worship, (c) a definite and distinct ecclesiastical government, (d) a formal code of doctrine and discipline, (e) a distinct religious history, (f) a membership not associated with any other church or denomination, (g) an organization of ordained ministers, (h) ordained ministers selected after completing prescribed studies, (i) a literature of its own, (j) established places of worship, (k) regular congregations, (l) regular religious services, (m) Sunday schools for religious instruction of the young, (n) schools for the preparation of its ministers, and (o) any other facts and circumstances that may bear upon the organization's claim for church status.

Though this definition was developed in a purely Christian context for the purpose of determining tax-exempt status for various newly-formed sects, it is clear that Satanists who sacrifice kittens could gain status as a “church” so long as they conduct their sacrifices according to their own formal code at a regular place and time, with their own “ministers” and instruct the young in the proper manner of sacrifice according to their own literature. Just check the boxes above and you too can start a new, legal and possibly profitable tax-exempt “religion.” (See for example, Scientology.)

So, how should religion be defined? In the *U.S. v. Ballard*, 322 U.S. 78 (1943), the Supreme Court stated:

*The Fathers of the Constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and of the lack of any one religious creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views...The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect. When the triers of fact undertake that task, they enter a forbidden domain.*

This seems to imply not only that religion *should not* be properly defined for legal purposes,

but that religion *cannot* be so defined. And certainly the very thought of wading into the religious realm is anathema to most legal minds.

Implicit in this assessment is the idea that religion need have no relation to truth. Religion can be entirely a matter of falsehood and delusion and still be considered a “true” religion so long as the boxes above are ticked. Though wrapped in the cloth of high-mindedness, this seems to me a cowardly abandonment of judicial responsibility.

For many years I have maintained that Islam, because of its many disparate features (including complete and self-contained political and judicial systems) should not be properly or legally categorized as a true religion. The real nature of religion has become more and more misunderstood as secularization has progressed.

Religion is more than a belief system which points toward a random god or gods. For religion to be actual, it must include the living spiritual experience and growing realization of love, truth, beauty and goodness – of God. God must be loved, and through that love, he must then be *known*. There is no other way for religion to be real in the lives of men. An abstract god who is primarily feared can never become a part of the believer’s experiential reality. Fear is the experience of beasts; it is primal, never transcendent. Fear cannot bestow insight.

True religion grants insight into the nature of reality through the transcendent experience of spirit and spiritual value – which are *real*. True religion does not confer delusion nor foster fanaticism. It is the calm assurance that men are endowed with a living spirit and that this good spirit reveals in the light of truth, what *ought to be*, not simply what is. Religious insight is not a matter of logical proof, but rather what is spiritually *felt* to be true, bypassing mind altogether. Religious insight is a different way of knowing; it is a method of perceiving higher reality – transcendent Love – which is the essence of all things.

The logical mind can sort reality by creating categories in abstraction. Philosophy may give meaning to reality by finding relation between these categories, but only spiritual insight can elevate things and meanings by conferring value – which again, is spiritually *felt*. It is the growth of spiritual feeling which allows the comprehension of value, and again, value is not comprehended simply by the mind, but by the soul. The value of our country is not its GDP.

I believe it is obvious our Founding Fathers did not intend the First Amendment’s protection for freedom of religion to shelter a parallel and belligerent social, political and judicial system within our borders. They would instantly comprehend the necessity to define religion within certain boundaries for First Amendment purposes. A minority religion which encourages hatred, intolerance and violence against the majority at the very least requires containment

and monitoring and cannot be allowed to spread unrestricted without ultimately threatening the nation.

Defining true religion for First Amendment protection could be easily done in neutral language and religions and religious sects could be subject to a simple test such as the following:

- 1) Is love, the progressive experience of God, encouraged?
- 2) Are the fruits of the spirit, (truthfulness, joy, peace, loyalty, long-suffering, gentleness, goodness, faith, meekness, and temperance) encouraged?
- 3) Is loving service to humanity, without prejudice, encouraged?
- 4) Are hatred, selfishness, intolerance, intemperance, disloyalty, deceit and violence discouraged?
- 5) Is violent coercion employed?

Thus, the court would not be required to prove or disprove the validity of any set of religious beliefs (as the justices worried about in *Ballard*) but it can set standards on what true religion should do for mankind and judge the fitness of different religions to come under the protection of the First Amendment on that basis. Good men must not shrink from discussing religion for fear of causing offense. The time has come to robustly and honestly discuss and define the real nature of religion. All Americans must certainly admit the necessity of allowing only those religions (both new and old traditions) which are beneficial to our society to grow and flourish on our soil. Those harmful to our social unity should not be given free rein to grow in influence and power, for the day of reckoning will surely come.

A house divided against itself cannot stand. Once again, we find we must struggle for union.

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Rebecca Bynum's latest book is