

Religious freedom

Civil liberty and divine gift

Cheryl Pauls

In recent years expressions of concern regarding erosions of religious freedom have intensified in various quarters of Canada and the United States.¹ This concern requires careful evaluation. It also invites exploration into the qualities of religious freedom for which the church yearns. Does the church perceive its imagination for exercising the divine gift of freedom in Christ to be

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This article takes shape in the conviction that those who follow Christ will always seek sound and resilient expressions of religious freedom in overlapping but not coalescing spheres of church and society. As I face apparent impasses and openings in these intersecting realms, I am persuaded that the church needs to be inspired by biblical stories that resist an ease of separation between religious and political realms. Thus, I begin in

conversation with a story from the book of 1 Kings, which wades into waters of freedom as civil liberty and divine gift.² Inspired by the story, I call the church to exercise religious freedom in ways that sustain its capacity to generate wisdom.

Two prostitutes and a discerning king

Later, two women who were prostitutes came to the king and stood before him.

Wait. Later than what? In 1 Kings 3, it's just after God appeared to Solomon in a dream and said, "Ask what I should give you,"

and Solomon said, "An understanding mind, able to discern between good and evil." Then Solomon provided a feast for all his servants. Quite possibly his desire and action were seen as unusual.

And why identify the women as prostitutes? Sure, a good story needs to entice the listener, but it ought never to stoop to gratuitous defamation of character. The prostitute bit is peculiar, given that we are in the presence of a king with a questionable foreign affairs portfolio: Solomon loved many foreign women, and among his wives were 700 princesses and 300 concubines. Or perhaps it was remarkably subversive for the king to hear prostitutes in 970 BC. Was it in the wisdom of God that Solomon received those known to sell out in various matters of life, procreation included?

The one woman said, "Please, my lord, this woman and I live in the same house; and I gave birth while she was in the house. Then on the third day after I gave birth, this woman also gave birth. We were together; there was no one else with us in the house, only the two of us were in the house. Then this woman's son died in the night, because she lay on him. She got up in the middle of the night and took my son from beside me while your servant slept. She laid him at her breast, and laid her dead son at my breast. When I rose in the morning to nurse my son, I saw that he was dead; but when I looked at him closely in the morning, clearly it was not the son I had borne." But the other woman said, "No, the living son is mine, and the dead son is yours." The first said, "No, the dead son is yours, and the living son is mine." So they argued before the king.

Then the king said, "The one says, 'This is my son that is alive, and your son is dead'; while the other says, 'Not so! Your son is dead, and my son is the living one.'" So the king said, "Bring me a sword," and they brought a sword before the king. The king said, "Divide the living boy in two; then give half to the one, and half to the other."

Wait. What do you think Solomon thought he was doing? Did he intend to follow through on his order and murder the baby

boy? Could he have known that he'd be stopped by someone with enough guts and mostly enough love to stand up to him and propose an alternative? Did he have another option up his sleeve?

The story doesn't tell us what was in Solomon's mind. Did he think killing innocent children, uttering murderous threats, and meting out pain in equal measure are wise and just ways to resolve disputes? The text simply acknowledges that Solomon's suggestion was refuted, after which the first woman is defined not as prostitute but as mother. We read,

*But the woman whose son was alive said to the king—
because compassion for her son burned within her—
“Please, my lord, give her the living boy; certainly do not
kill him!”*

Let's define Solomon's wisdom this way: he empowered the real mother to move from possessive, downward-spiraling, stalemate arguments—“No, the dead son is yours, and the living son is mine”—to clear witness to her true character. Make no mistake, though: this mother took an enormous risk. She released her own infant in order to save his life. She risked having people think she didn't care about keeping her baby. She risked being seen as the deceitful one. Most poignantly, in order to keep her child alive, she was willing to entrust her child to one she knew to be a baby thief and liar.

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As the story opens, these women are called prostitutes. Most often this word defines a person, usually a woman, who accepts money for sexual services. Occasionally this word expresses judgment; it's a label for someone who sells out, who compromises the purity or good of a matter or person for the sake of personal or material gain. Sometimes people are even accused of “prostituting themselves” to enact grace: artists, athletes, and academics, among others, are

charged with sacrificing their moral or artistic integrity—for omitting two-thirds of a soliloquy out of respect for an audience, or for acting out of ameliorative motivations to put in place differentiated accessibility standards in school and sport.

The second woman disrupts how the story unfolds. She refuses the first woman's offer of the warm, breathing boy. Why didn't she take him? After all, the premise of the story is her desire for this baby. Perhaps she couldn't bear the burden of indebtedness to the true mother; she was capable of theft but not of receiving grace. Her preferred option was to make things fair—uniformly horrific—for both women.

For she said, "It shall be neither mine nor yours; divide it."

Solomon confronted two options. He could follow through on his original utterance, as affirmed by the second woman, or he could heed the first woman's plea and give the living baby to the second woman. He chose neither. Instead he said,

"Give the first woman the living boy; do not kill him. She is his mother."

