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Church-State Separation: A Keystone to Peace

Clark Moeller, January 2004 --

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INTRODUCTION

The quintessential American value of religious liberty is being eroded in the United States today. The causes of this erosion are described in the following, and the reasons why the effects of this loss will diminish other civil rights, weaken our democracy, and sap the vitality and independence of religious organizations are presented. These perspectives are based in part, on a review of the historic and current experience of church and state relations in the United States compared to those relations elsewhere in the world. If these comparisons are reliable indicators, the loss of

religious liberty underway in the United States is now undermining the remarkable progress we have made to build a nation of people who live in peaceful co-existence while professing a greater variety of religious and secular beliefs than occurs in any other nation in the world.¹

Of the 195 countries in the world in 2001, only six had full religious freedom according to ratings of Freedom House.² These six were Estonia, Finland, Ireland, the Netherlands, Norway, and the United States.³ It is remarkable that the United States is included in this short list because its religious liberty has been weakened, and unlike the other 5 countries, the U.S. is not a small, fairly homogeneous nation. It is a large, heterogeneous country with a population of 281 million, 35% to 40% of whom attend the religious services of 325,000 congregations.⁴ These congregations belong to more than 2,000 religious denominations, many of which espouse religious beliefs very different from one another.

It is often claimed that the diversity and the extent of religious freedom enjoyed in the United States are the result of more than 200 years of church-state separation as defined in the Establishment Clause of the First Amendment to the Constitution of the United States. Nevertheless, religious liberty as defined by the First Amendment has been a source of controversy since its adoption in 1791. The controversy continues today among religious communities, at the municipal, county, state, and federal levels of government, including among the nine members of the United States Supreme Court.⁵

Although the specifics of these conflicts have changed over the years, the underlying issues remain the same. These include whether religion should play a formal role in the governance of this country at the local, state, and federal levels, and if our government should underwrite the costs of religious organizations, or otherwise support a religion or various religions. The practical implications of these questions are being vigorously debated today. For example, should taxes be used to fund religious activities, pay for private, parochial schools, and build churches? Should the phrase "under God" be included in the Pledge of Allegiance recited in public schools? Should state-sponsored prayer be permitted in public schools? Should creation-science or intelligent design⁶ be taught in public schools? Should religious organizations be running U.S. Post Offices and distributing their religious literature in these facilities?⁷ Does the government have a compelling state interest⁸ to decide who marries, be they heterosexual or homosexual? Should the Ten Commandments be posted in public buildings?⁹ Should tax-exempt, religious organizations be permitted to engage in partisan, electoral politics?¹⁰

Given the durability of the underlying issues, some people have suggested that it is time to rewrite the First Amendment in order, for example, to permit state-sponsored prayer in public schools, as proposed in the Religious Freedom Amendment¹¹ introduced by Representative Ernest Istook (R) of Oklahoma in 2001, and in his 2003 proposal to amend the First Amendment, the Pledge and Prayer Amendment. This states, in part, "the people retain the right to pray and to recognize their religious beliefs, heritage, and traditions on public property, including schools."

Before any rewriting of the First Amendment is undertaken, it is important to evaluate the benefits of church-state separation. Toward that end, this paper explores three questions. What benefits has church-state separation added to society? to democracy? and to organized religions?

The focus throughout this paper is on the relationships among organized religions, and between these and government. These relationships influence the degree to which individuals are free to engage in their spiritual and religious life in houses of worship, in their homes, and community.¹²

A Brief Review of Church-State Separation: The term "church-state separation"¹³ is commonly used as a synonym for the Establishment Clause (bolded below) in the First Amendment to the Constitution of the United States.

The First Amendment: "**Congress shall make no law respecting an establishment of religion,**¹⁴ or prohibiting the free exercise thereof;¹⁵ or abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the Government for a redress of grievances."

There are two clauses in the first 16 words of the First Amendment: the Establishment Clause, "make no law respecting an establishment of religion, or" and the Free Exercise Clause, "prohibiting the free exercise thereof." Together these are intended to provide the constitutional guarantee of religious liberty. The means for achieving this freedom was to create a "wall of separation" between church and Congress, according to Thomas Jefferson.¹⁶

To ensure that Congress did not make laws "prohibiting the free exercise" of religion that might result in the punishment of or discrimination against an individual because of his or her beliefs, the founders separated church from state, and state from church, in 1791 by including the Establishment Clause in the First Amendment. Historically, laws regarding religion in both Europe and the colonies had favored, de jure or de facto, one religion, and suppressed other religions.

To achieve church-state separation, the word 'respecting' in "no law respecting an establishment of religion" of the Establishment Clause means no law 'involving' or 'concerning' religion. By constitutionally preventing Congress from making laws respecting religion, the founders intended to preclude the possibility that Congress would establish, endorse, or promote any religion.¹⁷ In essence, the government should be neutral, neither favoring one religion nor discriminating against others, directly or indirectly.

In 1940 and 1947, the U.S. Supreme Court determined that church-state separation applied to the state governments as well as to Congress. Subsequently, the U.S. Supreme Court adopted the following three-part test for evaluating whether a Congressional or state law is consistent with the Establishment Clause: a law must have a secular purpose; its purpose must not be intended to prohibit or promote religion, and the law should not cause government to become very entangled with religion.¹⁸

Church-state separation is intended to create for individuals the widest opportunity for their "free exercise" of religion: to hold, express, and practice their belief. But this freedom does not mean a person or a religious institution can engage in activities that violate the law, such as human sacrifice, or interfere with the religious freedom of others. This is how each person's freedom is guaranteed while respecting that same freedom for others. The American ideal of freedom is based on this concept of fairness.

Readers who dismiss the validity of "church-state separation" are referred to the Appendix where three common criticisms of church-state separation are discussed. These include the complaints that the meaning of the Establishment Clause does not imply the concept of separation of church from state, that none of the separation phrases such as church-state separation are found in the language of the First Amendment, and the suggestion that America has been and continues to be a "Christian nation."

SOCIETY

With the birth of the United States in 1787, a dream¹⁹ began to be realized in practical political terms, a dream that everyone in a nation, the poor as well as the rich, might be free politically and would have real opportunities to improve their lives.²⁰ This was a change from the age-old expectation that only in death would the poor and powerless be free of poverty and oppression.

Democracy²¹ and communism are two forms of government that have emerged in modern civilization. These forms are works in progress: communism in China, Vietnam, North Korea,

and Cuba, for example, and democracy in its various stages of development in 120 countries.²² Both forms are secular²³ and both continue to be in conflict with religious institutions throughout the world.

In this section are sketched historical and current relationships among many institutionalized religions, and between these and various governments. The purpose of this review is to help us focus on two key questions. Why are many religious communities in the world involved in festering or violent conflicts, while religious communities in the United States are not? Why do many governments suppress some religions, but this has not been the pattern in the United States?

Religious Conflicts: The role of religion in politics and war has been a constant factor throughout history, affecting the health, safety, and welfare of mankind. History is replete with records of a dominant religion suppressing foreign or minority religions. The Bible is one of those records. The competition for power among different religious institutions in league with kings and princes was one of the catalysts for the series of wars that racked Europe throughout the Middle Ages and after.²⁴ For example, religious hostility between Protestants and Catholics was a major ingredient in the Thirty Years' War in Europe from 1618 to 1648, which killed as many people as died during the bubonic plague in the 1300s. By the end of the war, many cities were almost depopulated. As a result, when the Treaty of Westphalia was negotiated in 1646, the goal, in part, was to stop wars based on religious difference.²⁵

Unfortunately, religious adversaries are still at it. As the 20th century ended, there were an estimated 56 violent national or international religious conflicts worldwide.²⁶ The explosive mixture of religious differences in the Middle East, the Balkans, Indonesia, India, Pakistan, Macedonia, Nigeria, South Africa, the Philippines, Sri Lanka, Sudan, Tibet, Ireland, and Afghanistan, to name some current hot spots, are vivid testimony that religion has not lost its potential to spark firestorms of violence.

The September 11, 2001, attack by al-Qaeda on New York City and Washington, D.C., .crystalized for many Americans the magnitude of religious violence the world faces, a violence that had started to surge again in the 1990s. In 1993, al-Qaeda bombed the World Trade Center, killing 6 people and injuring more than 1,000. In 1994, Dr. Baruch Goldstein shot and killed 29 Muslim worshippers at the Tomb of the Patriarchs in Hebron and wounded 150 others. His actions were not the actions of a lone, deranged gunman, any more than al-Qaeda bombers were acting on their own.

Goldstein acted as a follower of Rabbi Meir Kahane, who "justified ruthless action to exact vengeance for the violence done to Jews during the millennia..."²⁷ In 1995, Jewish religious fundamentalists held a rite of *Pulsa d'Nura* near the home of Yitzhak Rabin, Israel's Prime Minister, which sanctified killing Rabin, according to Daniel Benjamin and Steven Simon of the Center for Strategic and International Studies. Shortly after, Yigal Amir, a student at the Jewish Orthodox University, Bar Ilan, assassinated Rabin.²⁸ If this *Pulsa d'Nura* had been an Islamic rite, it would be called a 'fatwa,' a religious edict.

Religious wars are violent conflicts between people of different faiths or between different sects of the same faith. However, religiously motivated terrorist attacks or assassinations such as that by Yigal Amir are not so easy to identify unless there is a fairly direct connection between a fatwa and the violence. When a fatwa is an edict calling believers to arms, the religious leaders wrap themselves in the parchment of their theologies, as some secular leaders wrap themselves in the flags of their countries, evoking the source of their powerful authorities.

In 1989, the Ayatollah Ruhollah Khomeini of Iran issued a fatwa to kill Salman Rushdie for publishing his *Satanic Verses*. Since then, Rushdie has been living the hidden life of a person in a

witness-protection program. In 1990, the founder of the Jewish Defense League, Meir Kahane, was assassinated by El Sayyid Nosair, an Egyptian who attended the Farouq Mosque in Brooklyn, NY. He boasted that Kahane's assassination was an act of jihad: "God the almighty enabled his extremely brave people with his great power to destroy one of the top infidels."²⁹ In 1993, al-Qaeda bombers of the World Trade Center acted on the religious authority of the Egyptian blind sheikh, Omar Ahmad Abdel Rahman, who proclaimed, "... the Koran makes it, terrorism, among the means to perform jihad in the sake of Allah, which is to terrorize the enemies of God and who are our enemies, too."³⁰

In 1995, disciples of Shoko Asahara, the leader of Aum Shinri Kyo, a religious group that was an amalgam of Christianity and Buddhism, poisoned more than 5,500 subway riders in Tokyo using sarin, a nerve gas. Twelve died. In Algeria, between 1991 and 1998, 40,000 to 100,000 people were killed as Islamic fundamentalists revolted against the government's refusal to give up control after it lost an election. In some cases, massacres of whole villages took place. In response, the Algerian government contributed to the death toll.³¹ It is estimated that the Taliban, founded in 1994, killed thousands of other Afghans in their pogroms. Elsewhere, the bombing and attacks, big and small, continued. The United States embassy in Nairobi was bombed; the Khobar Towers in Dhahran, Saudi Arabia, were bombed, killing 19 United States soldiers; an attack in Luxor, Egypt, killed 58 European tourists. In 2001, about 1,000 alleged witches were "hacked to death in a single [religious] purge" in the Democratic Republic of the Congo.³² In India, 58 Hindu pilgrims were burned to death in railroad cars by a Muslim mob in February 2002. In reaction, an estimated 2,000 Muslims were killed by rioting Hindus. Meanwhile, Hamas and Islamic Jihad's youthful Palestinian suicide bombers continue to die killing Israelis almost every week, and many more Palestinians are killed by Israel.

Al-Qaeda's religious call for the indiscriminate killing of noncombatant men, women and children was announced in a 1998 fatwa that appeared in *al-Quds al-Arabi*, an Arabic-language newspaper in London. "To kill the Americans and their allies – civilians and military – is an individual duty for every Muslim who can do it in any country in which it is possible to do it."³³ On September 11, 2001, al-Qaeda killed nearly 3,000 people in their coordinated attacks on the World Trade Center in New York, the Pentagon, and the plane crash in Pennsylvania. In October 2002, al-Qaeda bombed a night club in Bali, Indonesia, killing 180 young people.

Certainly, not all religiously motivated conflicts are deadly. On August 16, 2002, in Russia's neighboring country, Georgia, "Jehovah's Witnesses were planning a summer revival [when] two dozen men wearing crosses of the Georgian Orthodox Church arrived on buses and ransacked the home of the host, Ushangi Bunturi. They piled Bibles, religious pamphlets and Mr. Bunturi's belongings in the yard and burned them," reported Steven Lee Meyers in *The New York Times*. "What was remarkable about the attack ... was how unremarkable attacks like them have become in this country. [This was one of] ... at least a dozen attacks ... this year."³⁴

These lethal and nonlethal religious conflicts will likely increase in the coming decades, according to Philip Jenkins, Distinguished Professor of History and Religious Studies, Pennsylvania State University. "Muslims and Christians are at each other's throats in Indonesia, the Philippines, Sudan, and a growing number of African nations," notes Jenkins.³⁵ There is, he points out, an explosive growth of Christianity in the Southern Hemisphere that will increasingly bring Christians into competition with Muslim populations.³⁶ This is underway now as a result of both birth rates and significant Protestant evangelical missionary activities in Africa, the Near East, and Asia. Many of these places have large Muslim populations³⁷ that compete for converts in the same geographic areas and strive to enforce their moral codes by means of secular law, as the following recent example illustrates. "At least 105 people have been reported killed in the fighting between Christians and Muslims in the northern city of Kaduna in the past few days," reported Alan Cowell of *The New York Times*. "... As fury built over the [offensive] reference to

Muhammad" [in a local paper], "Muslim youths attacked and burned the newspaper's office in Kaduna, the scene of fighting between Muslims and the city's Christian minority, in which thousands of people were killed two years ago after imposition of Shariah law, governed by the Koran."³⁸ Twenty two churches and eight mosques were destroyed in this rampage.

In Europe and the countries of the old U.S.S.R., there is a significant increase in the number of new, small, religious organizations that are proselytizing in competition with the older, more well-known religious institutions, such as the Russian Orthodox Church.³⁹ Proselytizing often generates conflicts. "Proselytization is hardly ever simply and exclusively about the communication of a religious message, to be accepted or rejected on its own terms," writes Abdullahi Ahmed An-Na'im, a native of Sudan and professor of law at Emory University. He continues, "Throughout human history, religious interaction has always been as much about material interests and power relations as it has been about spiritual insights and moral values."⁴⁰

Furthermore, religious proselytizing aimed at impoverished local populations of competing religious groups⁴¹ that is laced with hate speech and uses the power of modern advertising technology, makes for unstable social conditions, particularly in countries with a weak central government. "While we can imagine any number of possible futures," notes Jenkins, "a worst-case scenario would include a wave of religious conflicts reminiscent of the Middle Ages, a new age of Christian crusades and Muslim jihads" ... a "thirteenth century armed with nuclear warheads and anthrax."⁴² In the United States, seven abortion providers have been shot dead and two seriously injured in shootings or bombings; three providers in Canada were injured between 1993 and 1998.⁴³ These were religiously motivated murders. The justification for these religious assassinations can be found in the Christian apocalyptic literature of the religious right published in the 1970s and 1980s,⁴⁴ and in the anti-abortion 'fatwa' of Randall Terry, founder of Operation Rescue. He said, "When I, or people like me, are running the country, you'd better flee, because we will find you, we will try you, and we'll execute you. I mean every word of it. I will make it part of my mission to see to it that they [those supporting a woman's right to choose] are tried and executed."⁴⁵ Fortunately, compared with most other countries with diverse religious communities, the United States has been relatively free since 1791 of this kind of religiously motivated violence. With some exceptions,⁴⁶ a civil neutrality generally prevails among the religious communities in the United States. Among congregations of different faiths such as Christianity, Judaism, or Islam, about 8% of congregations participate in interfaith social-outreach activities.⁴⁷ On the other hand, about 55% of liberal and moderate Protestant and Catholic congregations work together ecumenically on social-outreach activities such as soup kitchens. About 25% of evangelical Protestant congregations participate in these activities. This civil neutrality depends on tolerance, a core, secular value in American society.⁴⁸ According to surveys of Americans in the late 1990s conducted by Professor Alan Wolfe at Boston University, 83% of Americans agree that "... there are many different religious truths and we ought to be tolerant of all of them."⁴⁹ As a result, the relative tranquility among religious communities in the United States stands in contrast to the experience in many other countries. Furthermore, the peaceful relationship between institutional religions and our government contrasts with the historical experience elsewhere, as the following makes clear.

