

Immutable right

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The First Amendment protection of religious freedom is designed not just to protect the religious traditions that the majority of us like or feel comfortable with. It is meant to protect religious traditions that the majority may find strange or objectionable.

Back in the early 1800s it was the Baptists who felt harassed by the majority religion. They worried that their liberties were regarded by the majority—the Congregationalists—as favors that could be taken away at any time rather than as an immutable right. In a letter to President Thomas Jefferson, a group of Connecticut Baptists sought support for their conviction "that no man ought to suffer in name, person, or effects on account of his religious opinions" and "that the legitimate power of civil government extends no further than to punish the man who works ill to his neighbors."

It took years for the nation to sort out the meaning of religious freedom, but it eventually endorsed the vision of liberty that those early Baptists expressed.

The sorting-out of religious freedom continues in our time. From California to Maryland, plans for constructing Muslim mosques have faced heated opposition. The biggest outcry has come in response to plans for a Muslim center in New York City, two blocks from the site of the 9/11 attacks. Sarah Palin, Newt Gingrich and even religious leaders such as Richard Land of the Southern Baptist Convention and Abraham Foxman of the Jewish Anti-Defamation League have said that building the mosque would be an affront to the victims of the 9/11 attack, who died at the hands of terrorists who invoked Islamic beliefs for their actions. Gingrich mounted a tit-for-tat argument: "there should be no mosque near Ground Zero in New York so long as there are no churches or synagogues in Saudi Arabia."

Gingrich expressed precisely the view that those early Baptists feared. He treats religious freedom as something that the majority can give or withhold as it sees fit—as a political bargaining chip, not an immutable right.

Gingrich misunderstands the constitutional order he thinks he is defending. The right of U.S. citizens to build a mosque has nothing to do with what Saudi Arabia chooses to do. It is a right guaranteed in the First Amendment. And in the Jeffersonian tradition, it is a right ultimately based in the freedom that God gives to all humans.

Throughout the controversy, New York mayor Michael Bloomberg has kept his eye on the essential issue. "If somebody wants to build a mosque in a place where it's zoned for it and they can raise the money, then they can do that. And it's not the government's business." Bloomberg also eloquently stated why this stance, however unpopular, is an appropriate tribute to the victims of 9/11. When police officers and firefighters rushed to the scene of the attack, he noted, "not one of them asked, 'What God do you pray to?' . . . We do not honor their lives by denying the very constitutional rights they died protecting. We honor their lives by defending those rights and the freedoms that the terrorists attacked."