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mother's vocation? Did the second woman's despairing pain drive her to prostitute herself by calling for a violent form of equity rather than accepting a strangely wrought gift of new life? Did the true mother's despairing love compel her to prostitute her right and responsibility to raise the child through an extraordinary—though neither benevolent nor patronizing—offer of release and trust? And

with Solomon's judgment, didn't the world see the courageous vulnerability of love exceed all reasonable definitions of grace and truth, finding expression as a tender power that would not only protect the child's life but transcend the charge of prostitution? For the text concludes,

All Israel heard of the judgment that the king had rendered; and they stood in awe of the king, because they perceived that the wisdom of God was in him, to execute justice.

An exploration of the public vocation of the church

I hope that the church's fidelity to God's greatest commandment constantly disrupts and transforms what loyalty to God, enacted in love of God and neighbour, looks like when disjunctions emerge in the public square and the church. In that hope, I submit that the exercise of religious freedom will always risk eliciting accusations that some party is selling out. I also trust that God's wisdom continues to see through apparent forms of prostitution in our despairing compulsions—and everyday desires—to love and protect all the (and not only our fellow) creatures and callings with which we are entrusted. I pray that in its earnest desire to protect religious freedom as much as God's grace and truth in all things, the church today will see itself through the eyes of the mothers as it wades with me into an exploration this story from 1 Kings. As we venture in, I yearn most that categories of church and state be released from an easy identification of the former with the private realm and the latter with the public.

One often hears that over the past fifty years, growth of religious diversity and legal regulation surrounding individual rights has dramatically increased areas of potential overlap and conflict

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between law and religious practice.³ Those who are convinced that religious freedom is eroding in the context of this overlap tend to share a perception that when Section 2a of the Canadian Charter of Rights and Freedoms, a bill of rights enshrined in Canada's constitution and guaranteeing fundamental freedoms of conscience and religion,⁴ is in tension with equality rights defined in Section 15 of the charter,⁵ adjudications favour the latter.

The inclusion of religion and religious rights—and particularly the common substitute, “religious beliefs”—within a growing list of what is protected in the charter (and in the

Universal Declaration of Human Rights, provincial human rights declarations, and commitments of voluntary organizations) is seen to be tantamount to reducing religion to one of many factors of identity vying for equal treatment under law rather than as a unique forum for discerning matters beyond its own interest.⁶

These critics point out that Canadian constitutional law seems to view religion as a private matter, and thereby to advance individual interest, even when religious faith is corporately embodied.⁷ Religiously motivated variation from a mainstream ethos may be granted reasonable accommodation, provided little or no harm is likely to reach to those outside the protected population. The casualty in such determinations is a growing tendency to define religion as a special interest rather than a generative source of knowledge and wisdom.

Several religious communities in Canada seem to see a growing trend towards inclusive citizenship as entailing repudiation of “faith-based privilege.”⁸ I wonder, can this loss—perhaps a necessary outcome of movement into a post-Christendom society—enable the church to resist the privatization of religion and instead strengthen the common good of faith-based power? Such an understanding, I imagine, will be necessary for “the advancement

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of religion” to remain a purpose for which charitable status is afforded in Canada. More importantly, I consider this question vital to restoring a centring role for the church in civil society as a hub that enables ordinary citizens to exercise discernment.⁹

Phillip Blond, philosopher and Anglican theologian, discerns the presence of a similar phenomenon in England. Blond laments the flat, two-dimensional space of UK society today, in which imposed activities of the central state and the compulsion and determination of the marketplace are the only real players. He calls for increased influence of independent, autonomous mechanisms, including churches and universities, seeking to restore their competence to exercise power. This restoration would involve naming the church along with educational institutions and other non-direct governmental entities as at once both private and public: private in the sense of enabling agency apart from the state, and public in the sense of being players through which multisector common goods flow.

At a time of significant change in denominational designs, it may seem strange to consider the church capable of increased

agency in civil society. But I am persuaded that such changes in the church and elsewhere in society currently compel the church to risk being accused of prostituting itself, for the sake of protecting in love all that God entrusts to it.

Notes

¹ This article is informed by my reading of primarily Canadian constitutional and legal documents and discourse on law and religion through a lens of theological and political locatedness at Canadian Mennonite University, Winnipeg; a study of American materials may or may not lead to similar inclinations.

² 1 Kings 3:16–28, NRSV.

³ Richard Moon, “Introduction,” in *Law and Religious Pluralism in Canada* (Vancouver: UBC Press, 2008), 2.

⁴ The text of Section 2A of the Charter of Rights and Freedoms reads as follows:

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

See <http://laws-lois.justice.gc.ca/eng/const/page-15.html>.

⁵ The text of Section 15 of the Charter of Rights and Freedoms reads:

Equality before and under law and equal protection and benefit of law 15.

(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

See <http://laws-lois.justice.gc.ca/eng/const/page-15.html>.

⁶ Margaret H. Ogilvie, *Religious Institutions and the Law in Canada* (Toronto: Irwin Law, 2010), 114.

⁷ Benjamin L. Berger, “Law’s Religion,” in *Law and Religious Pluralism in Canada*, ed. Moon, 279.

⁸ Lorraine E. Weinrib, “Ontario’s Sharia Law Debate,” in *Law and Religious Pluralism in Canada*, ed. Moon, 246.

⁹ Phillip Blond, “There Is No Wealth but Life,” in *Crisis and Recovery: Ethics, Economics and Justice*, ed. Rowan Williams and Larry Elliott (Basingstoke: Palgrave Macmillan, 2010), 78.

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