

Is Religious Freedom In Jeopardy? A Look At The First Amendment And What The Bible Has To Say.

Contributed by Dr. Craig Nelson on Apr 1, 2020

Scripture: Romans 13:1-7, Matthew 22:34-40, Romans 2:4, John 13:34-35, 1 Peter 2:12-17

Denomination: Evangelical/Non-Denominational

Summary: During the current global viral Pandemic, it is apparent that some churches are not following government guidelines designed to help save the lives of its citizens.

During the current global viral Pandemic, it is apparent that some church Pastors are not following government guidelines designed to help save the lives of its citizens, and some have even vowed not to permit "any dictator law" to stop services, and have encouraged worshippers to meet, even shaking hands, despite experts identifying that behavior is an easy way to spread the virus.

The biggest argument is that the First Amendment safeguards religious freedom, which includes meeting in large groups. It is believed by some church leaders that they can make a constitutional claim to being singled out by a law that treats secular activity differently. As of this moment, no Government entity has banned the conducting of worship services, and many are live streaming sermons and services.

The Supreme Court has repeatedly held that the five First Amendment rights are not absolute. The right to free speech, for instance, does not protect libel, slander, bribery, or solicitation to commit a crime. Religious practices cannot include human sacrifice. The First Amendment protects "the free exercise" of religion and "the right of the people peaceably to assemble." These are bedrock constitutional principles, deeply enshrined in American Law, and repeatedly affirmed by the U.S. Supreme Court.

It is essential to understand the background and intent of the First Amendment, written by the Founders. One such document to give insight is the text of the 1786 Virginia Statute for Religious Freedom. It reads: "... no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced ... in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities."

The intent of the First Amendment was that Americans are to have the freedom and right to practice any faith without any governmental authority ruling over the church or designating a specific religion for its citizens by coercion. In 2014, the Supreme Court held in the case, *Town of Greece v. Galloway*, that "it is an elemental First Amendment principle that government may not coerce its citizens to support or participate in any religion or its exercise." They have also ruled that "the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)."

The Supreme Court has also said that religious liberty does not exceed all forms of government regulation, even when the law clearly impacts a specific religious practice. The fact is that the First Amendment cannot protect any house of worship that defies emergency governmental edicts to protect

human life from an international viral pandemic that threatens to kill millions, by limiting gatherings during the fight against it.

In late May of 2020, the Supreme court rejected an appeals challenge to State limits on large church gatherings during the Covid-19 pandemic. The Chief Justice wrote, "the Constitution principally entrusts 'the safety and the health of the people' to the politically accountable officials of the states 'to guard and protect.'"

In June, and then in July of 2020, the Supreme Court, in *South Bay United Pentecostal Church v. Newsom*, *Elim Romanian Church v. Pritzker*, and *Calvary Chapel v. Sisolak* ruled that the State may impose limitations on crowd size in order to make health and safety judgments. Regarding *Calvary Chapel v Sislak*, Chief Justice Roberts stated that "the restrictions of the State appear consistent with the free exercise clause of the First Amendment."

Based upon numerous cases, the courts have shown they are more than likely to find there is a "compelling interest" in preventing death through infectious disease. The public health emergency of a pandemic would make the governmental case for restrictions on gatherings, including worship, far more potent than usual.

Courts have consistently held that such bans are not unconstitutional, so long as they are content-neutral and are narrowly designed to meet legitimate concerns such as public health and safety. As an example, a Fire Marshal traditionally says that any, and all group meetings which exceed a certain number of people, cannot gather in various places for the safety of those in attendance. If the Fire Marshall directed the ban against a specific church, political party, or group, that would be unconstitutional.

Freedom of speech does not give a person the right to yell 'fire' in a crowded theater or call for someone's murder. These are reasonable limits on free speech, and these restrictions have been upheld. Convening large gatherings could contribute to someone's death during a health crisis.

There are other ways to spread the Gospel that don't involve putting lives in danger. The right to life matters too. Rights are supposed to come with responsibilities. Too many people demand that others respect their rights but couldn't care less about their duties to others. Expressing one's freedom of religion or belief is their right. Protecting the safety of those they care about, and the broader community is their responsibility.

The 10th Amendment of the Constitution reserves to the States, and the people, the powers that are not explicitly delegated to the Federal Government. The traditional police powers of the States include the power to combat the spread of infectious diseases via quarantines and related health measures (though these powers are not unlimited). Bans on large gatherings to prevent the spread of a virus would likely fit that bill, at least in the short term. The State's police powers during declared emergencies can be very comprehensive. The legality of the State's authority to prohibit gatherings depends on the specific public health crisis in that State, the language of the emergency order, and how the law is enforced. Congress has, thus far, made no law that bans large gatherings.

There will always be some examples of oppressive government overreach. The Supreme Court has struck down imposed restrictions on worship services on numerous occasions. They have called such regulations in New Jersey, Colorado, New York, California, and other States unconstitutional even though the regulations had already been lifted by the time the cases reached the court.

