



UNITARIAN UNIVERSALIST

CONGREGATION OF FREDERICK
Spirituality · Community · Justice

Why “Freedom of Religion” Doesn’t Protect the Right to Discriminate in Public #Torda450

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In less than two weeks, a new semester will begin at Wesley Theological Seminary in D.C., and I am looking forward to the opportunity to co-teach “Unitarian Universalist History” to six aspiring UU ministers. Since the last time I co-taught this class three years ago, an excellent new anthology of UU primary sources has been published. Together, the two volumes weigh in at slightly more than a thousand pages. (If you want to enroll—or audit—the class, you too can read more than a thousand pages of UU history this spring!)

I am almost finished reading them in preparation for the class, and I want to share with you one reflection I have had from studying this new collection that is clear from the titles alone:

- Volume 1: From the Beginning to 1899
- Volume 2: From 1900 to the Present

I find it fascinating—and very UU—that it took approximately 500 pages for the editorial committee to distill the essential excerpts of Unitarian and Universalist primary sources “from the beginning” to 1899—and then another 500 pages to distill the essential excerpts from just the past century. As one of our classic hymns says about our liberal religious tradition, we practice a “freedom that reveres the past, but trusts the dawning future more.” **It’s very UU to have a major new resource for studying our *past* that itself has a strong bias toward the *present*:** one half covers essentially four centuries (the sixteenth century to the nineteenth century), and the other half covers just the most recent century or so (the twentieth century through 2015).

And, as the saying goes, one of the reasons we study our past is that, although history does not necessarily repeat itself precisely, it does tend to *rhyme*. And I would like to invite us to spend a few minutes this morning reflecting on the upcoming 450th anniversary of the Edict of Torda, a landmark “Act of Religious Tolerance and Freedom of Conscience” enacted by history’s only Unitarian king, John Sigismund Zápolya of Transylvania (1540-1571), which is in modern day Romania.

On January 13, 1568 (450 years ago this coming Saturday), at a time when many ruling authorities were persecuting or even killing religious dissenters, Sigismund carved out space for religious pluralism and religious freedom. *Congregations* were declared free to hire a “preacher whose teaching they approve”—as opposed to having a preacher imposed on them by a religious authority figure. And *ministers* were declared free to preach based on their own best understanding of the truth—as opposed to having predetermined assignments or limits. The Edict continued that, “**No one shall be reviled for [their] religion by anyone.**”

I will give you a historical comparison to help emphasize how significant the Edict of Torda was. A little more than a decade earlier, in 1531, Michael Servetus had courageously planted one of first strong roots that grew into the Unitarian half of our heritage when **he published a book with the title *On the Errors of the Trinity***. (Very subtle, right?!) Tragically, rather than seeing this book as one person’s strong opinion, John Calvin burned Servetus at the stake in 1553 for the so-called heresies of anti-Trinitarianism and Anti-Paedobaptism—that is, being *against* the baptism of infants and *for* the baptism of adults, who are old enough to choose for themselves what they believe. Servetus become one of our first martyrs. In stark contrast to Calvin’s harsh rule in Geneva, King Sigismund’s Edict of Religious Toleration, a mere fifteen years later in 1568, gave the world a very different example of how to co-exist amidst religious differences.

I don’t, however, want to mischaracterize the ensuing tolerance, however significant as it was at that time. With the Edict of Torda, **tolerance was explicitly extended to only four religious groups: Lutherans, Calvinists, Catholics, and Unitarians**. But for the mid-1600s, construction of a big enough tent for all four of those different groups *was* major progress. In

contrast, the standard practice in many other places at the time allowed only one flavor of state-sponsored religion.

Significantly, Francis Dávid (c. 1520 - 1588), **Sigismund's Unitarian court preacher both converted Sigismund to Unitarianism and wrote the Edict.** There are at least two lessons here: (1) You can convert people to Unitarianism, and (2) It can be advantageous to have religious progressives in places of high office. Indeed, Dávid's authorship of the Edict of Torda reminds me of modern parallels such as Ted Sorensen, President John F. Kennedy's closest advisor and major speechwriter, who was a Unitarian.

