

Wrestling with Progress

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In Genesis 32 the all too human Jacob wrestles with a strange visitor in the night—and receives a blessing. Theological work, especially in the public arena, often seems to me like wrestling both with God and other human beings, a work that is blessed, surely, but just as often throws you out of joint.

Theology poses an infinite claim of being speech about God; witness to the work of God in the world is a very human project. They do not go together easily or well, nor should they: thus, while we may work for political “progress,” it seems to me the theological project in relationship to this political progress is more convoluted and complex. As theological work is wrestling with the divine, this is unsurprising.

This past fall I was asked to be a witness in the Senate Judiciary Committee hearing on the appointment of Judge John Roberts to be Chief Justice of the United States Supreme Court. As part of this testimony, witnesses are asked to write a much longer document that is included in the Congressional Record. A shorter version of the oral testimony is drawn from this document.

When I foolishly agreed to do this, I had no idea of the amount of work that would be involved both in reading the documents that had been released by Judge Roberts, nor in writing this longer piece and then preparing and delivering the oral testimony.

I wrestled not only with the size and complexity of the work, but with what to bring as a witness.

What follows below is first an excerpt from my testimony. It seemed important to me both to write about “Progressive Christian Witness” and also about “Prophetic Christian Witness”—these are two honorable traditions that we inherit in my own tradition, the United Church of Christ, and I felt they both had a critical contribution to make to my work as a witness in what is surely one of the momentous times for the American legal system and for the Supreme Court in particular.

I conclude with a reflection on both Progressive and Prophetic witness.

The Constitution's Promise

Our Constitution's promises – such as the right to live free of tyranny and be able to worship freely – are generous, even extravagant promises. They are promises made after freedom had been won from tyranny, a tyranny both political and ecclesiastical. They are promises made to the best of the human spirit as created by God.

A Supreme Court Justice entrusted to interpret the Constitution must embrace the fundamental element of our democracy—we will strive to be a body politic rooted in justice and fairness for all citizens. A Justice trusted to interpret the Constitution must understand that the prohibition of any establishment of religion and the protection of the free exercise of religion are particularly critical to the way in which this Constitution promises to “establish justice, insure domestic tranquility... promote the general welfare and secure the blessings of liberty to ourselves and our posterity.”

The Promise of the Constitution in the Thought of Dr. Martin Luther King, Jr.

Few Americans have understood the promises inherent in our Constitution better than Dr. Martin Luther King, Jr. The life and work of Dr. King have had a formative impact on my life. I was present as a teenager on the mall when Dr. King gave his “I Have a Dream” speech and while there almost by accident, it moved me and taught me. I have learned two fundamental lessons from Dr. King. One is that as a Christian it is not enough to talk the talk. You have to walk the walk. Christianity is not just peppering your speech with a frequent “Amen” or even “Lord”. If you can’t love your neighbor as yourself, you are no kind of a person of faith.

The second thing I learned from Dr. King is how to be a citizen, indeed, even how to be a patriot. The true patriot wants her or his country to be a shining example to the world of what a community can and should be, what Dr. King called “the Beloved Community.” And when your country stumbles or fails to realize the Beloved Community, then the patriot speaks up and speaks out and witnesses to that fact, no matter what the cost.

Dr. King, in his “I Have a Dream” speech, was able, as few before or since, to reach into our Constitutional past and proclaim the deep sense of the words.

“When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory to which every American was to fall heir.”

King argued that so far this promissory note to African Americans had been returned “insufficient funds.” But the promise held. This promise for King was then a dream, but not a fantasy. “I have a dream that one day this nation will rise up and live out the true meaning of its creed: ‘We hold these truths to be self-evident: that all men are created equal.’”

Dr. King’s speech on the Mall is a solemn word of judgment on those who would interpret our Constitution in too specific or even narrow ways when it comes to the duty of the state to establish justice, to promote the general welfare, and secure the Blessings of Liberty for all Americans. Prophetic religion proclaims, “Justice shall roll down like waters and righteousness like an ever-flowing stream”. The rushing river of justice cannot be parsed out by our Supreme Court justices in little droplets. It is not enough to be merely correct in interpreting our founding document. We must hold any candidate for the Supreme Court to the test of the Constitution’s promise as King interprets it.

Like the framers of the Constitution, who were writing out of their own experience of resistance to tyranny, Dr. King's experience was with the tyranny of racism. This is certainly one reason why he was able to understand both the depths from which come the Constitution's promise to America, and its reach toward the stars.