As Justice Gorsuch noted in a concurring opinion to the decision striking down the New York regulations, "Government is not free to disregard the First Amendment in times of crisis. At a minimum, that Amendment prohibits government officials from treating religious exercises worse than comparable secular activities unless they are pursuing a compelling interest and using the least restrictive means available. (See *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 546 (1993)). Yet recently, during the COVID pandemic, certain States seem to have ignored these long-settled principles."

However, the fact is that the vast majority of churches in the USA are NOT being singled out by a law that treats secular activity differently. The government restrictions provide compelling health and welfare reasons in preventing death through infectious disease by imposing the same burden on everyone to not allow the meeting of large groups, whether they are religious or not. There will always be cases of governmental overreach because fallen human beings are involved, which is why the USA has a Judicial third-branch of the Government to hear grievances against those leaders, and then determine if they overstepped their authority. It must be noted that rebellion is as the sin of witchcraft, and church leaders must be careful to use divine wisdom when choosing to defy government edicts, and they should expect the possibility of severe consequences for their actions (1 Sam 15:23). Church leaders should let the courts decide who is right, and who is wrong, so as to not bring shame upon the name of Jesus for their behavior.

What Does the Bible Say?

The Bible commands the Born-Again Christian to:

"Let every person be subject to the governing authorities. For there is no authority except God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed, and those who resist will incur judgment. For rulers are not a terror to good conduct, but to bad. Would you have no fear of the one who is in authority? Then do what is good, and you will receive his approval, for he is God's servant for your good. But if you do wrong, be afraid, for he does not bear the sword in vain. For he is the servant of God, an avenger who carries out God's wrath on the wrongdoer. Therefore one must be in subjection, not only to avoid God's wrath but also for the sake of conscience. For because of this you also pay taxes, for the authorities are ministers of God, attending to this very thing. Pay to all what is owed to them: taxes to whom taxes are owed, revenue to whom revenue is owed, respect to whom respect is owed, honor to whom honor is owed." (Romans 13:1-7 ESV).

As with any law, the First Amendment right to swing my fist stops when it hits someone else's face. The Great Commandment is to love God with all our heart, soul, mind, and strength, and to love others (see Matt 22: 34-40). Loving your neighbors is protecting them, not jeopardizing their health by exposing them to a deadly virus.

All rights come with responsibilities. Those who ask for their rights but ignore their responsibilities are only loving themselves. The right to bear arms doesn't mean you can have a nuclear warhead. One of the many ways that is done is by obeying His Laws, as well as the Government that He gave to keep people safe.

Every Born-Again Christian, for the sake of the Lord, is to be subject to every human institution, and live as His servants, because it is the will of God to do so. They are commanded to keep their conduct among all people honorable, so that when people speak against them as evildoers (such as ignoring

Government mandates during a viral pandemic that is killing and destroying their way of life and not being able to support their family), they may see their good deeds (i.e., obeying the Law and honoring their Rulers) so that it will silence the godless critics and glorify God on the day of His return (See 1 Pet 2:12-17).

Some have stated that God's Law supersedes man's law, such as when taking Bibles into countries to spread the Gospel where it is forbidden, is the same as dishonoring Government authorities (which God has set up to protect people), and meeting in large crowds, even though they are taking the monumental risk of spreading a virus that can kill people and, at the very least, alter their lives in immeasurable ways for the bad (Note: As I write this, countless dead bodies from the current pandemic are being loaded into refrigerated trailers with forklifts). The defying of the Government by churches has already resulted in irreparable scorn and ridicule upon the Bride of Christ.

It is clear that draconian measures were enacted by a number of progressive politicians beyond the boundaries of the US Constitution. However, most did not, and acted in the best interests of the people for the long term. The fact is that governing authorities in the USA cannot limit the individual's expression of worship or in spiritual matters. The reason there have been Pastors arrested was for irresponsible, reckless, and reprehensible endangerment of people, and not for preaching the Gospel.

There are many ways to stir up love for one another and good works (Heb 10:24). Just because the church is currently not meeting, as usual, doesn't mean that they are forsaking/neglecting to meet together or making an intentional habit of it (v25). There are many ways to encourage one another, such as not doing things that could hurt, and negatively affect, those around them, such as taking the risk to spread a deadly virus. That is clearly the complete opposite of loving one another.

The Church is NOT built upon brick and mortar but upon Jesus Christ, the chief cornerstone. The Apostle Paul wrote to people he never saw, and churches he never planted - but it was as if he knew each of them all along. The Born-Again Christian doesn't need to always physically "lay hands on the sick" to see them recover. Jesus often healed from a distance. Having fellowship in the Spirit does not need walls to express the real heart of worship.

It is the merciful kindness of God that leads people to repentance (Rom 2:4). The Church is the chief evidence of the manifest presence of God in the world today.

"A new commandment I give to you, that you love one another: just as I have loved you, you also are to love one another. By this all people will know that you are my disciples, if you have love for one another." (John 13:34-35 ESV)