And if we fast forward only a few years, we can see an example from the opposite direction of how much it can matter who is in the highest office in the land. Tragically, Sigismund died three years after he passed the Edict of Torda at the far too young an age of thirty after being severely injured in a hunt. (Is this starting to sound like *Game of Thrones* to anyone?) In his place, a new Catholic king was crowned who removed all Unitarians from positions of powers.

If you are interested in learning more about religious tolerance during this period of history:

- There's a wonderful—and quite short book—by the UU historian Susan Ritchie titled [Children of the Same God: The Historical Relationship Between Unitarianism, Judaism, and Islam](#) that explores the cross-cultural relationships that emerged due to Unitarianism arising in Eastern Europe in the context of Islamic and Jewish influences within the Ottoman Empire.
- A slightly longer but still accessible book that is more of a historical survey is Charles Howe's [For Faith and Freedom: A Short History of Unitarianism in Europe](#).

If you want to get the whole story, a good place to start is the secondary source textbook that we are assigning to our seminarians this term: [An Introduction to the Unitarian and Universalist Traditions](#) (Oxford University Press, 2011).

As a result of the cascade of changes that took place, Francis Dávid, the Unitarian author of The Edict of Torda, was found guilty of preaching new innovations in religion. (If we UUs are guilty of anything, it's definitely innovations in religion!) Dávid's trial took place in 1579, barely a decade after the Edict of Torda was passed. You know the old saw that, **"If you were accused**

in court of being a Unitarian, would there be enough evidence to convict you?” Well, there was plenty of evidence in Dávid’s case. He was convicted of two things in particular: (1) preaching that, instead of worshipping Jesus, Christians should *follow his ethics*, and (2) advocating that *continual reformation in religion*—far from being a negative thing to be resisted—was essential for healthy spirituality. Dávid was imprisoned and died later that same year at the age of either 58 or 59. He was truly a martyr for Unitarianism, freedom of conscience, and religious liberty.

Now that’s a fair amount of UU history, but—just as our new UU primary source anthologies are biased toward the present—I don’t want to spend our whole time in the past without making connections to how history is repeating itself (or at least “rhyming”) in the present. **This 450th anniversary of the Edict of Torda is also an auspicious time to reflect on the state of religious freedom today.**

Back in 1568, John Sigismund, history’s only Unitarian king, constructed a big enough tent to peacefully contain four religious groups: Lutherans, Calvinists, Catholics, and Unitarians. Four hundred and fifty years later, the religious diversity of our globalized, pluralistic, postmodern world is much deeper and vaster. We have already traced the way that our Unitarian forebear Francis Dávid was martyred for religious innovation. Nevertheless, even we religious liberals can find ourselves asking today if there are limits. If I claim that something is my sincere religious belief, does that mean that you have to tolerate it? Here are some examples of religious claims:

- “It is my sincere religious belief that I should win the lottery.” (*So—I’m sure the State of Maryland will find that fervent belief persuasive, right?*)
- How would you respond if a someone approached you and said, “I sincerely believe that God wants us to go out on a date.” (*I suspect more than a few people have tried that creepy strategy over the years.*)
- Or what about: “I sincerely believe that God wants me to run for president.” (*So many failed politicians are on the record with that one that I am not even sure where to start listing them.*)

These are not completely satirical questions. This line of inquiry really matters in a country in which the first amendment to our Constitution begins, **“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”**

As historian Peter Manseau has explored in his book One Nation, Under Gods (Little, Brown, and Company, 2015), the volume is turned up further on these questions because religions receive tax-exempt status in the U.S. To give one longstanding matter of controversy that continues to this day, should the Church of Scientology be tax free? Some critics, including the Pulitzer Prize winning journalist Lawrence Wright have written about why it should be considered a cult, not a religion (387). **But who decides? Who benefits? And who gets to set the criteria for the decision?**

Similar dynamics play out in the ginned-up controversy around “Merry Christmas” vs. “Happy Holidays.” So much depends on whether one’s norm is “one religion is superior” or whether one is a pluralist who views *many religions as* legitimate spiritual paths. Note that being a *pluralist* (one who believes that there is more than one legitimate spiritual path) is not the same thing as being a *relativist* (who might think that all self-proclaimed moral paths are equally deserving of protection).