The Framers of the Constitution Prohibited Establishment of Religion and Protected the Free Exercise of Religion for Theological Reasons

Dr. King's vision, as is well known, was a deeply theological vision. It is less well known that the framers of the Constitution also drew on a theological vision and that their prohibition of the establishment of any religion and their insistence on the protection of the free exercise of religion was made for religious reasons.

The popular debate uses the "founding fathers" on both sides of any specific controversy on what are called separation of church and state issues. Those who vigorously oppose any perceived breach in the separation of church and state understand the authors of the Constitution as secularists and revolutionaries who established a nation on the concept of liberty, including not only freedom of religion, but also freedom from religion. These strict separationists see religion as a threat to the secular sphere and the individual freedom from religious control that a secular public life entails. On the other hand, those who want to lower the bar in the separation of church and state debates also cite the founders in support of their position. They argue that the founders were not "secularists" who wished to keep religion locked away from public life. As is so often the case, there is truth on both sides of this argument.

The thought of John Locke, on whose work "founding fathers" such as Thomas Jefferson drew, is instructive. Locke, like others in the 17th century, had seen the terrible results of religious wars as Catholics and Protestants struggled for power in England. At first Locke was dubious about the capacity of human reason to provide the bulwark against the terrible abuses that result when "Priest and Prince" are combined. But his own faith led him finally to believe that it is only in the absolute protection of human civil society from any control by religious authorities that people are enabled to come to have faith in God. He paid a high personal cost for challenging the abusive power of the religious state, as he had to flee to Holland to escape execution for treason.

It was, therefore, for a theological reason, not a secular one that Locke and the American founders who drew on his work separated church and state and prohibited establishing one religion over any others. In that way, they protected religious freedom. Locke believed that people could only come to know God under the conditions of absolute freedom from any state control of their consciences. All state control gives you, argued Locke, is the "sin of hypocrisy, and contempt of his divine majesty."

Locke made this simple point: 'God doesn't need the help of the state for there to be faith.' Also, Locke and the framers of the U.S. Constitution were deeply and profoundly suspicious of the motives of those who wanted to bring religious and state control together. Locke notes "how easily the pretence of religion, and of the care of souls, serves for a cloak to covetousness, rapine, and ambition."

The Framers' Construct—The Prohibition of Establishment of Religion and the Free Exercise of Religion—Have Stood the Test of Time

From our vantage point in the twenty-first century we can see that the framers were right. They did not just protect political freedom. They protected religious freedom. It is no accident that the United States through all of its history so far has been free from the terrible effects of religious war. The framers of the Constitution knew what they were doing. Don't merge religion and the state.

*This has recently been said with great acumen by retiring Supreme Court Justice Sandra Day O'Connor. As she wrote in a concurring opinion last term, "At a time when we see around the world the violent consequences of the assumption of religious authority by government, Americans may count themselves fortunate: Our regard for constitutional boundaries has protected us from similar travails, while allowing private religious exercise to flourish. Americans attend their places of worship more often than do citizens of other developed nations, and describe religion as playing an especially important role in their lives. Those who would renegotiate the boundaries between church and state must therefore answer a difficult question: Why would we trade a system that has served us so well for one that has served others so poorly?" *McCreary County v ACLU*, 125 S. CT. 2722, 2746 (2005).*

The Prophetic and Progressive Faith Traditions **Progressive Faith**

It is helpful for the health of our political life to realize that some people can vigorously object to any attempt to merge religion and the state from deeply held religious conviction. Those who point out the remarkable danger to American society from tendencies to merge religion and the state are not by definition "faithless secularists" or "liberal ideologues".

The faith communities who vigorously defend separation of church and state, who oppose any establishment of religion and who vigorously protect the free exercise of religion are a diverse group. Some may best be described as "progressives," while others could be called "the prophetic."

The Progressive Faith community is, in large part, the most direct heir to the religious perspectives that informed thinkers such as Locke. Progressive people of faith have roots in the European Enlightenment and in the Protestant movement in Christianity. The root word of "Protestant" is "protest" and the protest was, in part, against the temporal power wielded by the Catholic Church of the 16th century.

These movements were responsible for inventing a concept called the "secular," a place in social life where organized religion does not hold absolute authority. It is the invention of this sphere of "worldliness" (the root of the word "secular" being the Latin for world) that gave rise to the political philosophy that informs the framers of the American Constitution. Subsequently, other religions have brought their faith traditions into the modern era and

similarly defined a “world” where government holds sway. Reformed Judaism and Vatican II Catholicism are examples of this.

