SHOULD THE STATE BE DICTATING RELIGION?

An exchange — Discussion between speakers and the moderator, **Nathalie Des Rosiers**, MPP, Ottawa-Vanier, constitutional law expert, and former General Counsel for the Canadian Civil Liberties Association.

Nathalie Des Rosiers: There's a couple of things that came up quite clearly in terms of balancing equality for all and freedom of religion. I heard certainly, 'don't essentialize religion — there's lots of diversity, diversity of voices.' I heard as well that equality thinking was learned almost by osmosis, that if you create an equality framework, or equality capacity enhancing, then people grab onto it and fight within their own community... to defy colonialism, defy patriarchy. Finally, I heard very strongly the importance of having a strong anti-discrimination legal framework.

But there was a little tension about the internal space versus the outside space. You (Rabbi Goldstein) said, 'I really like the Bruker vs. Marcovitz decision,' in which the Supreme Court said that even if a Jewish women doesn't get the *get* that she was promised, we were going to oblige the husband to pay damages. So in a sense, the Supreme Court was involving itself – it's not only a private religious matter: we're going to protect the right of the religious woman to *get*, under civil law, because she was denied what she was promised. So the state was intervening there. Bu, then, you also say, 'Don't intervene in the synagogue to decide how to deal with transgender issues.' Is there a contradiction there?

Elyse Goldstein: I was putting forward the contradiction that we all live with. Those of us who are liberals in our religious communities, we have much less contradiction in our lives. My congregation will never have that conversation about where trans people sit, because people sit wherever they want to sit. So I'd rather have that conversation with my co-religionists and get them to change their synagogue seating than have you legislate it.

But at the end of the day, if I can't convince my own religious community to do things differently, then I don't have any problem making sure that the courts make sure that within my religious community, there is no discrimination.

If I can use the *get* law as a good example — of course, all of us feminist female rabbis were part of that conversation — the law that a Jewish man cannot withhold the Jewish divorce from his wife; he can't obtain his civil papers until he gives her the Jewish papers. Among us, we were (agitated) about the fact that within traditional Jewish law, it is still up to the man to serve his wife a divorce. So we in the liberal community said, 'The heck' — actually we said, 'The hell' — 'The hell with that, we're going to now, in our internal religious rulings, make it possible for a woman to deliver the divorce to her husband.' And guess what? In the Reform community, for the last 20 years, we don't need the *get* law, because we have changed the Jewish law to be that which a woman can deliver the divorce to her husband. So we solved the problem without having to go to the courts. If my co-religionists in the Orthodox community still need the courts, I think that they're having the wrong conversation. I think they should be having the conversation within the Jewish milieu as to why are they still accepting that rule which says only a man can serve his wife a divorce.

Ingrid Mattson: I would not want the state to force a congregation to practice equality as the state sees it. I see that as part of religious freedom, really. A majority of our (Muslim) congregations only allow men to deliver a Friday sermon, for example. But I don't think it's up to the state to come in and say, 'No, women in your congregation must be allowed to deliver sermons.' The state should also certainly not interfere when communities of Muslims form their own congregations where they have a woman delivering the sermon.

A trickier thing would be in public schools where a space is being offered for Muslims to have congregational prayer. Should the state compel it (to have women deliver the sermon)? If a young woman says, 'I want to be able to deliver the sermon,' they (the school administration) couldn't really block that, in my opinion. The others who don't want to attend would say, 'Well, we're not attending that prayer,' or whatever. That seems to me the space where clearly the state has an interest, because it's extending accommodation, and maybe you're going to have to accommodate two different prayer services for two different groups... just as Catholics still only have male priests and many Protestant denominations have both genders.

Kristyn Wong-Tam: There's the separation of church and state, however the church has a very powerful way of getting themselves into the state. Places of worship do not pay property taxes. So they are largely government-subsidized. Which means that if you want to say that you're providing a public service then you need to make sure that your services, regardless of how you frame the programs, must be equally accessible to all without barriers.