And from a historical perspective, it is ironic to hear conservative Christians today (when Christianity remains, in many ways, a cultural norm) insist that all say “Merry Christmas.” This position forgets that back **in the early days of Christianity—when Paganism was still the norm—Jesus followers were sometimes called “atheists because they refused to acknowledge the Roman gods”** (182).

As an example of an alternative perspective, our Unitarian forebear Thomas Jefferson (I’ve written previously about the question of whether Jefferson was actually a Unitarian) said, **“It does me no injury for my neighbor to say there are twenty gods or no gods; it neither picks my pocket nor breaks my leg”** (226). That is a classic liberal position known as the “public/private split”: you are free to think or do whatever you want in *private* as long as you do not hurt anyone else. As soon as you hurt someone else, you are in *public*. And in public you have to be tolerant of diversity—or we will end up back with the “wars of religion” that helped birth the liberal religious tolerance in the first place. The risk is ending up back with people

being killed or imprisoned for their religious beliefs, as happened to Servetus, Dávid and countless others.

Currently, a significant example of this ongoing controversy is a Supreme Court case argued last month that will presumably be decided in June, known as Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission. This is the case about whether it is constitutional for the owners of a cakeshop to refuse to sell a wedding cake to a gay couple on the grounds that same-sex marriage is against the cakeshop owner's religious beliefs.

From the perspective of the “public/private split,” this case is not about the cakeshop owner's “freedom of religion.” The cakeshop owner is free to believe whatever he would like. **This case is about “enshrining a freedom to discriminate” in public.** That's why the other side of the case is the Colorado *Civil Rights* Commission.

In another case of history not exactly repeating itself, but rhyming, it's fascinating that this same public accommodation cakeshop debate sprang up precisely around *food*. There are powerful parallels to the lunch counter sit-ins during the Civil Rights movement, which were also about *public* accommodation: whether it is constitutional to discriminate based on *race* about who can be served at a given restaurant. Racism is currently considered morally repugnant and treated as such, legally; so is homophobia. But neither were treated so in America's past. Today, you are legally free to be prejudiced in the privacy of your heart and in the privacy of your home and religious community. But **it is a tragic misreading of the Constitution to try to enforce your religious *bigotry* on others in the public square in the name of religious *liberty*.**

If you don't want to serve any customer who comes through the door, then don't open a restaurant. And if you don't want to sell a cake to anyone who wants one, don't open a *public* cakeshop. In contrast, **you are free, in the *privacy* of your own kitchen, to make baked goods only for those you deem worthy.** (Along those lines, in one of the many ironic twists of history, just this year the Hungarian Unitarian Church—heirs to the tradition of Francis Dávid, John Sigismund, and so many other religious progressives—voted to bless only those marriages between a man and a woman.)

Returning our focus to the U.S., there are some important precedents to consider. One of my favorite case titles of all time is *Newman vs. Piggie Park Enterprises*. Piggie Park Enterprises

was a drive-in barbecue chain owned by the head of the National Association for the Preservation of White People. (The parallels to today are haunting.) In 1964, **the defendant argued that his freedom of religion meant that he could refuse to serve black customers.** Similarly, “in the 1970s and 1980s, schools claimed that they should be allowed to pay women less than men based on the [religious] belief that men should be the head of the household. In all these cases, the courts ruled that religious views do *not* entitle any of us to discriminate [in public].”

Those of you following the Cakeshop case closely know that in addition to the religious freedom argument, they are front loading an argument that cake decorating is artistic free speech; therefore, it is actually the bakeshop owner’s Constitutional right to free speech that is being violated. They are basically trying to do an end run around precedents like *Piggie Park Enterprises*. That is a halfway clever argument that deserves to be tossed out of court, but there is no guarantee that it will be.

To quote another commentator, the truth is that:

when a law is “generally applicable”—that is, when it doesn’t single out any particular religious group—it is constitutional for such a law to burden some individuals’ religious practices when the government has a compelling interest at stake.... The Colorado anti-discrimination law...doesn’t single out conservative Christians, but rather seeks broadly to prohibit discrimination on the part of any citizen.

From a UU perspective, the even more significant point comes from a more-positive angle: “Public accommodations laws...generally promote religious liberty, by protecting individuals from discrimination on account of their religion.”—that is, they actually encourage the flourishing a religious diversity. **“Such laws also promote human dignity, which is itself a religious value.”**