Government Repression: Religion established by the state, or given special status or protection by the state, continues to be the norm worldwide. For example, "[A]lmost all Muslim countries in Africa guarantee religious freedom ... but in most instances that freedom is subject to often sweeping conditions," writes J. D. van der Vyver, I.T. Cohen .Professor of International Law and Human Rights at Emory University School of Law. The constitution of Egypt, he continues, "contains an unqualified guarantee of freedom of belief and the freedom of practice of religious rites ... but at the same time states that Islamic jurisprudence shall be 'the principal source of

legislation.' ⁵⁰ A non-Muslim before such a court would have a hard time believing that his or her religion was not a liability.

The results of this type of preferential treatment of specific religions have complemented many governments' efforts to control institutional religion. Of the 195 countries in the world, 120 are democracies in various stages of development. In almost all democracies, one or more religious institutions have managed to retain their position as the established religion of the country, or to receive preferential treatment or recognition from the government in other ways.⁵¹

For example, the Danish Parliament has "... absolute power in the administration of the National Church."⁵² The state churches in the Scandinavian countries and Germany are socialized⁵³ to the extent that, "the clergy of the state churches are civil servants as well as union members."⁵⁴ "... Russian law still makes it difficult for non-Orthodox Christians to operate openly or to build places of worship and seminary training," according to Rodney Stark, professor of sociology and comparative religion at the University of Washington.⁵⁵ All European nations and most others have established religions, favor one over others economically, or provide special recognition of the historic role of a specific religion in their constitutions or laws.⁵⁶

One criterion among a number that are used to evaluate a country's degree of religious freedom is whether a government acknowledges the legitimacy of all religions. Not to recognize a religion as a religion but to label it a cult or sect, ineligible for the protection of religious liberty under the law, is one way to limit religious freedom and to justify governmental actions that discriminate against a religious group. For example, during the 1990s, Germany threatened to outlaw Scientology and discussed putting "Jehovah's Witnesses ... under secret-service watch. ... On June 22, 1998, the French tax authority placed a \$50 million lien for back taxes on all property of the Jehovah's Witnesses."⁵⁷ "Only by 'October 30, 1981, [did] the Belgian government finally withdraw its absolute ban on the transportation of Jehovah's Witnesses' publications.'" ⁵⁸ In Switzerland, the Criminal Law Commission on Cultic Abuses has proposed a new article for its criminal code to cover "mind control" in reaction to the murders and suicides that occurred at the Solar Temple.⁵⁹ Austria, Belgium, and France have established government "anti-sect" agencies.⁶⁰

Distinguishing a cult from a religion for legislative purposes makes no sense because these differ only by the size of the group and how well known they may be.⁶¹ Nevertheless, some European "anti-sect agencies" make pejorative distinctions, claiming that cults or sects need to be restricted because they violate health and safety standards. Although there have been a few bizarre episodes involving little-known religious groups,⁶² such as the mass suicides in Jonestown, Guyana, in 1978, these episodes pale in comparison with the history of homicidal violence among some world-wide religions and the abuse of children that has been tolerated systemically by other religious institutions.⁶³

Administrative discrimination against minority religions is not limited to Europe. In Communist China, the constitution provides for freedom of religion, but members of the Falun Gong are persecuted nonetheless.⁶⁴ The government also denied Amway Corporation, an American business, permission to use door-to-door salespeople to sell their products in China, because these sales initiatives were interpreted by the Chinese government as the tactics of a religious cult. In Singapore, "the government has banned the wearing of Muslim head scarves in the nation's ten Muslim independent schools."⁶⁵

In many countries, official government hostility to some religions has been and continues to be violent and harshly repressive. The pogroms in Russia and Poland were examples of religious harassment by the czars. The U.S.S.R. tried to eradicate religious institutions by seizing all church property under Lenin, and Stalin purged the entire church leadership. The Soviet goal was to eradicate religious belief. In Germany, the Nazi government murdered six million Jews, a formal effort at genocide to eradicate Jews and their religion. The Catholic Church was

suppressed periodically in Mexico from 1859 to 1991.⁶⁶ In 1917, the Mexican constitution "nationalized church property, abolished religious orders, forbade church garb, and excluded the church from education."⁶⁷

In April 1975, Pol Pot took control of the Communist Khmer Rouge in Cambodia and started a reign of terror in which 13% of the country's population of 13 million were killed. All religion was outlawed and many Buddhist monks were murdered.⁶⁸

"In the 1980s, the [Tunisian] regime [of Bourguiba] concluded that the Islamic movement Nahda had gained too much power. ... Nahda, according to government officials, was planning to overthrow the [Bourguiba] regime. Islamists were rounded up en masse and thrown in prison, and the [Islamic] party structure was dismantled."⁶⁹

In Uzbekistan, as of 1999, more than 200 individuals remained imprisoned for their faith. A pattern of arbitrary arrests of unregistered Muslims continues. In Azerbaijan, Baptists have been imprisoned. In Turkey, religious speech and the wearing of customary Muslim head scarves in public buildings and universities is prohibited.⁷⁰ The Communist Party governing Vietnam continues to suppress religion. "After 1975, the government banned the pre-independence Buddhist organization of Southern and Central Vietnam and replaced it with a state-sponsored group created specifically to put Buddhist activities under government control."⁷¹

In theocratic states, civil rights are often absent because they are not part of the local culture, or rejected because they are incompatible with the revealed truth of a religion that governs the society.⁷² We are all familiar with the news reports about the suppression of non-Muslim people in many predominately Muslim states such as Afghanistan under the Taliban, Pakistan, Iran, and Saudi Arabia. We know that certain fundamentalist extremists have encouraged their fellow citizens in these states to kill the infidel, particularly the American and the Israeli infidel.⁷³

If the policies and behaviors of most governments⁷⁴ are an indication of the attitudes their leaders hold about institutionalized religion, they believe that religions not under the control of government should be co-opted by the government, such as making the clergy civil servants, having religions watched closely, outlawed, or eliminated.

However, with a few notable exceptions,⁷⁵ these have not been the practices of government in the United States, as the following makes clear.

An American Experiment: As of 1791 when the Bill of Rights was adopted, the European experience of nearly continuous religious warfare and the religious discrimination that was common in most colonies⁷⁶ were object lessons for the leaders in colonial Pennsylvania⁷⁷ and Virginia. They knew the history of these conflicts between governments and organized religion, and this understanding inspired their decision to separate church from state in their colonies.⁷⁸ As U.S. Supreme Court Justice Stephen Breyer commented in 2002, "[t]he history of governmentally established religion, both in England and in this country, showed that whenever government had allied itself with one particular form of religion, the inevitable result had been that it had incurred the hatred, disrespect and even contempt of those who held contrary beliefs."⁷⁹

The founders' legislative initiatives in Virginia and Pennsylvania set the stage for including the Establishment Clause in the Bill of Rights in 1791: "Congress will make no law respecting the establishment of religion." These ten words have become summarized in the commonly used synonyms of "church-state separation" and "separation of church and state," and the metaphor "wall of separation."

Forty-four years later, in 1835, Alexis de Tocqueville reported his interviews with "the members of all the different sects; I sought especially the society of the clergy, who are the

depositories of the different creeds and are especially interested in their duration. ... I found that they differed upon matters of detail alone, and that they all attributed the peaceful dominion of religion in the country [the United States] mainly to the separation of church and state."⁸⁰

Church-state separation was and continues to be a radical approach for managing the competition for power and control between government and organized religions. Church-state separation was intended to create a restraint on the government's involvement in religion. The United States' federal courts and the Supreme Court also have determined that the Establishment Clause acts as a wall blocking institutionalized religions from using the government in its various manifestations to proselytize or harass those who hold different beliefs. It is the individual's religious freedom that is being protected; and the drive for control inherent in institutions, in this case religious institutions, is being constrained in order to protect individuals from those churches which use their power coercively. This does not infringe on an individual's religious freedom to participate in church worship services, unless those church activities infringe on the religious freedom of others, or put the safety and health of the community at risk.

Church-state separation and other civil rights in the United States are more comprehensive in law and practice, generally, than those in most European democracies. For example, some hate speech that is protected speech in the United States is against the law in England. From time to time, England's government has demanded that certain information not be printed in a newspaper. In the United States that is called prior restraint, and it's not legal.⁸¹

Freedom of the press is provided for in the Norwegian constitution, adopted in 1814. But there is a catch. "There shall be liberty of the press. No person may be punished for any writing, whatever its contents, which he has caused to be printed or published, *unless he willfully and manifestly* has either himself shown or *incited others to disobedience to the laws, contempt of religion or morality or the constitutional powers, or resistance to their orders*, or has advanced false and defamatory accusations against anyone."⁸² [emphasis added] That "unless" clause appears to make null and void Norway's constitutional provision for freedom of the press. In practice, however, Norway appears to have a free press.

Our Bill of Rights set a high standard for individual freedom, but the individual's religious liberty as guaranteed by the Establishment and Free Exercise clauses have taken a long time to be realized in practice. For example, it was only in 1940 that the United States Supreme Court decided in *Cantwell v. Connecticut* that the Establishment and Free Exercise Clauses applied to the states as well as to the federal government. Before 1940, church-state separation was not a universal blanket of protection for the religious liberty of many minorities. For example, Catholic and Jewish children in public schools often had to listen to the school administered Protestant prayers. After *Cantwell*, and up to the mid 1980s, the United States made progress in protecting everyone's religious liberty.

This brings us back to our two key questions at the beginning of this chapter. Why are many religious communities in the world involved in festering or violent conflicts, while religious communities in the United States are not? Why do many governments suppress some religions, but this has not been the pattern in the United States? In answer, I believe the evidence is sufficient to propose the following peace-keeping theory:

Church-state separation is a necessary condition for maintaining peace among religious communities, and between these and the government, if government is not going to regulate or suppress religion.

Peace-Keeping Theory: In addition to the evidence, the peace-keeping theory of church-state separation is supported by two common observations of human behavior. First, behavior follows

form; change the floor plan, system of rewards, or rules which are enforced, and our behaviors will adapt. Second, our behaviors strongly influence our attitudes and beliefs. This explains, in part, the almost universal observation that people who are raised and continue to live in the same community, do similar work, or practice the same religious rituals generally share similar attitudes and values.⁸³

These two observations support the peace-keeping theory of church-state separation. First, church-state separation has changed the historical, zero-sum rules of competition among religions in the United States and between these and government to a rule of co-existence. As a result, we have lived, worked, and debated public issues peacefully for over 200 years. Second, during this time, we have evolved values and attitudes of tolerance tailored to this social and political environment of co-existence.

In contrast, countries which have not evolved a culture supporting church-state separation are more susceptible to religious violence and government repression of religions. For an extreme example, the rules of war have governed the violent relations between the Israelis and Palestinians. Their endless plague of deadly behavior and homicidal reaction has spawned attitudes of hatred and cultures of revenge, which seem immune to all peace initiatives.

In summary, the United States has had more success than other countries with complex religious communities in transforming the historic win-lose relationship between church and state into a nonviolent, neutral balance of interests. This has been accomplished without our government's resorting to aggressive police action, controlling the administration of religious institutions, or outlawing some minority religions. This restraint highlights the benefits to society of church-state separation: less violence and more domestic peace among people of different religions, and between these religions and our government than has been the experience in and among other countries with diverse religions. However, if the rules are changed so that the cultural constraint of church-state separation is stripped away, then behaviors will change, and so will the complementary values.

DEMOCRACY

Church-state separation has an important influence in our society that goes beyond managing the conflicts among some institutional religions and between these and government. The continued integrity of church-state separation is vital to all civil rights, not only our freedom of religion. In this section, it is argued first that civil rights can become part of a country's culture, but they are not line items to be bought separately. Civil rights evolve as a set, albeit unevenly, and religious liberty is a vital part of civil rights in the United States. The second proposition is that the integrity of civil rights is essential to the stability of established democracies such as the United States. And third, this stability is maintained by trust and tolerance.

A country becomes democratic in the most rudimentary sense when free elections are conducted according to written civil law. For example, Iran, which is still largely a theocratic state, has begun holding free elections. To this extent, it is employing secular procedures for selecting some of its leadership. As a country adds statutes for civil rights such as freedom of speech, freedom of the press, or due process in judicial matters, the level of democracy increases, as does its secular character if the civil rights displace theocratic authority. As more rights are added, such as religious liberty, and as these are sufficiently guaranteed so that citizens take them for granted as part of their culture, we call the democracy "established." The adoption of civil rights laws and their implementation has been and continues to be an evolutionary process.

Culture: When we talk about the culture of a community or country, we are referring to the accepted wisdom about what works in life and what doesn't; how success is measured, status is attained, and equality is measured; where the line is drawn between your rights and mine; which rights will be defended by the government, and which are merely aspirations in the society, written in law but not enforced, as is the case for freedom of religion in China.

A growing body of research indicates that the cultural characteristics of countries have a significant bearing on whether democracy becomes established, and if established, whether it is sustained. Two important research efforts contribute to this understanding.

First, Freedom House has published since 1978, "its comparative assessment of the state of political rights and civil liberties in 192 countries and 17 related and disputed territories. Widely used by policy-makers, journalists, and scholars, the 600-page survey is the definitive report on freedom around the globe."⁸⁴ According to the Freedom House annual evaluations, the average civil rights ratings for western democracies is 84; for nonwestern democracies 64; and for non-western authoritarian regimes 40,⁸⁵ as noted by Russell Bova, professor of political science and director of the Russian Areas Studies Program at Dickinson College. He concludes that "the most compelling explanation for the difference [among the levels of civil rights in different countries] is a cultural one."⁸⁶

Second, a World Values Survey (WVS) has been conducted in which people were asked in face-to-face interviews their opinions on 350 issues such as freedom, politics, economics, religion, family life, work, income, health, leisure, friends, and gender roles. The respondents were identified by age, gender, economic standing, and education. The WVS was first conducted in 1990-91, in 43 countries. Since then, the WVS has been repeated twice and additional countries have been surveyed, which together cover a sampling of about 75% of the world's population.⁸⁷ These and new surveys are being conducted under the supervision of Ronald Inglehart, professor of political science, University of Michigan, and others.⁸⁸ The data from this research "provide standardized cross-cultural measures of people's values and goals" using a common database for the first time.⁸⁹

These data in combination with the Freedom House ratings make it possible to ascertain which values are present in a country when democracy gets started.⁹⁰ This analysis also identifies which values contribute to democracy's survival once established. For example, the analysis indicates that emerging democracies such as South Korea⁹¹ tend to form in response to social changes stimulated by their economic development.⁹² On the other hand, the stability of established democracies, such as the United States and other Western industrialized democracies, is influenced less by fluctuations in the prosperity of their economies than by the degree to which certain cultural variables exist among the population.⁹³ These variables include political rights, civil rights, and interpersonal trust.

"The evidence suggests," Inglehart notes, "that culture plays a much more crucial role in democracy than the literature of the past two decades would indicate. The syndrome of trust, tolerance, well-being, and participatory values ... seems particularly crucial. In the long run, democracy is not attained simply by making institutional changes or through elite-level maneuvering. Its survival also depends on the values and beliefs of ordinary citizens."⁹⁴ These social variables, reports Inglehart, indicate "greater stability over time than does the economic indicator."⁹⁵

In many advanced democratic societies, such as the United States and the Scandinavian countries, the younger generation as a group is increasingly interested in quality of life and self-expression rather than economic development when they are compared with their parents.⁹⁶ This is consistent with the theory that as income increases, its marginal value decreases, just as our interest in food decreases once we have eaten. The increased interest in the environment,

women's equality, and civil rights are each a manifestation of the shift of interest toward quality of life concerns.

Economic development appears to be critical to helping a democracy get started, but once established, having a culture of civil rights is a more important factor to democracy's survival. "Political culture," Inglehart claims, "plays its most crucial role in helping democratic institutions survive over the long run."⁹⁷

Civil Rights: When nascent political and civil rights get a cultural foothold, as happened in Western democracies, these rights evolve into a more robust set of rights because they work for the society. For example, one of the most solidly researched findings of political science, according to Spencer Weart, is that "well-established democracies have never made war on one another."⁹⁸ This benefit is unique to democracies. Perhaps the single most important reason that there are no wars among established democracies is that their political cultures reflect to one another expectations that differences can be negotiated.⁹⁹ Negotiation is a skill which their leaders learn in the domestic politics of a free society. Tolerance of others' ideas and skills in negotiation have been tested in practice to reach compromise. This has proven to be of mutual benefit to all parties.

Second, established democracies are less corrupt than other forms of government, which makes them more efficient economically. An annual evaluation of corruption levels in countries is conducted by the Transparency International Corruption Perception Index (TICP), Berlin, German. A comparison of the country rankings by TICP with the Freedom House rankings for political freedom and civil liberties, indicate that the more civil liberties a country has, the less corruption it suffers.¹⁰⁰

A third important advantage of democracy is that democratic governments kill fewer of their citizens than other forms of government. To put this into perspective, between 1900 and 1987, according to R. J. Rummel, professor emeritus of political science at the University of Hawaii, all "governments murdered almost 170 million people - a figure that far exceeds the 34.4 million battle deaths thought to have resulted from all international and civil wars." Democratic governments were responsible for only 1% of the 170 million. The vast majority of the state murders were carried out by authoritarian regimes such as Nazi German and Red China.¹⁰¹ However, we should remain mindful that the United States remains the only western, established democracy that still uses capital punishment, thus contributing to the 1% of the 170 million deaths.

