March 18, 2020

Coronavirus vs. Religious Liberty?

The response of federal, state, and local governments to the public health crisis caused by the coronavirus is constantly evolving, frequently involving either recommended or mandatory restrictions on gathering sizes.

Do government restrictions on gatherings large and small violate religious liberty? In a word, no—so long as such restrictions apply generally to all gatherings and don't single out religious gatherings.

Here's the longer answer: for many years, courts analyzed religious liberty (free exercise of religion) claims using a three-part test:

• First, they asked whether the religious belief or practice was sincerely held and restricted by a law, policy, or regulation of the government—the First Amendment does not restrict "private" acts of non-governmental entities.
• Courts then asked whether a sufficiently compelling state interest justified the restriction.
• Finally, if the state interest was compelling, courts would ask whether the state interest and the religious liberty interest could be reconciled without violating either.

In 1990 the Supreme Court severely restricted the use of the "compelling interest" test. The Court held that the First Amendment protects free exercise of religion from government action targeting religion for discriminatory treatment but is not implicated by laws that apply generally.

Current restrictions on gatherings do not target religion, so they cannot be challenged on First Amendment grounds. Even under the compelling interest test, a religious liberty claim to exempt religious gatherings from restrictions would be a losing proposition. The logic of social distancing requires maximum participation. Exemptions would undermine the effectiveness of social distancing to slow the spread of the virus.

Don't we have a fundamental right to assemble together for worship? Yes, but that right is subordinate to the authority of the state to impose restrictions deemed necessary to save lives.

Restrictions such as those related to the present coronavirus crisis apply generally to all gatherings, not just religious gatherings. Therefore, under current constitutional interpretation, there is simply no religious freedom claim to an exemption under the First Amendment.

Do we really need to comply with directives not to gather for worship? Yes.

Responsible leaders of every denomination urge compliance. Ask yourself how you would feel if you encouraged a church gathering and someone in attendance fell seriously ill or even died?

We should also respect government recommendations short of mandatory restrictions. As Christians, we are called to provide leadership in social responsibility. We should be foremost in demonstrating care and compassion for our community, especially for those who are vulnerable, elderly, disabled, etc.

Seventh-day Adventist conferences that recommend cancelling church services are responding to serious public health concerns. Church members are encouraged to comply with recommended restrictions.

Beyond the issue of religious liberty, how can we face this crisis intelligently?

A crisis shows us what we are really made of. Are we driven by selfishness or by love? Will we permit social distancing to isolate us or will we rebuild community, talk to neighbors, learn about the needs of the vulnerable, contribute to food banks, care for elderly? Will we find new ways to reach out?

Fear is the real enemy. But "God has not given us a spirit of fear, but of power and of love and of a sound mind" (2 Timothy 1:7, NKJV). A hundred times in the Bible, God commands us not to be afraid. Whenever God shows up in a person's life, He tells them not to be afraid. Invite God to show up in your life.

So let's not panic or act from fear. Let's pursue love to the limit! Emotions can be contagious. Why not let your compassion and love be what you spread around.

Alan J. Reinach, Esq.
Executive Director and General Counsel