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Nathan B. Oman: Our clumsy system is best for church and market

By Nathan B. Oman

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When it comes to church and state, we have a pretty clear set of concerns. Governments use guns to coerce people. We don't want the guns used for or against religion. But what about the relationship between church and market?

Businesses don't have the state's monopoly on force. Yet more than politics, commerce defines our public spaces. Hence, our treatment of religion in the market decisively shapes the role of faith in our society.

Consider two recent cases. The Federal Reserve, which regulates its member banks, recently reversed a decision punishing the tiny Payne County Bank in Oklahoma for displaying Bible verses in its lobby and on its web site.

Just a few days later, a federal appeals court held that a landlord can fire an employee for displaying a religiously themed picture of flowers without running afoul of civil rights laws.

Do these cases represent a sensible legal approach to church and market? Is religion at work a protected right or a violation of someone else's rights?

On one hand, we could say that businesses, like individuals, should be free to have and express religious opinions. On this view, a business can express its faith and fire employees who undermine the business's religious message (or desire not to have such a message).

Alternatively, we could say that all ought to participate fully in the market regardless of their faith. The implications of this view are more ambiguous. Perhaps we should prohibit religious symbols that send a message of exclusion — just like we prohibit "Whites Only" signs. At the same time, perhaps it should be illegal discrimination to fire employees for religious expressions.

Picking an approach is difficult. As a college student, I was once refused a room by a southern Virginia landlord because I am a Mormon. Years later, it still feels like an injustice. At the same time, I can't help respecting Bible-thumping business people who feel called to a faith that extends beyond an hour or two on Sunday.

In a democracy, government receives feedback through voting and public opinion. They are clumsy and imperfect mechanisms. Fortunately, markets provide more immediate and brutal public feedback through commercial success or failure. In the end, I suspect that a world where customers and employees vote with their feet for different approaches to church and market is the best we can hope for.

Market feedback, however, is not natural. It depends on regulations that prohibit coercion and assist private ordering. In property and contract, it would seem, we already have the best law of church and market.

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