

Religious Holidays

The courts were asked why a young Jewish lady from this area, employed by the government, could not take a day off with pay on Yom Kippur—if Christians could and did take time off with pay on Good Friday. Last week, the court ruled that it was indeed a discriminatory situation. Not that the young lady would be able to take Yom Kippur off with pay. But, henceforth, neither would anyone be allowed to take Good Friday off with pay.

At about the same time, some members of the Chinese community of San Francisco requested that all Chinese employees of the government be allowed to take off Chinese New Year with pay. It was, they said, a bona fide religious holiday.



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The public status of religious holidays has long been a troublesome question. The heart of the problem is not really whether the government pays someone who takes a day off for religious reasons. The problem is letting government decide

what are valid religious reasons for taking a day off. That's always been the nub of the church-state question. If government decides what is and what is not a legitimate religious holiday, then it is deciding what is and what is not a legitimate religion.

That's why we can't slough off the church-state question for reasons of convenience, although that seems to be the temptation these days. At various times, the JCRC has been approached by public school teachers who wanted time off with pay on Jewish Holy Days. The JCRC has always refused to support such a proposition. If government has the civil power to formally "legitimate" Judaism, then it has the civil power to invalidate Judaism, upgrade Christianity, or whatever.

Why not just accept the validity of *all* religions and religious holidays: Yom Kippur, Good Friday, Chinese New Year, etcetera? This is what the San Francisco *Chronicle* suggested in an editorial this week. There seems to be a practical question to begin with. Who's going to define the limits? The Supreme Court has already ruled that a religious body does not even have to profess a belief in a Supreme Being in order to qualify as a religious body. Any group could then set up its own rules. The Pinochle Club of Outer Mission could profess its abiding belief in the ethical and mystical properties of pinochle-playing and establish the annual tournament day as a religious holiday for all its congregants. That's silly, you say. Surely, the government can exercise some common-sense discretion in recognizing religions. But it's just that kind of common sense discretion which we worry about. There's more than one person around who believes that Judaism is a pretty silly religion.

So, the organized Jewish community has always suggested that Jewish employees take off the religious holidays *without* pay, if the only other option is to involve the government in making religious decisions. In most cases, that does not seem an unreasonable sacrifice to make for one's religious beliefs. And, the government cannot prevent an individual from taking a religious holiday off without pay. The federal Equal Employment Opportunity Commission has clearly ruled that any employer, public or private, who penalizes a person for taking off a Jewish or other religious holiday (not necessarily with pay), is guilty of illegal discrimination.

Of course, that could become a bit of a problem in logic, too. And, besides, there is a special burden on employees who happen to work in the kinds of jobs where they have to officially explain a day's absence in order to get paid. It's a little too easy to advise those employees to sacrifice a day's pay, when more and more people are working at jobs where they can just take a day off with pay and without formal explanation.

Therefore, it would make sense to promote at the state and every government level a policy which has already been adopted by a few employers: the provision that will allow every employee to take one or two days off a year with pay for reasons of conscience for which he or she does not have to account. That would be a reasonable accommodation to the religious needs of the citizenry, without getting government in the dangerous and messy business of making religious decisions.