Another unique benefit of well-established democracies is that "no substantial famine has ever occurred in any independent country with a democratic form of government and a free press,"¹⁰² according to Amartya Sen, who won the 1998 Nobel Prize for Economic Science.

The fact that political and civil rights succeed in the face of major threats to survival appears to be a critical factor that has given democracy an evolutionary advantage¹⁰³ over other forms of government, such as dictatorships, theocracies, and communism, during the last 200 years. Between 1870 and 1990, the number of democratic nations increased from 1 to 65, from 2% to 33% of all existing nations.¹⁰⁴ Since 1990, additional countries have developed the procedures for democracy even as they struggle with deeply held local traditions that conflict with democratic values such as civil rights.¹⁰⁵ By 1999, 65% (120 out of 195 countries), were evaluated as being democracies by Freedom House,¹⁰⁶ albeit many of these have only the barest political right of free elections and few other civil rights.

Another evolutionary advantage for democracy seems to be that civil rights evolve symbiotically. Three explanations follow for this dependent relationship among civil rights. First,

"freedoms of different kinds strengthen one another," argues Nobel Prize winner Amartya Sen. "Freedoms are not only the primary ends of development, they are also among its principal means. ... [W]e also have to understand the remarkable empirical connection that links freedoms of different kinds with one another. Political freedoms (in the form of free speech and elections) help to promote economic security. Social opportunity (in the form of education and health facilities) facilitates economic participation. Economic facilities (in the form of opportunities for participation in trade and production) can help generate personal abundance as well as public resources for social facilities."¹⁰⁷ Sen argues that establishing and maintaining freedoms such as democratic civil liberties are essential to eliminating poverty in the poorest of nations as well as in the wealthier nations.

The second explanation of the interdependence among civil rights is from Orlando Patterson, professor of sociology at Harvard University. He defines three freedoms that have a "powerful coherence. ... [1] One is free ... to the degree that one is not under the power of another. [2] One is free ... to the degree that one exercises power over oneself, over others,¹⁰⁸ and over property. And [3] one is free to the degree that one shares in the collective power of the community [democracy]. Each makes possible and guarantees the other. Without democracy, the other two freedoms are constantly at risk; without the other two freedoms, democracy is empty."¹⁰⁹

My explanation of the interdependence of civil rights follows. To have full freedom of religion without freedom of speech is not possible. Freedom of speech without a free press makes no sense. Freedom of religion, speech, the press, and peaceable assembly are essential for free elections. Free elections are the minimum foundation of a democracy. Free elections do not continue without an independent judiciary that can adjudicate differences of opinion about election procedure. An independent judiciary, in turn, depends on a separation of powers, due process, freedom of speech, religion, and rights of the accused to face witnesses.

Others who are civil rights experts also have seen these interdependencies. Federal Judge Benjamin N. Cardozo said in *Palko v. Connecticut*, "...freedom of thought ... is the indispensable condition of nearly every form of freedom." John Swomley, PhD, an ordained United Methodist minister, and the author of a score of books, has written, "[o]ver a period of thirty-six years in seventy-nine different countries, in some cases for extended visits, I became more firmly convinced that human rights, religious liberty, and political freedom are intertwined. Each of these is dependent on the other two."¹¹⁰ Martin Sheffer, professor emeritus of political science at Tuskegee University, agrees, "I do believe, like the framers, that without religious freedom all other freedoms will become less absolute."¹¹¹

In summary, civil rights evolve interdependently, and in the United States religious liberty as defined by church-state separation is an essential component of these interdependencies.¹¹²

Trust: The development of these interdependencies is facilitated by the function of trust in society. Being able to trust that your legal rights will be protected by society has great utility, reducing risk, and conserving other resources. You don't have to be on guard all the time or spend all your money to protect your rights when the community's culture supports civil rights voluntarily and, if it doesn't, the laws are enforced by the state. Consistent with this, the data from the World Values Survey indicate a strong positive correlation between the level of interpersonal trust and a nation's average gross national product (GNP) per person.¹¹³ In a back-handed way, other research supports this. "Hard evidence has documented corruption's detrimental effect on many aspects of economic development," writes Seymour M. Lipset, professor of public policy at George Mason University. "Research indicates that higher levels of corruption significantly reduce GNP growth rates."¹¹⁴ Corruption and distrust go hand-in-hand.

We have had a dramatic experience supporting Lipset's observation. In 2002, Enron Corporation's stock value evaporated as news spread about its fraudulent accounting practices. Perhaps the most shocking revelation was that the prestigious, world-wide accounting firm Arthur Andersen collaborated in these frauds. This jolted investors who trusted these corporations, which were seen as emblematic of American economic prowess. The Arthur Andersen deceptions and the failure of the Securities and Exchange Commission to police Arthur Andersen dramatically transformed investor attitudes. Subsequent federal investigations focused on other corporations, such as Worldcom, which were involved in similar frauds on the public. Disillusioned domestic and foreign investors fled the capital markets of the United States. The stock market nosedived because of distrust.¹¹⁵

In a similar way, the trust in the Catholic Church in the United States has plummeted as a result of the priests' sex crimes against children. As survivors disclosed the sexual abuse they had suffered, the loss of trust spread among citizens fueled by the deceit and cover-ups by the church leadership. Court ordered payments using more than \$100 million of parishioners' donations to settle lawsuits added salt to the wounds of the faithful.¹¹⁶ Some church insiders expect this amount to reach \$1 billion.¹¹⁷ As a result, Catholic Church attendance declined by 7% in one year. Those saying that their faith was "very important" to them "dropped from 61 to 49 percent during 2002. ... slightly over 20 percent had asked themselves whether they should leave the church because of the scandal," reports Peter Steinfels, the *New York Times* reporter on religion.¹¹⁸ "According to Catholic Charities USA, nearly one quarter of Catholics have chosen to decrease their giving because of the sex scandals."¹¹⁹

Political rights in a democracy also depend on trust that the candidate or party that lost an election will "accept the rules of the democratic process,"¹²⁰ as Inglehart notes, and not overthrow the new government. The data from the World Values Survey also indicate there is a strong positive correlation between a country's degree of interpersonal trust and its level of civil rights.¹²¹ The more extensive are a nation's civil rights, the greater is the level of interpersonal trust among its population. For example, the World Values Survey shows that 83% of Norwegians report that they trust their fellow Norwegians. In contrast, 62 % of Brazilians, 45% of Russians, and 40% of Nigerians report they trust their fellow citizens.¹²² Norway is a securely established democracy with strong civil rights. The other countries mentioned have fewer civil rights, according to Freedom House data. "The available evidence cannot conclusively determine the causal direction, but it does demonstrate that culture and political institutions tend to go together, with trust and stable democracies [with developed civil rights] being closely linked," notes Inglehart.¹²³

Trust helps bind various civil rights into a culture that supports established democracies.

Tolerance: Tolerance is an open-mindedness that helps us understand others' points of view, and understand their needs as the context changes. The success of church-state separation has been achieved, in part, because most citizens in the United States have learned to act with self-restraint and to express socially tolerant attitudes.¹²⁴

For many clergy, tolerance is a virtue that can bridge sensitive boundaries within congregations split over issues of gays or the role of women in the church. It can help bridge the boundaries that segregate communities: Jew from Muslim, Southern Baptist from Methodist, and the secular from the religious. It is a value of the United Nations:

"... faith in fundamental human rights, in the dignity and worth of the human person, in equal rights of men and women and of nations large and small ...

And for these ends ...To practice tolerance and live together in peace with one another as good neighbors and

To unite our strength to maintain international peace and security..."

- Preamble to the Charter of the United Nations, June 1945

Tolerance in practice is essential to a government "of the people, by the people, and for the people," particularly as our population grows more diverse. Democracy is enhanced to the degree that everyone counts, and tolerance is the social value that helps this happen.

Trust, tolerance, and civil rights have become the functional foundation of our democracy because of their proven utility, but they are not immutable, as will become clear in the following..

EROSION OF DEMOCRACY'S FOUNDATION

The erosion of religious liberty is now underway in the United States. There are at least seven causes that contribute to this erosion.

Intolerance: One of the most obvious indications that our culture of tolerance is being challenged is the exclusionary, theological tone being projected from leaders in the current administration, some in Congress, and from a number of religious leaders. For example, in February 2002, U.S. Attorney General John Ashcroft intoned, "[w]e are a nation called to defend freedom – a freedom that is not the grant of any government or document, but is our endowment from God. ... The guarding of freedom that God grants is the noble charge of the Department of Justice. ... The conflict between the United States and international terrorism is between good and evil, and God is not neutral between the two."¹²⁵ In April 2002, Tom DeLay, the House Republican Whip, announced, "Only Christianity offers a way to live in response to the realities that we find in this world."¹²⁶

Rod Paige, United States Secretary of Education, said in April 2003, that he, "would prefer to have a child in a school that had a strong appreciation for values of the Christian community,"¹²⁷ thus dismissing the values of democracy taught in public schools, and the religious values taught in Jewish, Muslim, and other parochial schools.

In October 2003, "Lt. General William G. Boykin, the deputy under secretary of defense for intelligence and war-fighting, ... has likened the battle against Islamic militants to a Christian struggle against Satan and said at evangelical gatherings that a militant Muslim militia leader in Somalia worshiped an 'idol' and not 'a real God.'"¹²⁸

Following the terrorists' attacks of September 11th, Rev. Franklin Graham, son of Rev. Billy Graham, made a blanket condemnation of all Islam rather than condemning the specific acts. "I believe it's a very evil and wicked religion." Rev. Jerry Vines, past president of the Southern Baptist Convention, noted, "Islam is, quite simply, a religion of war." In October 2002, on national TV, Rev. Jerry Falwell said, "I think Muhammad was a terrorist."¹²⁹ In their book *Why Islam Is a Threat to America and the West*, Paul Weyrich and William Lind of the Free Congress Foundation wrote, "The prophet Muhammad was 'a demon-obsessed pedophile.'"¹³⁰ These comments broadcast world-wide provoked "outright animosity" among some Muslim clerics in the Near East, according to Neil MacFarquhar for *The New York Times*.¹³¹

Comments such as these can also alter the boundaries of tolerance domestically. For example, a 2002 U.S. News/PBS survey found new "suspicion of Islam: Thirty-seven percent say they have an unfavorable view of that religion, while nearly 40 percent think Islam harbors more violent extremists than do other religions."¹³² Although we usually can't prove a direct causal link between specific expressions of intolerance and shifts in social attitudes, the tone set by leadership has a significant impact on the culture of a community. It is plausible that the above remarks contributed to the following effects. "Cases alleging religious bias in the private

workplace increased by 21%, according to data from the Equal Employment Opportunity Commission (EEOC). There were 2,572 allegations of employment discrimination based on religious bias filed before the federal agency in 2002. Complaints from Muslim employees more than doubled, from 328 in 2001 to 765 in 2002. EEOC actions have led to payments of more than \$1.2 million to 80 Muslim workers who were victims of employer religious discrimination."¹³³

Erosion of Religious Liberty: In addition to intolerance, there are at least six other causes contributing to the decline of what is supposed to be our constitutionally guaranteed civil right of religious liberty.

First, a basic problem endangering the Establishment Clause arises from the lack of common understanding about what religious liberty means. Several factors contribute to this confusion. Religious liberty has a more expansive connotation than do other civil rights. Religious liberty grants individuals the right to be free of government interference in their religious practices and from the coercive pressure of other religions. It also includes the "free exercise" of religion or conscience for individuals and, by extension, the free exercise of religion for congregations and the religious activities within their houses of worship and related religious institutions, such as parochial schools. Religious freedom also embraces the right to follow religious dietary laws and wear religious dress. Religious liberty also includes the right to be free from any religion. This is a complex set of rights. This complexity has been compounded by the inconsistent decisions rendered by the Supreme Court in 5 to 4 votes that define religious liberty.¹³⁴

Further complicating the common understanding of what religious freedom entails are the conflicts over gay rights and other hot-button issues. When civil rights for homosexuals are denied for religious reasons, as is the case throughout the United States, the issue takes on a religious connotation in public debate. The same thing happens when theology becomes the public-policy justification for denying women access to health choices or blocking education about evolution in public schools. Civil rights, including religious freedom, are secular concepts upheld by secular laws, and when the scope of our civil right of religious freedom becomes distorted with rhetorical heat about whose religious sensibilities are being offended, many citizens are confused.

Second, this confusion has been exploited by some who oppose church-state separation. "The truth is," wrote Tim LaHaye, author of a series of books depicting born-again Christians being saved in the final days, "there is no 'wall of separation' in the Constitution ... It is 'the big lie.'"¹³⁵ Cardinal Anthony Bevilacqua of Philadelphia said, "I want to see ... that notion of separation of church and state" removed.¹³⁶ House majority leader Tom Delay (R, TX) said he thinks people should be "standing up and rebuking this notion of separation of church and state ... you see, I don't believe there is a separation of church and state."¹³⁷ The founder of the Christian Coalition Pat Robertson railed, "There is no such thing as separation of church and state in the Constitution."¹³⁸ This deception¹³⁹ has become a mantra of those opposed to the Establishment Clause. It is repeated liked a drum beat on right-wing religious talk radio and on many religious TV programs such as *The 700 Club*. These assaults on the legitimacy of church-state separation undermine trust in our constitutionally protected religious liberty.

What Bevilacqua and Robertson object to is that the federal courts have determined in many decisions that our freedom of religion extends up to the point where our religious activity either conflicts with the health and safety of the community or interferes with the religious freedom of others. As mentioned before, this is how each person's freedom is guaranteed while respecting that same freedom for others.

Some religious leaders reject the American ideal that everyone's religious activities be treated equally, and with it, they reject the Establishment Clause. Our secular Constitution has constrained their evangelical drive to use the leverage of government to proselytize in public schools, for example. Elsewhere in the world, church-state conflicts of this sort often have degenerated into zero-sum, non-negotiable, violent conflicts that have resulted in bloodshed without resolution, as discussed in the first section of this paper.

A third threat to church-state separation is the lack of support for it by many religious institutions. Although there has been no comprehensive survey¹⁴⁰ of denominations or their congregations that has measured the level of support for the Establishment Clause, the available evidence paints a very mixed picture. On one hand, very few religious denominations or congregations belong to organizations that are devoted to preserving religious liberty. Of the estimated 2,000 denominations in the United States, only 69, or 3%, are members of the Interfaith Alliance, which explicitly and actively supports church-state separation.¹⁴¹ Of the estimated 325,000 congregations in the United States, fewer than 4,000, or about 1%, are members of Americans United for the Separation of Church and State.¹⁴² Lacking better data, we can get some hint from these statistics about support for church-state separation among religious institutions, or perhaps their leaders' limited understanding of the positive effect church-state separation has had on the vitality of religious communities. What is clear is that a number of religious institutions are advocates for abolishing church-state separation for theological reasons. Examples include the Southern Baptist Convention, the Catholic League of Religious and Civil Rights, and the Christian Coalition.¹⁴³

The opposition to church-state separation has led some churches to commandeer the resources of the government to promote their particular religion. For example, Louisiana has been using tax dollars to promote religion through its federally funded Abstinence Only program, according to the American Civil Liberties Union, which is taking the state to court. "With \$1.6 million of federal funds annually ... [Louisiana] has spent money on 'Christ-centered' skits, religious youth revivals and biblical instruction on purity. One group used .the Christmas story of the Virgin Mary to teach abstinence, and the Catholic Diocese of Lafayette spent federal grant money organizing prayer sessions at abortion clinics, according to state documents outlined in the lawsuit. ... 'December was an excellent month for our program,' the ministries' report states. 'We were able to focus on the virgin birth and make it apparent that God desire[s] sexual purity as a way of life.' "¹⁴⁴ This is an example of religious organizations illegally using the financial resources provided by the government to promote their theology.¹⁴⁵

In many instances, religious leaders have motivated local elected officials to violate our Constitution by posting the Ten Commandments in government buildings. They have also emboldened some school boards to allow graduation commencements to include sectarian prayers and to block teaching evolution as part of a public school science curriculum. Similarly, some local churches have initiated programs, in conjunction with organizations such as Campus Crusade for Christ, to conduct religious proselytizing during public school assemblies under the pretense that these are anti-drug education programs.¹⁴⁶ Incident by incident, these assaults on our public trust, the Constitution of the United States, erode the cultural norms on which religious liberty depends.

