

*Sightings* 9/15/08

Subordinate but Not Submissive  
-- Martin E. Marty

You did not ask to be born into a republic which legally subordinates religion to civil society. You thought that because religion usually makes reference to whatever or Whomever it is that transcends society, society and its laws should come in second in any contest. You thought that because we see messiahs in or make saints or heroes out of those who, within civil society, appeal to a "Higher Law"—as did Martin Luther King, Jr. and a host of pacifists—there are special legal privileges for those we honor as prophets, but it does not work out that way. You thought that because your faith calls you not to be submissive or supine in the face of claims by the civil order, you did not have to locate faith's claims in the category marked "subordinate." You thought. . . wrongly.

Of course, I was talking to myself, so "You" in those lines was "I." I do not know what "you" thought, because I cannot know what goes on in your mind. However, reading our history and observing our practices should lead at least to a tentative conclusion that I was representing you fairly accurately. The theme stays with me, thanks to criticism I received from some who tracked my Yale Law School address of several years ago, in which I tried to provoke with the "subordinate, but not submissive" idea. I was not original in making that point, but the point keeps on having to be made.

I thought of all that, as I often do, as I scanned *CAFF Newsclips* for just one week, August 31-September 7. Headlined in this one week alone were stories like these who headlines I'll scan, there being no other or better way to make my case than dazzling with headings:

"Federal Prosecutors Drop Most Charges in refiled Holy Land Foundation Case," "Federal Court Injunction Requires Equal Access for Bible Club at California School," "Federal Court Upholds New Jersey School's Holiday Music Policy," "TSA Restores Muslim Pilot's Flight Status, Federal Lawsuit will Continue," "Rebuking Homeland Security, Immigrant Judge Grants Imam Permanent Residency," et cetera. In state courts, people of religiously-inspired conscience press cases such as "Oregon Gay Marriage Ceremony May Test American Indian Sovereignty," "Nebraska Supreme Court Will Hear Religious Objection to Infant Blood Screening," and others which refer to Muslim Scientists, Prison Chaplains, Voucher Amendments, "Muslim Dress Policy," and "LDS Woman Files Suit against Mobile Home Parks for Religious Discrimination."

Hello, again. If you yawned or your eyes glazed over, do at least reckon with the conclusions: that ours is a society of competing interests; that law can both restrict and enhance religious freedom as perceived and fought for by competing religious groups; that final solutions to legal church-state issues are in range if our lawyers and judges are good enough and smart enough. No, they are not merely in range. Their expanding, not declining, presence testifies to the contentiousness of fellow-citizens, to the hold religion has on millions and the hold those millions have on religion of all sorts, and to the fact that, irritating as they may be, we are well-served by complaining, crabby, often self-centered people who press their issues and say, "We ought to obey God rather than men."

Because of the prime role law plays, it is important for religiously-minded citizens to ally with freedom-lovers in general to test laws, work to revise them, and pay the price when conscience clashes with law. They serve the rest of us better than do those who snooze and just "go along" and let "the state" always have its way.

*Reference:*

*CAFF Newsclips*, a listserv that circulates news articles about religious freedom nationally and abroad, comes from the Council for America's First Freedom in Richmond, VA.

Martin E. Marty's biography, current projects, upcoming events, publications, and contact information can be found at [www.illumino.com](http://www.illumino.com).