I don't think we can't look at these things without looking at it holistically. There was a time where you would have signs in Canada that said: "No dogs, no Jews, no Chinese." Yet in certain places, and it doesn't matter to me which God you worship — there has to be some open dialogue to the fact that you are receiving government dollars and, therefore, it has to be open to all people. Or you can start paying your property taxes, say goodbye to all your tax credits, and you can make your own rules.

Mattson: I'm wondering what it means to be open to all people. For example, religious congregations have services for people in their own religious denomination, and not admitting people of other faiths — I mean, they may welcome them at certain times, but not, say, for communion. Different communities have different marriage laws about whether they'll officiate services between people from their faith tradition and other faiths. That's discrimination, religious discrimination by saying, 'No, I will not allow in my congregation whether it's Catholic, conservative Jewish, whatever an interfaith marriage. We will not hold that service, but you're free to marry a person of another faith in a civil ceremony.' That's a very common form of exclusion, on the basis of religious identity.

What do you mean by being open to all people?

Wong-Tam: I would look at a built space as space that needs to include people, as much as there is a request to close the blinds to ensure that you have girls' change room and women-only swimming hours. I think it's very important for us to take a look at what creates a safe environment for everyone — and there are a number of places of worship that do welcome everyone.

When it comes to the issues that abound in our communities, when we see the exclusion of women, or we see homophobia or transphobia or violence — whether it's physical violence or emotional violence – we have to think of all those pieces that feed into it. So I can't say what's right for you or me — all I can say is, if I walk into a space and I see some very clear lines — men over here, women are over there — that may not be a space that I feel welcome in. The LGBT discussion here is very important, because we oftentimes do feel excluded, by not just Islam, but all the faiths — all the faiths are equal-opportunity exclusionary when it comes to queers, that's just how it is.

Goldstein: When I was very young, I went to university in the United States, and the very first Sabbath, Friday night, I went to services at the Hillel organization on campus, and the only service that was offered on that Friday night, for all the Jewish students on this campus, hundreds of them, was an Orthodox service. And at the end of the service, I marched into the office of the Hillel director and said, 'How can you only offer one way to pray?' And he very wisely said to me, 'You start the Reform service next week, and it will happen.' I believe that there is so much room in this town for more Unity mosques. In fact, my synagogue, City Shul, would welcome partnering with a liberal mosque that has reform values that are akin to ours. We partner with many mosques, and across the differences, we have dialogue. Many women in my faith were marginalized growing up as Jewish women. They've come back to the faith because of feminism and Jewish feminism and female clergy. And I think there's many other ways that we could make a rational and spiritual faith community for the 21st century if we have the will to critique ourselves, and critique what we received from the past. As soon as faith leaders are willing to do that, I think you'll see very exciting things happening, especially in downtown Toronto.

Mattson: We have to decide whether we think the state has an obligation to provide religious institutions for people or not. And if it's not the state's obligation, then people who are like-minded need to come together and form these communities, and this is what they do. I mean, there are a lot of mosques I don't go to, and there are a few that I do.

But for the state to dictate religion, is that what we want? There are many religious state institutions in the world — establishment churches in Europe, establishment Islamic traditions in

different Muslim countries, some Sunni, some Shiite. I mean, is that what we want in this country, that we're going to establish religious institutions and require them to perform their prayers in a particular way? That just seems absurd.

However, if people are being harmed by religious discourse — especially young people being coerced to do or not do things in a space — that is a human rights issue.

I would hope that any religious community, whether Muslim or Roman Catholic, or Christian evangelical, would invite people like you [gestures to Wong-Tam] into the community to talk about the reality of young people in the city.

Whether that should be linked to public funds or not, I don't know. I mean, religious communities are not the only ones who get public funding – we're going to have a community of robots on the waterfront here in Toronto, apparently soon, with Google getting public funding, tax breaks.

Wong-Tam: This is obviously a very challenging topic. I would say that this is not a place where we're going to sort of walk out of here with crystal clarity. If anything, perhaps we're going to be following the Jewish faith and walking out with more questions. And that's perfectly okay, as long as we're willing to have that conversation, and that conversation at times can be very tough. But if we approach it with an open heart and open mind, I'm pretty sure this is the country where we can have those discussions.