On the other hand, a number of religious institutions do support church-state separation, including the National Council of Churches of Christ in the USA, the American Baptist Churches in the USA, the American Jewish Congress, the North American Council of Muslim Women. Twenty-eight of these institutions have published their positions opposing prayer in public schools in *A Matter of Conscience: Why Faith Groups Oppose Government-Sponsored Prayer in Public Schools*.

The Unitarian Universalist Association's resolution states, in part, "... this Assembly urges individual Unitarian Universalists and member societies of the Association in the United States to make manifest their commitment to the separation of church and state by launching a sustained campaign with the other like-minded ... " The resolution of the Evangelical Lutheran Church in America states, in part, that it "... recognizes the First Amendment provisions on religion as a necessary and adequate constitutional arrangement to guarantee religious freedom for all people in this religiously-diverse nation ..." ¹⁴⁷

On balance, however, there is a lack of formal and active support for church-state separation by most religious institutions in America. This lack of support is hurting institutional religions and democracy because, in part, tolerance is an underlying value at risk. Tolerance in practice is essential for a functioning democracy, and tolerance and understanding are important virtues in the lives of many religious communities. Tolerance should be considered a common-value bridge between the needs of democracy, which most Americans support, and the aspirations of those religious leaders who know tolerance is an important path to peace and justice.

A fourth major threat to church-state separation in the United States originates in many state legislatures, with some elected and appointed government officials, and in the United States Congress. In Pennsylvania, for example, the legislature has engaged in regular efforts to intertwine religion in government by, for example, proposing legislation to permit prayer in public schools. Intertwining church and state has a long history. The negative effects of this entanglement on religious life in Europe was observed by Alexis de Tocqueville in 1845. "On every side in Europe," he noted, "we hear voices complaining of the absence of religious faith and inquiring the means of restoring to religion some remnant of its former authority. ... I am fully convinced that [the] extraordinary and incidental cause is the close connection of politics and religion." ¹⁴⁸

Proposing bills or legislative resolutions which would violate the First Amendment if passed, in order to make political points confuses citizens about the meaning and purpose of our Constitution. For example, in 1999, a Pennsylvania legislative resolution was proposed declaring Thanksgiving a Christian holiday. ¹⁴⁹ Congress also has taken initiatives in the past that undermine the coherence of church-state separation. Examples include Congress's addition of "In God we trust" to coins in 1863, ending postal delivery on Sundays in 1910, and adding "under God" to the Pledge of Allegiance in 1954. ¹⁵⁰ Each of these bits of legislation have chipped away ¹⁵¹ at the Establishment Clause's wall of separation: "Congress shall make no law respecting an establishment of religion, ..." On October 9, 1998, Congress unanimously passed the U.S. International Religious Freedom Act (IRFA). The objective of the IRFA legislation was to stop the persecution of Christians in other countries. ¹⁵² But this could have been achieved by focusing on the issue of persecution, which was the real issue, without passing legislation concerning religion that creates an apparent conflict with the Establishment Clause.

However, these incidents pale in comparison to the purpose of the Senate bill entitled the "Charity, Aid, Recovery, and Empowerment Act of 2003," ¹⁵³ which is intended to legislate the funding of religious institutions to support President Bush's faith-based initiative.

Fifth, the Administration made faith-based grants in 2002 to religious institutions despite the Supreme Court's opinion in *Everson v. Board of Education of Ewing* (1947) that,

"No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion."

In June 2002, "President Bush visited a church in Little Rock," where he hailed a "faith-based program funded by the Arkansas Department of Human Services that converts the jobless to

Christ." Subsequently, "the White House announced ... the availability of \$30 million targeted to faith-based and community organizations."¹⁵⁴ These are examples of the Executive branch's using the power and leverage of government to promote legislation that would benefit certain religious organizations.¹⁵⁵ Charitable choice raises some serious questions about whether some religions will become de facto established religions similar to many in Europe and elsewhere in the world.¹⁵⁶ For example, which religious organizations will be approved to receive government grants for charitable choice projects if charitable choice becomes law? Will all 325,000 religious congregations in the United States be eligible for grants, or will only some religious institutions be so approved, as happens in some European countries? Will the Wiccans,¹⁵⁷ some of whom call themselves witches, receive federal grants if they offer to provide much-needed counseling for children affected by the mayhem of terrorist attacks? By what criteria will grants be awarded?

Officials of the George W. Bush administration promote the idea of charitable choice as "neighbors helping neighbors," but only 8% of congregations¹⁵⁸ currently participate in interfaith cooperation. This raises a question about which "neighbors" the administration has in mind. Furthermore, almost all services which congregations provide overwhelmingly serve just their own members, as is evident from the analysis of church donations and budgets.¹⁵⁹ According to a survey of pastors, 84% agreed that "in most congregations, the goal of stewardship is defined as meeting the budget."¹⁶⁰

Another justification the administration offers to explain its faith-based initiative is that religious institutions should not be discriminated against when it comes to government funding. Yet, it was clearly President Bush's intent to put religious discrimination by the United States government on the fast track when he enacted "by executive fiat key pieces of his divisive 'faith-based initiative' including one that lets federal contractors display religious favoritism in their hiring."¹⁶¹

In Texas, then Governor George W. Bush spent state tax dollars to fund religious institutions to provide social services. According to a study by the Texas Freedom Network, these grants resulted in a system of faith-based social services that "has lowered the standards of client health safety and quality of care in Texas. ... Most of the exempt faith-based programs have no medical component and rely instead on treating drug and alcohol addiction as a sin, not a disease. ... Clients are being ordered by the courts to attend unlicensed faith-based programs." These programs are "... unregulated, prone to favoritism and co-mingling of funds, and even dangerous to the very people [they are]... supposed to serve." The report continued, "In Texas, faith-based deregulation has been a refuge for facilities with a history of regulatory violations, a theological objection to state oversight and a higher rate of abuse and neglect."¹⁶²

In Texas, the "InnerChange Freedom Initiative is a Bible-centered prison program aimed at reducing prisoners' rearrests after being released from prison," by proselytizing prisoners with "vigorous evangelizing prayer sessions," according to Mark A. R. Kleiman, an expert on crime control and a professor of public policy at UCLA. This faith-based program, first funded by then Governor Bush, initially was hailed as a great success in the *Wall Street Journal*.¹⁶³ However, on further analysis by others, it was shown that the InnerChange program results had been "cooked," and in fact the program had produced worse results than the control group of prisoners who were not included in the InnerChange program.¹⁶⁴

Those concerned about the rule of law as defined by the First Amendment are asking some serious questions. Given these findings, why should taxpayers fund faith-based programs rather than support secular agencies, the funding of which will not violate the Constitution? Why is the Bush administration defunding secular programs in favor of untested faith-based programs? For example, a shelter for homeless veterans in Northampton, Mass, lost more than \$400,000 of government funding to religious groups despite the shelter's "long and proven record of serving

veterans."¹⁶⁵ It regained its funding when it emphasized the religious and spiritual services the facility provides.

Funding religious organizations is in direct conflict with the Establishment Clause and can violate the Free Exercise Clause when individuals needing services must endure unwanted-evangelical proselytizing in order to get these tax-supported services from religious organizations.

The sixth attack on church-state separation has come from the U.S. Supreme Court. Over the last 15 years, the Supreme Court has eroded church-state separation in a number of decisions.¹⁶⁶ Of these, one of the biggest setbacks was the United States Supreme Court's June 27, 2002, decision approving the use of taxes to fund religious schools. This 5 to 4 decision in *Zelman v. Simmons-Harris*, "...was undeniably the bombshell of the court's 2001-2002 term," stated an editorial in *The New York Times*. It continued, "... by upholding a [Cleveland voucher] program in which 96 percent of the [student] participants attend religious schools, the court removed a number of bricks from the wall separating church and state."¹⁶⁷ In his dissent to this 5 to 4 decision in *Zelman*, Supreme Court Justice Souter argued that the majority opinion violated the concept the Supreme Court had upheld in *Everson v. Board of Education of Ewing* that "No tax ... can be levied to support religious activities or institutions ..."

One misconception about school vouchers is that they provide parental choice. In fact, the choice is that of parochial school administrators who can accept or reject a student based on his or her parents' religion.¹⁶⁸ For 50 years, citizens have rejected vouchers at the ballot box.¹⁶⁹

Between 1940 and about 1990, the federal courts and the United States Supreme Court fairly consistently decided that the Establishment Clause meant what it said.¹⁷⁰ However, this pattern has changed. One perspective on this apparent shift is reflected in comments by United States Supreme Court Justice Antonin Scalia in January, 2002, at the University of Chicago Divinity School, in which he quoted St. Paul: "Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, vengeance is mine, saith the Lord." Scalia continued,

"And in this world, Paul's world, the Lord repaid, did justice through his minister, the state. These passages from Romans represent, I think, the consensus of Western thought until recent times - not just of Christian or religious thought, but of secular thought regarding powers of the state. That consensus has been upset ... by the emergence of democracy. It seems to me that the reaction of people of faith to this tendency of democracy to obscure the divine authority behind government should not be resignation to it, but the resolution to combat it as effectively as possible, and the principle way of combating it, in my view, is constant public reminder that ... we are a religious people whose institutions presuppose a supreme being."¹⁷¹

Commenting on the entirety of Scalia's remarks at the conference, Sean Wilentz, who directs the American Studies program at Princeton, wrote, "Justice Scalia seeks to abandon the intent of the Constitution's framers and impose views about government and divinity that no previous justice, no matter how conservative, has ever embraced."¹⁷² As a result of attitudes such as Justice Scalia's and court decisions such as that in *Zelman*, writes Hollyn Hollman, general counsel of the Baptist Joint Committee on Public Affairs, fundamentalists are "... now trying to discredit, and eventually dismantle, state constitutional provisions that present a larger obstacle to government funding of religious institutions than the First Amendment."¹⁷³

There has been a steady decline in protected civil rights besides religious liberty, most of which has gone unnoticed by the public. For example, during its 2001-2002 term in a 5 to 4 decision, the United States Supreme Court decided to reduce a citizen's opportunity to ask for a redress of grievances based on sex or age discrimination by a state or its agent, such as a state university. By the same vote split, they narrowed the Fourth Amendment's search and seizure protections,

weakened the Fifth Amendment's protection against self-incrimination, and further weakened a defendant's right to effective counsel.¹⁷⁴ Most citizens mistakenly believe they still have these rights.

Martin Garbus, a First Amendment expert and lawyer who has appeared before the U. S. Supreme Court, argues that, "... this U.S. Supreme Court is seizing power, and in doing so it is radically changing the law and this country. The Rehnquist Court rejects much of the last sixty-five years of America's constitutional law; rejects the balance between Congress, the Court, and the President; and rejects the form of our democracy that these cases established. It does so to protect entrenched interests at the expense of unpopular minorities. It attempts to justify its new position by discarding prior cases and by looking to resurrect and reinterpret the Constitution as no other court has ever done. Instead of a balance of power, we have an attempt at judicial exclusivity at the expense of the Congress and 'We the People.' "¹⁷⁵

In addition, the USA Patriot Act of 2001 has weakened due process, and the right to legal counsel is being thrown out the window if you are a Muslim male. Our privacy can now be legally invaded by the government as never before.¹⁷⁶

I have suggested that civil rights evolve interdependently. If civil rights evolve, these also can devolve interdependently. We are now witnesses to this phenomenon. If Americans lose confidence in the capacity of some civil rights to protect them, everyday experience suggests that the trust levels in related civil rights will decline. At what point will the erosion of civil rights destabilize our democracy? This is now an open question.

ORGANIZED RELIGION

Historically, religions have evolved.¹⁷⁸ Today, one of the most powerful influences effecting the evolution of religious institutions in the United States is the seduction of government funding. One of the first religious organizations to be funded by the Bush administration was Operation Blessing International (OBI), which received \$500,000 in 2002.¹⁷⁹ OBI was founded by Pat Robertson of the Christian Coalition. In September 2003, Health & Human Services Secretary Tommy Thompson announced that he had authorized \$32 million in grants "to help build the capacity of faith-based organizations to provide social services." Also in September, the Department of Housing and Urban Development finalized plans to make available to churches and other faith-based organizations \$8 billion in federal grants. Just a few of the many religious organizations that are new grantees of government money as of September 2003 include Trinity Church, Miami; St. Paul AME Church, Des Moines; Interfaith Hospitality Network of Colorado Springs, Colorado Springs; and St. Paul's Episcopal Church, Newport News.¹⁸⁰

As more churches take taxpayer funding, the government will become more entwined in the business of churches. Thus, the independence from government which churches have enjoyed for two centuries will evaporate step by step. This change and others in society are influencing the evolution of churches.

Government Regulation: Significant supporting data link the expansion or decline of religious life to the degree of a government's regulation of religion. Rodney Stark, professor of sociology and comparative religion at the University of Washington, and Roger Finke, professor of sociology at Pennsylvania State University, have developed a market theory of religion that illuminates the effect of church-state separation in the United States compared to the lack of this separation in other countries. Their theory states, in part:

"To the degree that religious economies are unregulated [by government] and competitive, overall levels of religious commitment will be high. (Conversely, lacking competition, the

dominant firms [or the state-established religious organizations] will be too inefficient to sustain vigorous marketing efforts, and the result will be a low overall level of religious commitment, with the average person minimizing and delaying payment of religious costs.) (Proposition 75)"
[181](#)

This theory explains the experience in a number of established democracies, such as the Scandinavian countries and Germany, where the government financially supports religious institutions. This government socialization of religion has made it unnecessary for members of church congregations to dig into their own pockets to pay the salaries of their clergy or, in most cases, to pay the overhead costs of church buildings and property. As a result, there is no market in these countries for high-powered, entrepreneurial clergy who have a drive for raising money.

In contrast, it is just such clergy in the United States who have been responsible for the growth of evangelical congregations. However, no European governments are interested in keeping on their payroll a clergy that includes a Pat Robertson of the Christian Coalition, a Jerry Falwell, or other hard-driving, evangelical preachers, who may run for President and become influential in party politics.[182](#) The great diversity of religion in the United States is the result of a free, unfettered market economy for religious organizations.

The United States Supreme Court's voucher decision in *Zelman v. Simmons-Harris* will increase government's regulation of parochial schools, and undermine church-state separation. As Chief Justice Rehnquist noted in his opinion supporting vouchers in *Zelman v. Simmons-Harris* in July 2002, "All participating schools [in the voucher program], whether public or private, are required to accept students in accordance with rules and procedures established by the *state superintendent*. ... Participating private schools [including parochial schools] must agree *not to discriminate* on the basis of race, *religion*, or ethnic background, or to advocate or foster unlawful behavior or *teach hatred* of any person or group on the basis of race, ethnicity, national origin or *religion*."[183](#) (Emphasis added)

To achieve these judicial standards, government enforcement activities will have some predictable consequences. First, government enforcement may compromise the institutional practices of some religious groups, such as prohibiting religious discrimination in their hiring.

Second, churches which accept government funding will have to account for these funds in a publically transparent way. This usually leads to increased bureaucracy, which will likely make churches less attractive to their congregations. As Robert Lane, Eugene Meyer Professor Emeritus of Political Science at Yale University, notes, "[t]he administration of policies offends people even, or especially, when administrators follow principles of good government."[184](#)

Third, in due time, parochial schools that accept tax-funded vouchers will be called on to meet the same standards of educational performance expected of public schools supported by taxes. There is little evidence that parochial schools overall perform better than public schools, and it is evident that many parochial schools do not if parental choice is a measure. For example, student enrollment in Catholic parochial schools, the largest system of parochial schools in the country, declined from 5.5 million students in 1965 to 2.5 million in 2001.[185](#)

Fourth, as more churches and their agencies receive government funds, an intangible asset of religious organizations will disappear. Because of church-state separation, church business and administration have been considered the affairs of each church. As a result, internal church problems or conflicts have been the concern of the church to resolve without government involvement. This benefit-of-the-doubt or hands-off policy has extended to all churches, and has protected religious institutions from both rumors and government investigations that, at the minimum, cloud institutional reputations.

