Prayer at Government Meetings: Reflections on the Saguenay case

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Published 30 September 2014 at theEFC.ca/PrayerandState

Should prayer before city council meetings be unconstitutional? That is the issue coming before the Supreme Court of Canada in October. The question is not whether a prayer must be offered but whether a public, group prayer could be offered if the members of the city council choose to pray before their meeting begins. The town council of Saguenay, Quebec does so, and the constitutionality of the opening prayer is now before Canada’s Supreme Court.

In a free and democratic society that affirms freedom of religion, there should be no constitutional barrier to allowing elected bodies to open their meetings with a form of religious observance. Forbidding religious observance at such meetings is not a neutral policy; rather it gives preference to those whose faith traditions, be they religious or a secular equivalent, do not require or prefer religious observance in such settings.

Of course any such observance must respect the religiously plural nature of the community its leaders represent and the sensitivities of their constituents. Those constituents can hold their leaders accountable as to the means by which religious diversity is accommodated – there is no need to mandate or forbid a particular practice.

It is not known how many town council meetings open in prayer. The Parliament of Canada, and all provincial legislatures except Newfoundland and Quebec, have opening prayers. Public prayers are offered during Remembrance Day ceremonies and at state funerals. Most government meetings involving First Nations begin with a form of religious observance.

There are two concerns from those who object such observances. One is that some might be offended by the practice of prayer in a public venue. The second is that allowing a religious observance such as prayer in public venues, particularly as part of the agenda of a government agency, compromises what the courts in Quebec referred to as state neutrality towards religions.

The Saguenay case is important because it deals with religious observance in public places and during public activities – that is, in places or during activities that are owned or sponsored by government. If prayer before a council meeting is banned because it might suggest the government body is too closely associated with one faith tradition, what of
government officeholders who wear religious headgear or symbols? Such officeholders include social workers, police officers and judges. Will lawmakers extend the precedent and ban these harmless examples of personal religious expression? Will they enact legislation like the divisive and contentious “Quebec Values Charter” that was promoted by the now-defeated PQ government?

If the argument is that no government resources should benefit any religious expression, hence no prayer in city hall, does this extend to the use of all public space for religious services including parks, rooms in libraries or schools? Would a ban extend to the provision of chapels and chaplaincy in the military, hospitals and penitentiaries?

**Taking Offense**

Some people may find the religious practices of others to be offensive. Do they have a right not to be offended? Or does living in a multi-religious society mean we must learn to tolerate the observances of others?

If there is a right not to be offended, then how far does the right extend? If it extends to all forms of religious observance in public venues, then freedom of religion and expression will become moot, and what is allowable expression will be reduced to the lowest common denominator. What is left, it should be pointed out, is not neutral – most people will be denied the ability to express themselves in distinctive ways, while some will not be affected at all.

Forbidding religious observance in public venues would not be a neutral policy. It would favour those whose faith system has no distinctive expression – or side with those who claim to have no religion. This is not neutrality.

People have differing systems of beliefs and express those beliefs in customs, habits and practices (the stuff of culture) differently. Some expressions of belief or ideology may be incompatible with living in a free and democratic society that affirms religious freedom and promotes respect for diversity. But most types of religious observance are not contrary to the public good.

If the public sphere is to be truly public and accommodating of diversity, then there is no valid reason why most expressions of religious belief cannot be accommodated in public venues.

If there is no right not to be offended then there is an obligation for everyone living in a plural society to be empathetic to the sensitivities of others, to respect differences and to seek to live peaceably with others. Rather than laws proscribing a complete ban as a solution, people should be encouraged to listen to one another and to explore ways and means of accommodating difference in various contexts rather than suppressing it.
State Neutrality
This brings us to the second concern, namely that religious observance contradicts the neutrality of the state. Can the state be neutral? At one level, it cannot. Some set of norms, principles or values will shape the purpose and activity of the state. There will be something akin to a political creed, or set of political principles, or values, which will guide political decisions.

Canada’s Charter of Rights and Freedoms is an example. It is not a neutral document. It lists a set of principles and concepts that Canadians agree should be promoted and protected with the full force of the law. These are political principles upon which there is broad and shared agreement by members of Canadian society. Though we are culturally diverse and a religiously plural society, from out of our worldviews or belief systems, religious or secular, there has been a convergence around these political principles.

These principles shape our deliberations and guide how we make decisions about how we live our lives together in society, the types of laws we enact and how we conduct ourselves in the common spaces (the public square). Historically these political principles were shaped by the Judeo-Christian tradition. Now other traditions have adherents in Canada, both religious and secular, and many of them share the conclusions of the Judeo-Christian tradition in terms of political principles. The result is what some call an overlapping consensus.

The Christian belief in the sanctity of all human life, grounded in the belief that God created humans in His image, underlays a Christian’s affirmation of policies and programs that affirm and uphold the dignity of all and respect for all. Others who do not share this belief can also affirm the dignity of all. Here we find a point of consensus, a place of convergence.

The idea of a neutral state maintains that the state should be guided by the shared political principles and not by the beliefs or doctrines of any one religion or a secular equivalent. The state must be non-sectarian in its policies and programs, meaning that no one sect (a specific religion or secular worldview) should trump others in the development of law and policy. The political principles, not sectarian beliefs, guide politicians, judges and civil servants.

A good example of this was the decision of Canada’s Supreme Court on the matter of closing stores on Sunday. Basing a law requiring that stores be closed on Sunday on beliefs about keeping the Sabbath holy (hence the title of one law – The Lord’s Day Act) would be to ground the law in a sectarian purpose, and this was deemed by the Supreme Court to be contrary to the Charter of Rights and Freedoms.

However, if the law was grounded in the argument about the need for a common pause day (a common day when the majority of people in society would have a day off from work to spend
with family and friends), this would be consistent with the neutrality of the state. It may well find support from those who affirm from their religious tradition the importance of a day of rest, as well from others who also agree that a common day of rest would be valuable. Hence the purpose of the law would be non-sectarian.

A strong case can be made for the public benefit of religious observance. Since the affirmation of public principles is grounded in the various religious or non-religious traditions held by Canadians, it follows that practices which sustain and nourish these traditions – and, as a result, promote the affirmation of the public principles – are important and valuable.

Prayer before a city council meeting, if it encourages the commitment of the council to their task as councillors, reinforces the public principles that will guide them in their deliberations, and is an expression of their desire to conduct the business of the council with wisdom and grace. Such prayer is thus not contrary to the purpose of the neutral state. Instead it assists those participating in deepening their commitment to the business of the neutral state. Religious observance and the neutral state are not incompatible, but related.

Religious observance is too often seen as something tangential or even threatening to the idea of a neutral state. It need not be. There may be some religious beliefs, or the secular equivalents, that would undermine our agreed public principles. However, it would be peculiar indeed to find city councillors who subscribe to such beliefs and still choose to serve as public servants for the public good. If religious observance encourages them in their task as city councillors and their commitment to the public good, then it is not contrary to the purposes of the secular state but actually a supportive and affirming practice.

The test of the integrity of the secular or neutral state is not the beliefs of those who are employed by the state, but whether they perform their duties in the furtherance of the public principles and for the public good.