Progressive people of faith come from many religious traditions today. They share a commitment to the use of reason in human affairs, the duty of religious people to help create a just society and they believe that religious freedom and pluralism are religious and social goods.

Prophetic Faith

The Prophetic faith traditions are also opposed to any infringement on the free exercise of religion and to any breach in the separation of church and state. Prophetic faith traditions often draw significantly on the spirit and want the church and the state to be separate because the latter is not spiritual.

Among the Prophetic faith traditions, African American Christianity, in particular, is very clear about both religious freedom and separation of church and state. African American Christianity was born under horrific state abuses of the individual rights of kidnapped and enslaved African people that were not only legal under American law, but also most often sanctified by the dominant churches. Enslaved African people were prevented, sometimes violently, from practicing their African religious faith and from forming independent Christian churches. This historical experience has given African American Christianity a very healthy skepticism about the dangers of merging religion and political authority and a deep conviction that both need to be constantly held accountable to the demands of true justice.

Jewish Americans contribute to this same perspective out of their experience of the Holocaust and underline that the systematic kidnapping, torture, and extermination of millions and millions of people was legal under the laws of Germany. Nuremberg has established that too narrow a reading of what is “legal” can profoundly betray the duty of the nation state to the claims of transcendent justice. Moreover, the American Jewish experience has been one of the flourishing of Jewish life due to the protections of religious liberty in the United States (though this has not always been perfectly observed by all citizens).

The women’s movement in the United States blends elements of both the Progressive and the Prophetic traditions. Nineteenth and twentieth century American women had to counter strong, even virulent, opposition from churches to have their right to vote recognized. To this day, American women do not have an Equal Rights Amendment to the Constitution due, in part, to vocal opposition from the religious quarter in the latter part of the twentieth century.

Together the Progressive and the Prophetic faith communities are united in the view that any move to privilege one religion over another and to blur the lines that separate the power of religion and the power of the state is to run a grave risk of damaging both religion and the state. It is an oft-repeated phrase, but one that is particularly apt in relationship to the effect of merging religion and politics, “Power tends to corrupt and absolute power corrupts absolutely.”

Adherence to Religious Freedom Principles in the First Amendment is Critical in a Pluralistic Society

It might seem contradictory that while as a nation we are more religiously pluralistic than ever before, we see contemporary efforts by some to establish the doctrines of only one religion, Christianity, and indeed only of part of Christianity, as social policy. The strenuous objections to embryonic stem cell research, for example, are directly based on a particular religious conviction that the human soul is made present by God at the time of conception and that the newly fertilized embryo is ensouled .

When we look more closely, however, this is not as contradictory as it seems. While the Constitution protected religious freedom, our culture has been functionally Protestant since its beginning. In the 19th century, public school children were taught from readers that were patently a tutorial in the Protestant faith. Catholic immigrants in the 19th century formed their own parochial schools because they correctly perceived that this so-called public education was in truth nothing short of indoctrination in Protestantism.

*What has become evident in the last half of the twentieth century and into the twenty-first is that our society is becoming more genuinely religiously pluralistic. The Harvard “Pluralism Project” has documented this astonishing growth of religious pluralism. As Dr. Diana Eck writes in her widely praised book *A New Religious America: How a “Christian Country” Has Become the World’s Most Religiously Diverse Nation* (HarperSanFrancisco, 2005), “there are now more Muslims than Episcopalians, Jews or Presbyterians” in the United States.*

Such increasing religious pluralism calls for even greater vigilance both in protecting religious minorities and clearly avoiding even the appearance of the establishment of any particular religion.

The Task of Witness in the Public Square

Theological work in the public square needs to be able to say an intelligible word. Yet, this word is always so astonishingly finite and incommensurate with the infinite God to whom we need to witness.

We should not confuse our theological witness with any political movement, whether progressive or conservative. Progressive politics is a valuable movement and I for one support many of its proposed policies and programs. Yet I believe the task of Christian witness is complex and our commitments so diverse that we bring an embarrassment of riches to the political table—we are progressive *and* prophetic. Our attempts to articulate this perspective must wrestle both with the task of faithfulness to our God and our very real obligation to bring a concrete and helpful theological word into the public square.

This often feels like wrestling and out of joint because it is; any effort to make theology a handmaiden of politics is the deepest kind of betrayal. Yet, we cannot afford to stay silent as the issues are profound and the moral imperative is great.

Sitting there in front of the Senate Judiciary Committee brought this conflict home to me in a real way. There is no way forward but just to keep wrestling with it.