This hands-off public policy is already beginning to disappear. For example, "[a]s if the Catholic Church in the archdiocese of Boston did not have enough problems [as a result of the priests' sex crimes against children], now comes a state agency to investigate alleged mismanagement of funds in the local Catholic Charities office. The State of Massachusetts' Executive Office of Administration and Finance has asked the group to explain millions of dollars in missing revenue, high overhead, a failure to list four grants totaling \$1.5 million, discrepancies in Medicaid subcontractor payments and the misreporting of funds."¹⁸⁶

Furthermore, regardless of any 501c3 tax-exempt status a religious institution may have, it will take a dramatic change in institutional behavior for most of them to provide services to the public without religious proselytizing,¹⁸⁷ adorning the walls of their service programs with religious symbols, or restricting services, regardless of their proven health or social benefits. For example, few if any Catholic hospitals which receive federal funding and/or reimbursements provide tubal ligations or information about abortion that may save a woman's life. To put this disregard for a woman's right to appropriate health care into perspective, only 6% of Catholic hospitals in Pennsylvania provided appropriate prophylactic care for rape victims in 2000. In 2000, there were 3,247 "forcible rapes" reported in Pennsylvania. It is generally estimated that only 15% to 30% of rapes are reported to police. If rape victims' experiences in Pennsylvania are proportionate to what occurs at the national level, about one third of these rape victims became pregnant. Nationally, there were over 95,000 rapes reported annually, and about 32,000 women become pregnant because of these forcible rapes.¹⁸⁸

As administrations change, government-funded religious institutions will likely come under government investigation for denying medical services of proven life-saving value. Also, religious discrimination in hiring will be challenged, as will concerns about providing faith-based services where no secular alternatives exist, accounting problems, and "teaching hatred." Step by step, these religious organizations will become more entwined with government as has happened with government-managed European churches.

However, if no churches were willing to participate in faith-based grants which violate the constitution, the hands-off policy could continue. As in illegal drug transactions, it takes a buyer as well as a seller to create a problem.

Government Funding: When President Bush launched his faith-based initiative, private donations to churches had been declining for years.¹⁸⁹ In 2000, members of congregations gave to their churches, on average, 38% less than they did in 1968, when incomes in 2000 were adjusted for inflation to be comparable to 1968.¹⁹⁰ Similarly, it was the declining financial stability of parochial schools that preceded the lobbying for school vouchers in the last 40 years.¹⁹¹

The decline of donations to churches raises issues about faith-based government funding. First, if church members, who are in the best position to evaluate church programs and church charities, are reducing their financial support for these programs, why should the general public be expected to underwrite these faith-based activities with tax dollars? This is a particularly pertinent question because there is no reliable research which demonstrates that faith-based social service programs are as effective as, equal to, or better than programs run by secular agencies.¹⁹² Nor are religious organizations immune to financial fraud. For example, state audit investigations in Texas revealed that some religious schools fraudulently took state money while they posed as public charter schools.¹⁹³

Second, as federal and state funding of faith-based programs increases, donations to churches most likely will continue to decline. After all, why contribute to government funded religious programs which you are already supporting through your taxes? As the government increasingly

socializes religious organizations with its funding, faith-based programs will become increasingly dependent on the government,¹⁹⁴ and less influenced by the spiritual leading of the congregations who founded the programs.

Third, market pressures will increasingly drive the financial decisions of religious organizations. Those parochial schools that choose not to accept government vouchers will find themselves at a distinct competitive disadvantage. After all, which religious schools will parents select, the ones that are subsidized by government vouchers, or the non-voucher parochial schools with a higher tuition that parents must pay?

As generally happens in the competition among corporations, we can expect the larger churches to get even bigger as they leverage their faith-based grants to gain a larger share of the church-attending market. Smaller churches are at a competitive disadvantage because few congregations are equipped to deal with the administrative requirements that federal grants entail. Today, 50% of houses of worship have fewer than 100 "regularly participating members," and 25% have less than 49 such members.¹⁹⁵ Many larger religious institutions have had difficulty managing their own finances. For example, "As a grand jury investigates the financial irregularities of one Roman Catholic priest in the Diocese of Brooklyn and church officials try to recover \$1.8 million that was improperly spent in another, diocesan leaders acknowledge that as many as one out of five parishes lack the basic lay oversight of finances required by church law. Even in some parishes that have the oversight committees, the small groups of parishioners rarely meet, or they serve as a rubber stamp for the pastors who appoint them, church officials say."¹⁹⁶

If church attendance is an indication of the benefits parishioners believe they get from being involved in their churches, government-regulated churches in Europe do not offer the same level of benefits to parishioners as do unregulated-religious institutions in the United States. Attendance in most European countries, with the exception of Poland, is below 10% of the population. In England and France, it is 5%.¹⁹⁷ Attendance in the United States is now about 35% to 40% of all citizens. Government money has socialized European religious institutions, sapping their vitality and their drive to be influential moral voices in their societies.¹⁹⁸

Fourth, faith-based programs will hire more professionals as they struggle to remain eligible for government funding. As a result, fewer volunteers will be needed for these programs. As the opportunities for volunteering decline, an important spiritual dimension of religious life will fade for congregations.

Historically, volunteer participation has been one of the most vital aspects of American life. For example, 49% of Americans volunteer compared to only 19% in France and 13% in Germany.¹⁹⁹ As Robert Putnam of Harvard University noted, "Religiosity rivals education as a powerful correlate of most forms of civic engagement."²⁰⁰ Church volunteers serve in soup kitchens, help find jobs for the unemployed, provide financial support to organizations such as rape and abuse crisis centers, and enrich the social capital of our communities in many other ways without government involvement. According to Steven Rathgeb Smith, editor of *Nonprofit and Voluntary Sector Quarterly*, almost all the research suggests that a community's social capital is most effectively developed by local citizens from the bottom up, not from the top down by the socializing influence of government funding and its related administrative requirements.²⁰¹ In conclusion, the volunteer participation and charitable support by churches in American society will be far more dynamic without government involvement.

Fifth, small churches that are not in the mainstream of American religious life will likely find it difficult to get faith-based funding as government bureaucrats begin making distinctions between "legitimate" religions and "off-the wall groups," albeit informally and behind closed doors. This sort of discrimination is "foreign to our Constitution," noted U.S. Supreme Court Justice William Douglas.²⁰² Nevertheless, such discrimination is predictable as the political pressure to fund

religious groups with political clout continues, and government administrators avoid the negative press of funding unpopular religious institutions. In the past, there have been wide-spread biases against Catholics, Mormons, and Jehovah's Witnesses. Today, the civil rights of Muslims are being trampled by the government. Given the current climate in Washington, it is hard to imagine faith-based grants going to the Religious Society of Friends (Quakers) whose members have been outspokenly critical of the G.W. Bush administration's domestic and foreign policies, or to religious groups which use constitutionally protected hate speech such as the Christian Identity church, or a church that claims Christ was gay. Religious discrimination by the United States government is a predictable outcome of using taxes to fund religious organizations. This also undermines the rule of law: "Congress shall make no laws regarding the establishment of religion," such as the law permitting funding religious organizations.

Two centuries of religious liberty in the United States can be viewed as if it were a controlled experiment of the effects of church-state separation in comparison with countries that have similar economic prosperity and hold free elections, but maintain state-established, -regulated, -managed, or -controlled religions. The comparison strongly suggests that a free market for religious institutions such as that in the United States has stimulated more religious life than have government-regulated religious institutions such as those in European democracies. Unfortunately, the protection of church-state separation for religious institutions is being traded in for government money.²⁰³

The most effective strategy for religious organizations which want to maintain control of their own affairs and to blunt the pressures of unwanted social change on their congregations is to rebuild the wall of separation.

Social Trends: In addition to the increase of government funding and regulation of religion, other social trends affect the vitality of religious institutions. There are four significant trends now underway that threaten the vitality and influence of institutional religion. As the following will suggest, the best defense against the effect of these trends is to strengthen church-state separation.

First, the historical direction of cultural evolution²⁰⁴ continues to respond to the pressures of scientific advances, economic development, and an increasingly educated population who presses for civil freedoms. It has been this combination of factors that has resulted in the surge of new and increasingly secular democracies. Most of these have adopted constitutional provisions to separate church and state, although many have not yet achieved this division in practice. In the process, secular values reflected in written constitutions and other laws adopted by legislatures are displacing the political influence of institutional religion. Furthermore, in conflicts between church and state, the government prevails with few exceptions,²⁰⁵ regardless of whether the government is communistic or democratic, or socially conservative or liberal. This lesson from modern political history suggests that if the Establishment Clause is abolished de jure or de facto, the United States government will end up managing institutionalized religion one way or another.

Second, the pendulum of political climate has swung between conservative and liberal since the founding of the United States, and the center point of the pendulum continues to move left. For example, the 1930s radical, "socialistic" idea of social security and worker's compensation is now in the solid center of public acceptance. The United States is now about evenly divided politically, as the 2000 presidential election demonstrated. This balance, argue John Judis and Ray Teixeira in their book, *The Emerging Democratic Majority*, is tipping toward the Democrats and away from the conservatives in the Republican party despite the results of the mid-term elections in 2002.²⁰⁶ Whether the shift happens in 2004 or 2006 or after, it will occur.

This forecast is consistent with the analysis of Orlando Patterson, professor of sociology at Harvard. He writes, "Over time, the democratic process also has exhibited a pattern of shifts between eras of activism and egalitarian expansion accompanied by active mobilization of the electorate, followed by reactive eras of de-activism, inegalitarian expansion, and voter demobilization. It is just such an era that we are living through, and it is coming to an end."²⁰⁷ The increasing activism on the left as a result of the specter of perpetual war, erosion of civil rights, and the shift of wealth in this country from the middle class to the superwealthy are all factors that will be changing, and thus contributing to the alteration of the political map in the next few years. If religious institutions are to retain an authoritative, moral voice in society as these changes occur, it will be through the protection of religious liberty as defined in civil law. In the United States, church-state separation provided for by the Establishment Clause is that protection.

Third, according to Inglehart's analysis of the World Values Survey (WVS) data, there is a measurable shift taking place in established democracies from "material" to "post-material" societies. Material societies are ones in which the primary concern is for material well-being: for food, shelter, and clothing. Most of the world's population by necessity has a material orientation. Post-material societies are ones, such as the prosperous Western democracies, in which the needs for material well-being have been met for a majority of the population. In post-material societies, the focus has changed to an increased concern for quality of life, a clean environment, and freedoms that flow from civil rights.²⁰⁸ This shift from a material to a post-material orientation is taking place on a generational level. The youth of today in established democracies, particularly the educated youth, have a more post-material focus than do their parents.²⁰⁹ "Even within more conservative, God-fearing communities," notes Jeffrey Rosen, a professor of law at George Washington University, "younger generations increasingly abandoned traditional attitudes, to the point at which their outlook on the important personal autonomy no longer differed from those of their secular counterparts."²¹⁰

Furthermore, the number of educated youth is increasing as a percent of these populations, thus accelerating the generational shift.²¹¹ The research tends to suggest that the more political religious institutions become, the less appealing they are to the post-material generation.²¹²

Finally, although religious institutions such as congregations may be expanding in the Southern Hemisphere of the world, in the United States religious experience is evolving from an institutional experience to a more personal spiritual quest. "Religion is coming to reside more and more in the hands of individuals and less and less in the hands of institutions, denominations, congregations, or para-church groups," said Stewart Hoover of the Center for Mass Media Research. He continued, "Sociologists call this the rise of personal autonomy in matters of faith."²¹³

Consistent with this assessment of the deinstitutionalization of religion in the United States, attendance in houses of worship has declined by about 33% since the middle of the 20th century, with most of the decline occurring in the past 20 years.²¹⁴ However, while the percent of those attending churches declines, total attendance has increased somewhat as the population of the United States has grown 55% since 1950, from 154 million²¹⁵ to 281.4 million.²¹⁶ Those congregations that have grown have barely kept pace, in aggregate, with the nation's population growth.²¹⁷ The larger congregations also are experiencing some recent defections to "house churches."²¹⁸

While there have been attendance declines for many churches in the United States, these have been substantially less than the drop-off of church attendance in all European democracies. Furthermore, until recently, church-state separation had a positive influence in minimizing the politicalization of religious institutions in the United States. Unfortunately, as church-state separation has been eroded, the politicalization of congregations has increased.²¹⁹

Those who press for faith-based funding, prayer in public schools, or tax-support for parochial schools, which the majority of citizens overwhelmingly opposes, are pursuing short-sighted tactics that will continue to alienate many Americans,²²⁰ increase government control over churches, and continue the drift toward politicalizing congregations.

CONCLUSIONS

There are five overriding conclusions to be drawn from the historical record presented in this paper. First, church-state separation has achieved the best record of maintaining peace among people of different faiths. As a result, it has advanced the prospects for achieving a peaceful world. Historically, achievements of this magnitude have become the common foundation of moral obligations embraced by people world-wide. Therefore, if we value domestic and international peace, we should be promoting church-state separation explicitly.

Second, democracies have a better record for avoiding war with other democracies, avoiding famine, and achieving economic prosperity for their citizens than any other form of government. The stability of established democracies depends on the integrity of their civil rights. Church-state separation is part of our interdependent civil rights in the United States. Therefore, protecting church-state separation is essential to protecting our democracy.

Third, church-state separation has proven to be the most effective strategy for protecting religious liberty. Therefore, religious leaders who want to retain their institutions' religious freedoms tomorrow, free of government intervention, should be working to protect everyone's religious freedom today. Protecting church-state separation should be an institutional imperative for them.

Fourth, and unfortunately, there is a shift toward theocracy taking place in our government. This change is being promoted from the highest levels within our government and is paving the way for some clergy to leverage their political influence to achieve for their religious organizations the advantage enjoyed by state-established churches in other countries. As a result of this overreaching, the American ideal of protecting every individual's religious liberty is fading, particularly for members of minority religions and those who are not religiously affiliated.

Finally, as religious liberty fades with the erosion of church-state separation, public trust in this civil right will diminish. As self-defensive behaviors compensate for the loss of trust, intolerance will move closer to the surface of social behavior. As intolerance becomes more common, peaceful co-existence among religious groups, and between these and government will be more difficult to maintain. This is a predictable outcome as suspicions surface about religiously discriminatory federal funding, regulation, and law enforcement. Such perceptions of injustice are the conditions that breed violence. Therefore, citizens should work to reestablish church-state separation, because maintaining a civil peace that exists is more efficient than trying to rebuild peace after violence has erupted.

In summary, reestablishing church-state separation is a keystone to sustaining a culture of tolerance and trust on which our civil rights depend, and these, in turn, are essential to our democracy, and peace among religious communities.

APPENDICES

Criticisms of the 'Church-State Separation' Concept

Three common criticisms of church-state separation include the complaints that the meaning of the Establishment Clause does not imply the concept of separation of church from state, none of the separation phrases such as 'church-state separation' are found in the language of the First Amendment, and America has been and continues to be a Christian nation. These criticisms are

not based on the revealed truths of religion, but rather rest on historical claims which either do or do not have documentation. These criticisms are treated as such in the following, because neither religion nor science flourishes when misinformation goes unchallenged.

Meaning: The constitutional authority for 'separation' in church-state separation has two historical foundations. First, the concept of keeping religion separate from the mundane and morally compromised machinations of politics in government in order to protect the purity of religion has a long theological tradition. Roger Williams, the founder of the Rhode Island colony, took this position in his *Queries of Highest Consideration* (1644) and in his arguments with the civil authorities of the Massachusetts Bay Company.²²¹

Second, the idea that civil government should be separate from proselytizing clergy and the political aspirations of ecclesiastical authorities was not a new idea in the 1790s. John Locke supported this concept of separation. He was one of the most widely read political theorists of his day, and his writings had a significant influence on the thinking of the founders of this country.²²² In regard to the authority of the clergy, Locke wrote in 1688, "... it [the ecclesiastical authority] ought to be confined within the bounds of the church, nor can it in any manner be extended to civil affairs, because the church itself is a thing absolutely separate and distinct from the commonwealth. The boundaries on both sides are fixed and immovable."²²³ Another writer with a perspective similar to Locke's was Marquis de Condorcet, a French intellectual whom Thomas Jefferson most likely read when he was in France as the United State's representative from 1785 to 1789. In 1786, Condorcet wrote, "The interest of the princes was not to seek to regulate religion, but to separate religion from the state, to leave to the priests the freedom of sacraments, censures, ecclesiastical functions; but not to give any civil effect to any of their decisions, not to give them any influence over marriages or over birth or death certificates; not to allow them to intervene in any civil or political acts ..."²²⁴

Both reasons for separation, the state from religious institutions as Williams would have it, and clergy from the state as Condorcet and Locke argued, were reflected in the writings of important founders of our government.

"For Madison and Jefferson, freedom of conscience meant the freedom to exercise religious liberty [as an individual] – to worship or not, to support a church or not, to profess belief or disbelief – without suffering civil penalties or incapacity. It had nothing to do with a right to choose one's beliefs," because, according to Jefferson, "the opinion and beliefs of men depend not on their own will, but follow involuntarily the evidence proposed to their own minds."²²⁵ According to Jefferson and Madison, this goal for religious freedom was best achieved by the means of church-state separation. For example, James Madison, the architect of the Constitution, wrote in 1785 that religion is "... not within the cognizance of civil government. ... the general government is proscribed from interfering, in any manner whatever, in matters respecting religion."²²⁶ As the First Amendment scholar Leonard Levy notes, Madison "led the fight in Virginia against the 'general assessment' bill of 1784, which would have imposed taxes to subsidize religion. ... Madison opposed ... any kind of establishment of religion, no matter how inclusive or exclusive. ... he shared Jefferson's belief in a high wall of separation. Madison spoke of a 'perfect separation' and believed that 'religion and Government will exist in greater purity, without ... the aid of government.' "²²⁷

In 1789, George Washington wrote that he "... would labor zealously ...to establish effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution."²²⁸ Also in 1789, the Constitution of the United States was adopted with no reference to God, a radical act for the day, that separated any suggestion of religious authority from the foundational document of the United States government. Finally, various drafts for the wording for the First Amendment were debated by Congress before the proposed draft was sent to the states for

ratifications in 1789. All 13 state legislatures approved the wording of the First Amendment before it became part of the Constitution on December 15, 1791.²²⁹

In summary, not only were both reasons for separation known at the time; we have evidence that those ideas were expressed by the Founders of the United States government in their various writings, and these ideas were discussed in all 13 state legislatures. In brief, freedom of religion guaranteed in the First Amendment needed the prohibition of the Establishment Clause, and for this clause to be realized in practice, it required separating not only state from church but also church from state. This meaning of the Establishment Clause was understood by the founders.

Given this historical record, President Jefferson's famously expressed position that there was a "wall of separation between church and state"²³⁰ is likely a fair reflection of the sentiments of the majority of the state and federal legislators who voted to adopt the First Amendment in 1791.

States such as Pennsylvania had, and other states would subsequently adopt, their own version of the Establishment Clause. For example, by the end of 1790, the Pennsylvania legislature had adopted separation language in Article VIII of the Pennsylvania Constitution that was very similar to that which would appear in the Establishment Clause: "... no one could be compelled to attend, erect, or support any place of worship. ... no preference shall ever be given, by law, to any religious establishments or modes of worship."²³¹

The original purpose of the First Amendment in 1791 was to restrict the relationship between organized religion and the Federal government. Subsequently, the U.S. Supreme Court decided in various decisions²³² that the First Amendment also applied to state governments, thus expanding the protections for citizens' civil rights in states without a First Amendment type of protection or where states had not enforced those protections.

Language: Despite the historical record showing that church-state separation is the essential concept of the Establishment Clause, one of the most frequently repeated challenges to this concept, whether expressed as 'church-state separation,' 'separation of church and state,' or 'wall of separation,' is that none of these phrases appears in the Constitution of the United States. If this objection is intended to be taken seriously, its advocates have the epistemological burden of explaining how a person understands the meaning of what others say. Our common understanding of what words mean is one of the primary ways by which we affirm, dispute, or reconcile our observations with the reported perceptions of others. The phrase 'wall of separation' is a metaphor which expresses in just three words the purpose of the Establishment Clause. Common synonyms of this include 'church-state separation' and 'separation of church and state.'

How words are used in daily life is the criterion lexicographers employ to determine the meaning of words and phrases. By this criterion, the 'church-state separation' phrase has entered the English language as an accepted and widely understood phrase expressing the intent of the Establishment Clause in the First Amendment of the Constitution of the United States.

"Separation first clearly entered public debates as a demand in the election of 1800," Philip Hamburger, John P. Wilson Professor of Law at the University of Chicago, noted, "when some leading Republicans employed a version of the idea to elicit anti-establishment votes and to criticize and even intimidate the Federalist clergymen who spoke or wrote against Jefferson."²³³ By the end of the 1800s, the idea of church-state separation was widely accepted as one of the most important, defining features of the United States.

In 1875, both the Republican and Democratic political parties adopted political planks endorsing church-state separation for their presidential campaigns. Ulysses S. Grant supported this position by saying, "Keep the church and the state forever separate."²³⁴ In 1876, the U.S. House of Representatives passed the Blaine amendment 109 to 7 to amend the Constitution in order to make the concept of church-state separation more explicit, and to have it apply to the

states as well as the relationship between the Federal government and religions.²³⁵ This proposed amendment failed in the Senate by only two votes. However, by then many states, such as Pennsylvania, had adopted language providing for church-state separation in their state constitutions. Seventy seven years later, in 1952, Congress approved the constitution of Puerto Rico which includes the phrase "complete .separation of church and state."

Public awareness of and support for church-state separation grew during the 1800s as a result, in part, of the growing endorsements of the clergy. In 1843, the Presbyterian minister Thomas Smyth asserted, "... that Calvin taught 'the spiritual independence of the Church, its entire separation from civil government.'" ²³⁶ In an 1852 sermon by the pastor of the First Baptist Church of Boston, Rollin H. Neale said, "... it is to the entire separation of the church from the state, and the perfect freedom we enjoy in our religion, that the pulpit is indebted for much of the powerful good with which it is here invested."²³⁷ In 1855, William Seward proclaimed to Congregationalists, "... separation of Church and State may therefore be regarded as a contribution made by the Puritans towards perfecting the art of government."²³⁸ In 1855, Thomas Curtis, professor of theology at Lewisburg, Pennsylvania, wrote, that "Baptists had long sought to 'awaken a spirit in favor of perfect liberty of conscience and the separation of church and state.'" ²³⁹

In 1871, the Unitarian minister Henry W. Bellows noted, "Happily our founders were compelled, and by a blessed necessity, to introduce at the very beginning a truly scientific principle into the foundation of the national law and life. They declared a complete and perpetual divorce between church and state."²⁴⁰ In 1875, the Methodist minister John P. Newman offered, "Let us to-day thank God that while the Divine Author of Christianity has declared the mutual and reciprocal relations of church and state for the well-being of our race, yet has authorized their separation and announced their independence."²⁴¹ In 1890, in the Seventh-Day Adventist publication, *American State Papers Bearing on Sunday Legislation*, William Addison Blakely wrote, "It is to set forth the true American idea - absolute separation of religion from the state - absolute freedom for all in religious opinions and worship - that these papers are collected and republished."²⁴² Regardless of whether you agree with the theological perspectives expressed in these quotes, these fit the tenor of their day.

As the 1800s came to a close, members of the judiciary began to speak in favor of church-state separation. In 1870, "a former judge of the New York Supreme Court, Elisha P. Hurlbut, argued that there was an irreconcilable conflict between 'Democracy and Theocracy' - a conflict 'stronger and fiercer' than that between freedom and slavery."²⁴³ As the 20th Century progressed, the Federal courts began using church-state separation language in their opinions. In *Everson v. Board of Education of Ewing*, Supreme Court Justice Hugo Lafayette Black wrote, "The First Amendment has erected a wall of separation between church and state. That wall must be kept high and impregnable."²⁴⁴ "It is my belief," said Justice Black in an interview in 1962, "... there are 'absolutes' in our Bill of Rights, and ... they were put there on purpose by men who knew what words meant and meant their prohibitions to be 'absolutes.'" ²⁴⁵

For two centuries, the language of church-state separation has been and continues to be used in newspapers and books. On November 18, 2002, *The New York Times* reported, "[Federal] Judge Thompson issued a 93-page opinion today, saying Justice Moore had violated the separation between church and state."²⁴⁶ Book titles include these phrases, .e.g., *Separation of Church and State: Historical Fact and Current Fiction*, 1982, by Robert Cord.

Even those authors who object to the intent of the Establishment Clause find themselves using the terms 'church-state separation,' 'separation of church and state,' or 'wall of separation' to explain themselves. The meaning of these phrases is so well established that these terms are used in book indexes to cross-reference subject matter. The Columbia Encyclopedia (1963) defined

separation of church and state on page 416. Similar language is used in *Barrett's World Christian Encyclopedia: a Comparative Study of Churches and Religions in the Modern World AD 1900 - 2000*, p. 718: "...the United States has been clearly defined as a secular state in which church and state are legally separated." The index of Robert Wuthnow's authoritative, two-volume *The Encyclopedia of Politics and Religion*, (1998) includes "Separation of church and state." An internet web search for 'church-state separation' generated 17,200 hits on November 8, 2002.

The durability of the language of separation since 1802, when President Jefferson proclaimed a "wall of separation," is testimony to the productive utility that these phrases have had in summarizing in a few words the meaning of the Establishment Clause.

"Christian Nation": The evidence presented in this Appendix supports the constitutional validity of church-state separation, which is, nevertheless, opposed by some religious leaders. They claim that "America is a Christian nation," and therefore church-state separation has no place in our form of government.

This claim has been made by televangelist ministers Pat Robertson, founder of the Christian Coalition, and James Kennedy, of the Coral Ridge Presbyterian Church in Fort Lauderdale, both of whom oppose church-state separation.²⁴⁷ Their assertion is promulgated from some pulpits, appears in letters-to-the-editor of local papers, and is advanced in a variety of web sites.

Is it reasonable to claim "America is a Christian nation?" To answer this question, I will first start with a few definitions. A "nation" is defined by its form of government and the characteristics of its legal system. The seminal event of 1787 that distinguished the newly formed "nation" of the United States from all preceding and existing nations of that era was the adoption by the Continental Congress of a secular constitution, with no mention of God, and the Constitution explicitly states in Article VI, Clause 3: "... no religious test shall ever be required as a qualification to any office or public trust under the United States." The Constitution and the adoption of the First Amendment in 1791, were watershed events in the history of world politics; a new paradigm of government was created that had no formal or legal connection to organized religion. As a result, the "nation" of the United States is, and has always been, secular by Constitutional definition. Therefore, our nation is not a Christian theocracy as suggested by the statement "America is a Christian nation."

Second, perhaps Robertson and Kennedy assume that the population of this secular nation is Christian to such an extent that Robertson and Kennedy believe America²⁴⁸ might fairly be characterized as a "Christian" country. This raises the two questions, how is "Christian" defined, that is, what set of beliefs are common to Christians; and how do we determine if a person is Christian? Answers to these will help us determine whether there is a reasonable justification for claiming "America is a Christian nation?"

As to the first question, there appears to be little agreement about which beliefs define a Christian. Today, some self-identified Christians dismiss the validity or relevance of central Christian doctrines, such as being born in sin, the importance of forgiveness, or even the essential role of Christ. For example, "In some polls, you have Christians saying, 'Yes, Jesus is the only way,' and also, 'Yes, there are many paths to God,'" notes Egon Mayer, a sociologist at City University of New York.²⁴⁹ These unorthodox beliefs have occurred, in part, as a result of the inconsistencies among the stories in the Gospels, the current administrative needs of some Christian denominations, and modern concepts of justice. For example, in a 2000 *New York Times* survey, 73% of Americans disagree that we are born in sin.²⁵⁰ Although for many forgiveness is a defining attribute of Christianity, the four Gospels do not consistently support forgiveness as a virtue.²⁵¹ The divinity of Christ²⁵² and origins of the Eucharists²⁵³ are not consistently explained in the books written by the Apostles.

Among Catholics in 1965, "the idea of female priests was unthinkable. Today, over 60 percent favor the idea," notes Peter Steinfels.²⁵⁴ In contrast to the New Testament's admonition against homosexuality, Paul M. Weyrich, a religious conservative and a founder of the Heritage Foundation has said, "I don't think sodomy laws could be resurrected, because even most Christians believe that what is done in the privacy of one's home is not the government's business. I've had a couple of my own kids say that to me."²⁵⁵

A Gallup poll in 1978 reported that 80% of Americans agreed that "... an individual should arrive at his or her own religious beliefs independent of any churches or synagogues."²⁵⁶ This finding is consistent with the results of another survey 23 years later, in 2001: "There is a moral majority in America," reports Alan Wolfe, director of the Boisi Center for Religion and American Public Life at Boston College. "It just happens to be one that wants to make up its own mind."²⁵⁷ For example, self-proclaimed Christians are on both sides of such important issues as the place of women in society, contraception, a woman's right to choose abortion, medically assisted suicide, prayer in public schools, teaching evolution in public schools, gay and women clergy, and equal civil rights for gays.

Such differences are not limited to the laity. In 1987, only 5% of Episcopalian clergy agreed that "... the Scriptures are the inspired and inerrant Word of God in faith, history, and secular matters," compared to 33% of American Baptist clergy, according to a poll conducted by Jeffery Hadden of 10,000 American clergy.²⁵⁸ Christian clergy hold different beliefs about the theological importance of the Biblical prophets, the Pope, Mary Baker Eddy, or Joseph Smith who founded the Church of Jesus Christ of Latter-day Saints (Mormons). Leaders among the different sects of the Mormons have sharp differences over the "divine principle" of polygamy.²⁵⁹

On church-state separation, the Unitarian Universalists Association adopted a resolution in 1985, "... to make manifest their commitment to the separation of church and state... ." ²⁶⁰ At the other end of the theological continuum is dominion theology, which holds "... that Christians, and Christians alone, are Biblically mandated to occupy all secular institutions until Christ returns."²⁶¹ Randall Terry expressed this idea as follows, "Our goal is a Christian nation. We have a biblical duty, we are called by God to conquer this country."²⁶² In *A Christian Manifesto*, 1981, the evangelical Francis Schaeffer advocated that Christians engage in "... civil disobedience to restore Biblical morality."²⁶³ Similar dominionist theological sentiments have been expressed by the evangelical ministers Pat Robertson, James Kennedy, Jerry Falwell, and Dr. James Dobson. Publicly elected and appointed government officials including House Majority Leader Tom DeLay (R) and U.S. Attorney General John Ashcroft have expressed dominion theology sentiments many times.

Another measure of how extensive the theological differences are today is reflected in the diversity of denominations and congregations. In 1776, there were 11 denominations in the United States. Today, there are over 2,000 denominations and over 325,000 congregations. This proliferation of organized religion resulted from disagreements within congregations that split churches and denominations apart,²⁶⁴ and also from the founding of many new religions such as the Mormons, Seventh Day Adventists, and Jehovah's Witnesses.

Given the wide range of conflicting religious beliefs held by self-identified Christians and the theological chasm separating many Christian denominations, it is difficult to imagine that there is or will ever be a consensus among Christians about what the phrase "America is a 'Christian' nation" means.

The second question was how do we determine if a person is Christian. In 1956, about 80% of the U.S. population surveyed claimed some religious identity or affiliation such as Jewish, Presbyterian, or Catholic. Most self-identified as Christian. However, church records indicated that only 62% of the adult population were members of a congregation, and less than that, 45%,

attended church.²⁶⁵ Attendance dropped to about 35% nationally by 1995, and in a survey of New York City residents in 2000, 25% reported they attended a house of worship.²⁶⁶ For the largest Christian denomination, attendance at Catholic services dropped from 65% in 1965, to 35% in 2002.²⁶⁷

If the old maxim "actions speak louder than words" has any merit, church attendance is the most compelling evidence of traditional religious commitment. Church membership, which does not necessarily require attending church, is the second best evidence, and religious self-identification as reported in surveys requires no effort at all. Although a majority of those polled self-identify as Christian, few of them go to any church. The disparities between reported religious self-identity, church membership, and church attendance further weakens the claim that "America is a Christian nation."

A third justification for claiming that "America is a Christian nation" is the assertion that colonial Americans were Christian at the time when the United States was founded. However, in 1776, 83% of Americans were not members of any church. "...[W]hat is most noticeable about religion in the colonial era," notes Roger Finke, associate professor of sociology at Purdue University, "is how poorly the denominations were doing. To put it another way, these firms [churches] had failed to make any serious dent in the market ... the vast majority of Americans had not been reached by an organized faith."²⁶⁸ Of the remaining 17% who were members of churches, most were members of one of the 10 Christian denominations that existed at the time.²⁶⁹

If the pattern of church-going in 1776 was similar to that in 1952, it is likely that church attendance was much lower than the number of people registered as members of congregations in 1776. One of the concerns among pastors in the 1800s was the lack of participation in church by local citizens. For example, in 1835, Rev. Bela Bates Edwards wrote, "A great majority of the members of our successive legislatures are not connected with the churches of any denomination."²⁷⁰ If church membership is a reasonable criterion to use, it is a stretch to say that "America was a Christian nation" in 1776.

Finally, although the heritage of many colonists may have been nominally Christian, apparently it was not a sufficiently compelling heritage to motivate 83% of them to join churches. We don't know a great deal about the religious attitudes of most colonists. Opinion surveys about religious self-identification were not conducted in the 1700s, and we have few written records from that period documenting the religious preferences of the illiterate, barely literate,²⁷¹ and literate but non-churched majority of the population.

In contrast, the written record of that era was dominated by a small but educated population of clergy²⁷² who were paid to preach, publish their sermons, keep the minutes of congregations, and otherwise promote their theology in pamphlets. From their historical records, one can get the impression that the entire population was deeply engrossed in their religion. If that was the case, why were only 17% members of congregations? Therefore, relying on the record of religious heritage of colonials as a justification for claiming "America was a Christian nation" is a flimsy proposition at best.

In summary, the statement "America is a Christian nation" has no constitutional basis at all, little documented historic or sociological validity, and no specific Biblical foundation.²⁷³ However, it is important to note that the above analysis does not prove that colonial Americans were not, or Americans today are not, generally Christian. It only shows that those who claim colonial Americans were Christian have little evidence for this claim. Furthermore, the meaning of the term "Christian" is so defused today that it has little definitional value without extensive qualification. When it is qualified, the resulting definition leaves out many who consider themselves Christian. For example, in 2000, "the 8.4 million-member United Methodist Church declared that Mormonism [with 11 million members] 'by self-definition, does not fit within the

bounds of the historic, apostolic tradition of the Christian faith."²⁷⁴ Such definitional distinctions further compromise the claim that "America is a Christian nation."

The attitude reflected in the claim that "America is a Christian nation" is at odds with the sentiment of 83% of Americans who agree that "... there are many different religious truths and we ought to be tolerant of all of them;"²⁷⁵ and it conflicts with the long-term, broad, public support for church-state separation.²⁷⁶ Americans do not want to give up their democracy for a fundamentalist, theocratic vision of the United States. That was true in 1791 when the First Amendment was adopted, and it continues to be the case today.

Notes and Citations

1. "... there are more churches, synagogues, temples, mosques per capita in the United States than in any other nation on earth: one for about every 865 people." (Source: Sheler, Jeffery L., "Mysteries of Faith: The Ways of Worship," U.S. News & World Report, November 2003, p 7.)
2. Freedom House: Since 1978, Freedom House has been evaluating the degree of political freedom for elections and the level of civil rights that exist in the countries of the world. Freedom House's annual report is widely used by scholars and politicians as the authoritative source for evaluating civil freedoms. In the case of religious liberty, Freedom House uses 12 criteria for evaluating the degree of religious freedom in each country, such as, it is "constitutionally guaranteed ... legally guaranteed ... applies to some groups but not to others." [Source: Marshall, Paul, Religious Freedom in the World: A global report on freedom and persecution (Nashville, TN: Boardman & Holman, 2000), p. 334. Freedom House website as of 7/16/02: www.freedomhouse.org/religion/publications/rfiw/fig1.htm]
3. Marshall, Paul, Religious Freedom in the World: A global report on freedom and persecution (Nashville, TN: Boardman & Holman, 2000), pp. 26-27.
4. Dudley, Carl S., and Roozen, David A., Faith Communities Today: A Report on Religion in the United States Today (Hartford, CT: Hartford Seminary, 2001), p. 3.
5. Forty years ago the note in the Columbia Encyclopedia on separation of church and state reported, "The practical lines of demarcation [between church and state] ... continue to create problems, and any seeming transgression by either institution [church or state] causes a tremendous outcry."^a In May 2001, a group of religious leaders met to discuss faith-based social services. These people represented in part Catholic Charities, American Jewish Committee, Friends Committee on National Legislation, Islamic Supreme Council of America, Baptist Joint Committee among others. Their joint report stated, in part, "We disagree about the threshold question of whether government should fund programs where religious exercise is an integral element of the program."^b [Sources: ^aColumbia Encyclopedia, (New York, NY: Columbia University Press, 1963), p. 416; ^bBerger, Marshall, et al, In Good Faith: A Dialogue on Government Funding of Faith-Based Social Services, Feinsein Center for American Jewish History, Philadelphia, PA, 2001, p. 8.]
6. Creation-science and intelligent design: "Creation-science includes the scientific evidence and related inferences that indicate: (1) Sudden creation of the universe, energy, and life from nothing; (2) The insufficiency of mutation and natural selection in bringing about development of all living kinds from a single organism; (3) Changes only within fixed limits of originally created kinds of plants and animals; (4) Separate ancestry for man and apes; (5) Explanation of the earth's geology by catastrophism, including the occurrence of a worldwide flood; and (6) A relatively recent inception of the earth and living kinds."^a According to a Gallop pole in 1993, 47% of Americans believe that "God created man pretty much in his present form at one time within the last 10,000 years. Only 11% subscribed to purely naturalistic evolution."^b

Intelligent Design is the belief that (a) the action of a conscious, intelligent being is responsible for the evolution of living organisms, (b) empirical evidence exists which documents the actions of this intelligent being, and (c) this evidence is sufficient to justify a scientific inference that such an intelligent being exists.^c In a 1998 survey of why Americans believed in God, 28% cited intelligent design as their reason. This was the most frequent answer. Other reasons included "an experience with God" - 20.6%, a "purpose in life" - 10.3%, the "Bible says so" - 9.8%. etc.^d

Those promoting creation-science and intelligent design are trying to rationalize the existence of God with evidence, arguments, and theories they claim are scientific and logical. However, their explanatory efforts do not meet the standards of the scientific method which include 1) observation, 2) explanation of the observation, 3) formulation of an hypothesis based on the observation, 4) experimentation that permit finding the hypothesis false, 5) modification of the hypothesis as necessary to explain the new results, and 6) additional experiments as needed.^d William James' comment in his *The Varieties of Religious Experience* (1902) on the place of religion in the concerns of individuals still has merit. He wrote, "To-day, quite as much as at any previous age, the religious individual tells you that the divine meets him on the basis of his personal concerns."^e [Sources: ^aNumbers, Ronald L., *The Creationists: The Evolution of Scientific Creationism* (New York, NY: Alfred A. Knoff Inc, 1992), p. x.; ^bScott, Eugenie C., "Gallup Reports High Level of Belief in Creationism," *NCSE Reports* 13 (Fall 1993) as cited in Numbers, Ronald L., *Darwinism Comes To America*, (Cambridge, MA: Harvard University Press, 1998), pp. 9-11; ^cwww.Talkdesign.org; ^dShermer, Michael, "Why People Believe in God: An Empirical Study on a Deep Question," *The Humanist*, November/December, 1999, pp. 20-26; ^dAudi, Robert, Editor, *The Cambridge Dictionary of Philosophy*, (Cambridge, England: Cambridge University Press, 1995), pp. 611-617, 793-794; Also see: Jones, Steve et al, *The Cambridge Encyclopedia of Human Evolution*, (Cambridge, England: Cambridge University Press, 1994); Numbers, Ronald L., *The Creationists: The Evolution of Scientific Creationism* (New York, NY: Alfred A. Knoff Inc, 1992); 50 Nagel, Ernest, *The Structure of Science: Problems in the Logic of Scientific Explanation* (New York, NY: Harcourt, Brace, World, Inc., 1961); ^e James, William, *The Varieties of Religious Experience* (New York, The Modern Library, 1902), p. 481.]

7. AP, "U.S. Postal Service is sued over church-run post office," *The Daily Review*, 5 October, 2003, p. 8.

8. Compelling state interest: "an extremely important governmental interest, important enough to justify a law that limits a FUNDAMENTAL RIGHT or treats people differently on the basis of a SUSPECTED CLASSIFICATION." (emphasis in the original) [Source: Clapp, James E., *Random House Webster's Dictionary of The Law* (New York, NY: Random House, 2000), p. 93.]

9. The first commandment, "Thou shalt have no other gods before me," directly conflicts with the guarantee of religious liberty in the First Amendment of the Constitution of the United States. Nevertheless, two different decisions on displaying the Ten Commandments in court houses were recently handed down by two different courts. In *Glassroth v. Moore* (2003) the U.S. Court of Appeals for the Eleventh Circuit Court directed Chief Judge Moore of the Alabama Supreme Court to remove his 2.5 ton Ten Commandments monument from the state court house. Also in 2003, U.S. Court of Appeals for the Third Circuit Court allowed a 1920s era plaque of the Ten Commandments to remain the Chester County court house in Pennsylvania.

10. The "House of Worship Free Speech Restoration Act" (H.R. 235) was introduced in Congress in April, 2003, with the intent of removing the IRS 501c3 limitations against using the tax-exempt status of churches so they could engage in partisan politics.

11. Religious Freedom Amendment: On December 20, 2001, Congressman Ernest Istook (R) reintroduced his Istook Amendment, misnamed the "Religious Freedom Amendment," which

states: "To secure the people's right to acknowledge God according to the dictates of conscience: Neither the United States nor any State shall establish any official religion, but the people's right to pray and to recognize their religious beliefs, heritage, and traditions on public property, including schools, shall not be infringed. The United States and the States shall not compose school prayers, nor require any person to join in prayer or other religious activity." (emphasis added). This proposed rewriting of the First Amendment of the Constitution of the United States would permit religious proselytizing in public schools. Furthermore, it would place the burden on a child of deciding whether or not to participate in a religious practice that is alien to his or her family's religion, and whether or not to risk making a spectacle of him or herself in front of classmates by refusing to participate.

12. Robert Wuthnow, professor of sociology at Princeton University, has correctly noted, "Writing about spirituality is more difficult (and more speculative) than describing developments in religious institutions, for spirituality is hidden from view except insofar as it is talked about or revealed through personal interviews or indirectly in public behavior. Especially in U.S. culture, faith is considered a private matter, and it is practiced mostly in the quiet recesses of personal life." [Source: Wuthnow, Robert, *After Heaven: Spirituality in America Since the 1950s* (Berkeley: University of California Press, 1998), p. vii.]

13. Church: The term 'church' as used in this paper includes mosques, synagogues, meeting houses, and other places of religious worship. The terms church, religious institution, and faith-based organization are sometimes used interchangeably. Although the context makes clear what is being referred to, there are new definitional problems involved in using these terms. Traditionally, the terms church (temple, synagogue, mosque, meeting house), congregation, denomination, and religious institutions, such as parochial schools and seminaries, have had distinct meanings. However, the precision of these meanings has become less clear as the functions of these entities have changed and combined. For example, a mega church, the Healing Place in Baton Rouge, Louisiana, provides what is now being called faith-based social services which are offered by some of the congregation members. So the Healing Place is a congregation, a church, and a faith-based religious institution. Many faith-based charitable efforts are extensions of ecumenical collaborations of various congregations, and many of these services are provided in church buildings. Traditionally, religious institutions included a variety of organizations such as the American Friends Service Committee and Catholic Charities. Today, it includes many that are quasi-political organizations such as the Christian Coalition, Focus on the Family, and many, many more. Denominations have changed so much that some people have argued that the very concept of denominations is no longer very useful. For an expanded discussion of these issues, see Wuthnow, Robert, *The Restructuring of American Religion*, (Princeton, NJ: Princeton University Press, 1988), and Jeavons, Thomas H., "The Vitality and Independence of Religious Organizations," *Society*, Vol. 40, No. 2, Whole No. 262, Jan/Feb. 2003, pp. 27-36.

14. Religion: There is a commonly recognized distinction between religion and the secular which is used throughout this paper. Religions draw their legitimacy from the authority of a supernatural god or gods and this authority is revealed to mankind through sacred texts, religious doctrine, divine inspiration of religious leaders, or separately to each individual. Secular authority is drawn from common law of a community that has gained the status of accepted custom, written constitutions and laws of a country, scientific discovery, and rational debate based on findings of facts that are accessible to all parties.

However, it should be recognized that, "[T]here is no [officially] agreed definition or specification of what religion is," as Paul Marshall of the Center for Religious Freedom points out, "... Since Buddhism does not entail, and can deny, belief in a god or gods and is also accepted as a religion, then neither theism nor deism is presumably a requirement for religion."a

Even the World Christian Encyclopedia: A comparative study of churches and religions in the modern world AD 1900 - 2000, lists Atheism under its "Notes on religions."b Furthermore, neither religious beliefs nor practices offer much help in distinguishing the essential meaning of religion as a concept. "For the sake of religion men have earnestly affirmed and contradicted almost every idea and form of conduct," noted Paul Johnson. "In the long history of religion appear chastity and sacred prostitution, feasting and fasting, intoxication and prohibition, dancing and sobriety, human sacrifice and the saving of life in orphanages and hospitals, superstition and education, poverty and wealthy endowments, prayer wheels and silent worship, gods and demons, one God and many gods, attempts to escape and reform the world."c [Sources: a Marshall, Paul, Religious Freedom in the World: A global report on freedom and persecution (Nashville, TN: Boardman & Holman, 2000), p. 332; b Barrett, David B., World Christian Encyclopedia: A comparative study of churches and religions in the modern world AD 1900 - 2000, New York, NY: Nairobi, Oxford University Press, 1982, p. 712; c Paloutzian, Raymond F., Invitation to the Psychology of Religion (Boston, MA:, Allyn and Bacon, 1996), p. 11.]

15. For a thorough discussion of the history and complexities of the Free Exercise Clause see Sheffer, Martin S., GOD Versus CAESAR: Belief, Worship, and Proselytizing under the First Amendment (Albany, NY: State University of New York Press, 1999) 213 pages.

16. Jefferson's Letter to the Danbury Baptists, January 1, 1802.

17. According to James Madison, the architect of the Constitution, religion is "not within the cognizance of civil government. ... the general government is proscribed from interfering, in any manner whatever, in matters respecting religion. ..."a In 1947, Chief Justice Black of the U.S. Supreme Court said, "The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach." In that same case, Mr. Justices Rutledge, Frankfurter, Jackson, and Burton argued that, "The prohibition [of the Establishment Clause] broadly forbids state support, financial or other, of religion in any guise, form or degree. It outlaws all use of public funds for religious purposes."b (Sources: aMadison, James, "A Memorial and Remonstrance," General Assembly of the Commonwealth of Virginia, June 20, 1785; bEmerson v. Board of Education of Ewing, 330 U.S. 855 (1947) 67 S.Ct. 962.)

18. Lemon v. Kurtzman, 403 U.S. 602 (1971).

19. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." - Declaration of Independence, 1776.

20. Modern idea: Some tribes, including the Israelites in the Bible (Leviticus 25: 25-55), have a communal ethic that embraces members' welfare. However, the difference in the size and diversity of populations and the differences in geographic area covered by tribes compared to modern nation states is not just a matter of scale. The challenges of governance and the difficulties that need to be resolved to achieve inclusion of different ethnic, racial, and linguistic groups are of a different order than those faced by tribes. Nations have required different terminologies, conceptual frame-works, and attitudes about inclusion.

21. Democracy: A country becomes democratic in the most rudimentary sense when free elections are conducted according to written civil law. For example, Iran, which is still largely a theocratic state, has begun holding free elections. To this extent, it is employing secular procedures for selecting some of its leadership. As a country adds statutes for civil rights such as freedom of speech, freedom of the press, or due process in judicial matters, the level of democracy increases, as does its secular character if the civil rights displace theocratic authority. As more rights are added, such as religious liberty, and these are sufficiently guaranteed so that

citizens take them for granted, we call the democracy "established." The adoption of civil rights laws and their implementation has been and continues to be an evolutionary process.

22. Diamond, Larry, "Introduction," in Diamond, Larry, and Plattner, Marc.F., *The Global Divergence of Democracies* (Baltimore, MD: The Johns Hopkins University Press, 2001), p. x.

23. Secular: Secular authority is drawn from common law of a community that has gained the status of accepted custom, written constitutions and laws of a country, scientific discovery, and rational debate based on findings of fact that are accessible to all parties.

24. According to Anthony Marx, former professor of political science at Columbia University and now President of Amherst College, "Nationalism in the core countries of western Europe was built, more or less purposefully or successfully, not only in the context of but also on the back of fanatical religious passions and conflicts. ... As state rulers learned, while serving their own interests the surest way to inflame religious passion and redirect it was to attack heretics within as evident and present threats to religious homogeneity. Opponents of the crown learned the same lesson, seeking to harness religious passions to their movements, thereby taking advantage of pressing conflict while seeking to resolve it. ... the evidence for this process is to be found in how conflict fed rising popular sentiment, identity, and engagement with issues of state governance, the central component ... of nationalism." [Source: Marx, Anthony W., *Faith in Nation: Exclusionary Origins of Nationalism* (New York, NY: Oxford University Press, 2003), p. 193.

25. Benjamin, Daniel and Simon, Steven, *The Age of Sacred Terror* (New York, NY: Random House, 2002), pp. 419-420.

26. In 1999, a conference of Buddhists, Protestants, Catholics, Jewish, Muslim, and other religious leaders met in Geneva, Switzerland, and issued "The Geneva Appeal" in which they claimed 56 current conflicts had religious elements. (Source: Geneva's religious leaders hope to halt violence based on religion: Edmund Doogue, *Ecumenical News Bulletin* No. 20/1999, 10-11-1999.)

27. Benjamin, Daniel and Simon, Steven, *The Age of Sacred Terror* (New York, NY: Random House, 2002), p. 428.

28. *Ibid.*, p. 431.

29. *Ibid.*, p. 6.

30. *Ibid.*, p. 17.

31. *Ibid.*, p. 195.

32. Jenkins, Philip, "The Next Christianity," *Atlantic Monthly*, October 2002, p. 60.

33. Benjamin, Daniel and Simon, Steven, *The Age of Sacred Terror* (New York, NY: Random House, 2002), p. 26.

34. Myers, Steven Lee, "Attacks on Minority Faiths Rise in Post-Soviet Georgia," *The New York Times*, 17 August 2002, p. A1.

35. Jenkins, Philip, "The Next Christianity," *The Atlantic Monthly*, October 2002, p. 68.

36. By 2050, there will be about 633 million Christians in Africa, 460 million in Asia, 640 million in Latin America, and only 555 million in Europe. "The era of Western Christianity has passed within our lifetimes, the day of Southern [Hemisphere] Christianity is dawning." While church attendance in Europe is in the single digits and church attendance in the United States has declined by 15% to 20% in the last 30 years to between 35% and 40%, in Seoul or Nairobi today "their main concern is building a worship facility for the 10,000 or 20,000 members they have

gained over the last few years." [Source: Jenkins, Philip, *The Next Christendom: The Coming of Global Christianity* (New York, NY: Oxford University Press, 2002) pp. 3, 9.]

37. For example, the percent of populations that are Muslim in selected African countries are as follows: Algeria 99%, Egypt 94%, Libya 97%, Morocco 99%, Sudan 70%, Tunisia 98%, Somalia 100%, Senegal 92%, Niger 80%, Gambia 90%, Chad 50%, Mauritania 100%, Nigeria 50%, and Sierra Leone 60%. In the Middle East the percents are: Turkey 100%, Iran 99%, Iraq 97%, Jordan 92%, Kuwait 85%, Lebanon 70%, Oman 100%, Saudi Arabia 100%, Syria 90%, Yemen 99%, and United Arab Emirates 96%. In South and Southeast Asia the percents are: Afghanistan 99%, Bangladesh 83%, Indonesia 88%, Malaysia 52%, and Pakistan 97%. [Source: Boonstra, Heather, "Islam, Women and Family Planning: A Primer," *The Guttmacher Report*, Volume 4, Number 6, December 2001, p. 5), using source material from the Central Intelligence Agency, *The World Factbook*, Washington DC, July 2001, <http://www.islamicweb.com/begin/population.htm>]

38. Doran, D'Arcy, "Beauty pageant turns beastly, riots kill 100 in Nigeria," *The Ithaca Journal*, 23 November 2002, p. 1. Cowell, Alan, "Religious Violence in Nigeria Drives out Miss World Event," *The New York Times*, 23 November 2002, p. A1.

39. Rodney Stark and Roger Finke list the number of "new religious movements in Europe and America" per million population (and the absolute number) formed in the early 1990s: United States: 1.7 (425), Switzerland: 16.7 (108), Iceland: 12 (3), Great Britain: 10.7 (604), Austria: 7.9 (60), Belgium: 2.4 (155), and France: 0.9 (52) among others. [Source: Stark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion* (Berkeley, CA: University of California Press, 2000), p. 255.]

40. Proselytizing: An-Na'im, Abdullahi Ahmed, "Introduction," *Proselytization and Communal Self-determination in Africa* (Maryknoll, NY: Orbis Books, 1999), p. 5. Professor An-Na'im's point about the political component of proselytizing certainly applies in the United States. Also see Sachs, Susan, "With Missionaries Spreading, Muslims' Anger is Following," *The New York Times*, 31 December 2002, p. A11.

41. Also see: Mishra, Pankaj, "The Other Face of Fanaticism: While the West worries over Islamic fundamentalism, India's Hindu nationalists thrive by stirring up a murderous anti-Muslim frenzy," *The New York Times Magazine*, February 2, 2003, pp. 43-46.

42. Jenkins, Philip, *The Next Christendom: The Coming of Global Christianity* (New York, NY: Oxford University Press, 2002), p. 13.

43. On March 10, 1993, Dr. David Gunn was shot to death by Michael Griffin in Pensacola, Florida; on August 19, 1993, Dr. George Tiller was shot and injured at his clinic in Wichita, Kansas; on July 29, 1994, Dr. John Bayard Britton and James Barrett were shot and killed in front of the Pensacola clinic; Dr. Garson Romalis was shot and seriously wounded in his home in Vancouver, British Columbia; on December 8, 1994, Shannon Lowney and Leanne Nichols were shot and killed at two clinics in Brookline, Massachusetts; on November 10, 1994, Dr. Hugh Short was shot and injured in his home in Ancaster, Ontario; on November 11, 1997, Dr. Jack Fainman was shot and injured in his home in Winnipeg, Manitoba; on January 29, 1998, Officer Robert Sanderson was killed during an abortion clinic bombing in Birmingham, Alabama, and Emily Lyon, a nurse, was injured. On October 23, 1998, Dr. Barnett Slepian was shot and killed in his home in Amherst, NY.

44. Mason, Carol, *Killing for Life: The Apocalyptic Narrative of Pro-life Politics* (Ithaca, NY: Cornell University, 2002). Also see Diamond, Sara, *Roads To Dominion: Right-wing Movements and Political Power in the United States* (New York, NY: Guilford Press, 1995), pp. 229, 246, 251, and 311.

45. From a speech Randall Terry gave to the U.S. Taxpayers Alliance on August 8, 1995.

46. Religious violence in America: In the first 300 years between Columbus' exploration of America in 1492 and the adoption of the Constitution of the United States in 1789, a case can be made that a great deal of the violence visited upon the Native Americans by Europeans, such as Columbus' massacre of Native Americans, welled up from a theological vision of good and evil. "For every Puritan institution, moral theory and practice, belief and ritual there existed an antithetical Indian counterpart," wrote Richard Slotkin, Olin Professor at Wesleyan University, "Such analogies were never lost on the Puritan, who saw in them metaphors of God's will. Clearly the Indian cultures were the devil's city on a hill, emblematic opposites to their own Bible commonwealth." However, the conflict between the settlers and the Native Americans eventually evolved into a conquest for land and the Native Americans' desperate fight for survival. Religion faded as a casual factor.^a

"In 1844, a large-scale riot broke out in Philadelphia that lasted three days. During the widespread civil unrest, Catholic churches and the homes of Catholic citizens were burned. By the time it was over thirteen people lay dead. What prompted this terrible violence in the city of brotherly love? Government-sponsored prayer in the public school."^b

Before Utah became a state in 1896, "On Sept. 11, 1857, in a meadow in southwestern Utah, a militia of the Church of Jesus Christ of Latter-day Saints, or Mormons, attacked a wagon train of Arkansas families bound for California," according to Sally Denton, author of *American Massacre: The Tragedy at Mountain Meadows, September 1857*. "After a five-day siege, the militia persuaded the families to surrender under a flag of truce and a pledge of safe passage. Then, in the worst butchery of white pioneers by other white pioneers in the entire colonization of America, approximately 140 men, women and children were slaughtered. Only 17 children under the age of 8 – the age of innocence in the Mormon faith – were spared"^c.

Currently, there are religious organizations in the United States, usually smaller ones, which explicitly preach hate. For example, the World Church of the Creator founded by Rev. Matt Hale, is a new religious organization that preaches hatred of blacks, Jews and other minorities; its "members have shot, knifed or beaten blacks, Jews and Asian-Americans." This Church claims 80,000 members in 49 states and 28 countries.^d However, most of the other religiously motivated hate-crime attacks on Jews, Muslims, and others today appear to be the actions of an individual or two, and not an organized effort by congregations.

In 1995, Timothy McVeigh bombed the Alfred P. Murrah Federal Building in Oklahoma, killing 168 people and wounding 500 more. McVeigh purportedly disclaimed a religious motivation even though his action was modeled on a bombing portrayed in *The Turner Diaries*, a book he had been selling at gun shows. This book was written by William Pierce, using the pseudonym Andrew MacDonald, who promoted Christian Identity, a religion advocating violence against Jews, blacks, and the government. If we are to accept individuals' claims of religious motivation at face value, we must extend the same credibility to those, such as McVeigh, who disclaim religion as a motivation.^e [Sources: a Slotkin, Richard, *Regeneration Through Violence, The Mythology of the American Frontier, 1600-1860* (Middletown, CT: Wesleyan University Press, 1973), p. 57; b Riedel, Bunnie, *A Matter of Conscience* (Washington, DC: Americans United for Church and State Separation, undated), p. 1; c Denton, Sally, *American Massacre: The Tragedy of Mountain Meadows, September 1857* (New York, NY: Alfred A. Knopf, 20003); dKristof, Nicholas D., "Hate, American Style," *The New York Times*, 30 August 2002, p. A19.; eBenjamin, Daniel, and Simon, Steven, *The Age of Sacred Terror* (New York, NY: Random House, 2002), p. 440. Also see: Noble, Kerry, *Tabernacle of Hate* (Prescott, Ontario: Voyageur, 4801 Charleville Rd, RR#4, Prescott, Ontario KOE 1TO, Canada, 1998)]

- 47.** Dudley, Carl S. and Roozen, David A., *Faith Communities Today, A Report on Religion in the United States Today* (Hartford, CT: Hartford Seminary, 2001), p. 50. Research by Barna Research tends to complement the Hartford data. Among Protestants and Catholics surveyed, "79% "said they would find it preferable for Protestants and Catholics to put aside their differences, focus on things they have in common, and work together whenever possible." However, only 61% of Evangelicals agreed.(1996).a Comparing the Hartford and Barna data suggests that the inclinations of the church members seem more open to cooperation than has been the actual practice of their religious institutions. (Source: Values: Protestant v. Catholics," Barna Research Online, as of 2/26/03: <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=16>)
- 48.** Societies which are able to maintain relative peace over a sustained period of time, promote cooperative economic activity, and work together in their own defense, as opposed to being conscripted to fight for a king, share one or more core values or moral beliefs. These may be religious beliefs and these may be secular values that bridge the differences among different religions within the society.a Although Christianity has been and continues to be the religion claimed by the majority of Americans, historically this common identification was not accompanied with a shared, core moral belief that resulted in peace among the various Christian denominations in Europe, or in colonial America before the United States was formed.b [Sources: aEtzioni, Amitai, *The New Golden Rule: Community and Morality in a Democratic Society* (New York, NY: Basic Books, 1998) pp. 85-118; Bellah, Robert N. (with Madsen, Richard, William M. Sullivan, Ann Swidler, & Steven M, Tipton); b*Habits of the Heart: Individualism and commitment in American Life* (New York, NY: Harper & Row, 1985)]
- 49.** Wolfe, Alan, *ONE Nation, After All* (New York, NY: Viking, 1998), p. 62.
- 50.** J. D. van der Vyver, "Religious Freedom in African Constitutions," in An-Na'im, Abdullahi Ahmed, ed. *Proselytization and Communal Self-determination in Africa* (Maryknoll, NY: Orbis Books, 1999), p. 110.
- 51.** Established Religions: For example: Iran - "The official religion of Iran is Islam..."; Israel - "The State of Israel ... will be based on the precepts of liberty, justice, and peace taught by the Hebrew Prophets;" Mauritania - "Mauritania is an indivisible, democratic, social Islamic Republic;" Norway - "The King shall at all times profess the Evangelical-Lutheran religion, and uphold and protect the same;" Paraguay - "The role played by the Catholic Church in the historical and cultural formation of the Republic is hereby recognized;"a Costa Rica - "The Roman Catholic Apostolic religion is that of the state, which contributes to its support...;" Panama - "The profession of all religions is free as is the exercise of all other groups, without any limitation other than respect for Christian morals ... ;b [Sources: aWuthnow, Robert, ed., *The Encyclopedia of Politics and Religion* (Washington, DC: Congressional Quarterly, 1998 ed.) pp. 856-863; b Marshall, Paul, *Religious Freedom in the World: A global report on freedom and persecution* (Nashville, TN: Boardman & Holman, 2000), pp. 51-52. Additional documentation is provided throughout the text.]
- 52.** Stark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion* (Berkeley, CA: University of California Press, 2000), p. 230.
- 53.** "Socialized" is being used here in the sense that the phrase "socialized medicine" is used when referring to government managed or controlled medical systems.
- 54.** Stark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion* (Berkeley, CA: University of California Press, 2000), p. 230.
- 55.** *Ibid.*, p. 247.

56. Marshall, Paul, *Religious Freedom in the World: A global report on freedom and persecution* (Nashville, TN: Boardman & Holman, 2000), p. 28.

England provides another example: "... Henry VIII set himself up as supreme ruler of the church almost 500 years ago," ... and since then, "Members of the clergy must swear allegiance to the crown, and 26 seats in the House of Lords are filled with bishops of the Church of England." (Source: aHoge, Warren, "Archbishop of Canterbury Enthroned," *The New York Times*, 28 February 2003, p. A10.)

Also see: Ewing, Katherine Pratt, "Legislating Religious Freedom: Muslim Challenges to the Relationship between church and state in Germany and France," *Daedalus*, Fall 2000, pp. 31-54.

57. Stark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion* (Berkeley, CA: University of California Press, 2000), p. 233.

58. *Ibid.*, p. 235.

59. Geneva, Switzerland: proposed article 182 to the Criminal Code: "Whoever has carried out physical or psychological actions in a repeated and systematic way, aimed at impairing the capacity of another person to make autonomous judgments, or at placing this other person in a state of dependency, will be punished with a jail term and fine." (Source as of 11/25/02: www.cesnur.org/testi/cantonofgeneva.htm)

60. From a speech on September 23, 1999, by T. Jeremy Gunn, Executive Fellow, U.S. Institute of Peace, to the Organization for Security and Cooperation in Europe. (http://www.religioustolerance.org/st_relfre.htm).

61. See endnote #8.

62. Other examples include the episode in Switzerland on October 4, 1994, when 48 members of the Solar Temple committed suicide/murder and the combined murder/suicides in Jonestown, Guyana, on Nov. 18, 1978, when 900 members of Rev. Jim Jones' The People's Temple died.

63. "The sexual abuse crisis that engulfed the Roman Catholic Church in the last 12 months has now spread to nearly every American diocese ... These priests are known to have abused more than 4,000 children over the last six decades, according to an extensive New York Times survey of documented cases of sexual abuse by priests through Dec. 31, 2002."a In addition to the charges of sexual abuse of children by Catholic priests in the United States, charges have been filed in Canada. "Twelve thousand Indians, of the 90,000 former resident school pupils who are still alive, have filed claims against Ottawa and various churches, mostly alleging physical or sexual abuse. The schools were financed by the government but run by the Anglicans, Roman Catholics, and United churches."b In Ireland, sexual abuses have been claimed by former students of Catholic run schools.c (Sources: a Goodstein, Laurie, "Trail of Pain in Church Crisis Leads to Nearly Every Diocese," *The New York Times*, 12 January 2003, pp. 1, 20-21; b "Canada Caps Abuse Claims Against Anglicans," *The New York Times*, 21 November 2002, p. A13; c Hoge, Warren, "Irish Church to Cooperate With Abuse Inquiry," *The New York Times*, 31 December 2002, p. A10.)

64. As of 2000, Freedom House rated the civil rights of China a 7 (1 = high, 7 = low) and "not free."

65. "Update," *Voice of Reason*, The Newsletter of Americans for Religious Liberty, No.1 [78], 2002, p. 11. As of 2000, Freedom House rated the civil rights of Singapore a 5 (1 = high, 7 = low) and "not free."

66. Wuthnow, Robert, ed., *The Encyclopedia of Politics and Religion* (Washington, DC: Congressional Quarterly) pp. 514-515.

- 67.** Sigmund, Paul E., "Religious Freedom in Latin American," in Marshall, Paul, *Religious Freedom in the World: A global report on freedom and persecution* (Nashville, TN: Boardman & Holman, 2000), p. 48.
- 68.** Sharp, Bruce, "The Banyan Tree: Untangling Cambodian History." (As of 12/30/02: <http://members.aol.com/cambodia/banyan1.htm>). As of 2000, Freedom House rated the civil rights of Cambodia a 6 (1 = high, 7 = low) and "not free."
- 69.** Slackman, Michael, "Tunisia's 2 Faces of Progress," *Los Angeles Times*, 10 June 2002, p.1. As of 2000, Freedom House rated the civil rights of Tunisia a 5 (1 = high, 7 = low) and "not free."
- 70.** From a speech on September 23, 1999, by T. Jeremy Gunn, Executive Fellow, U.S. Institute of Peace, to the Organization for Security and Cooperation in Europe. (http://www.religioustolerance.org/st_relfre.htm). As of 2000, Freedom House rated the civil rights of Uzbekistan a 6 (1 = high, 7 = low) and "not free," Azerbaijan a 4 and "partly free," and Turkey a 5 and "partly free."
- 71.** Pierre, Andrew J., "Vietnam's Contradictions," *Foreign Affairs*, Volume 79 No. 6, November/December 2000, p. 77. As of 2000, Freedom House rated the civil rights of Vietnam a 7 (1 = high, 7 = low) and "not free."
- 72.** For example, in May 2002, it was reported that in Pakistan Ms. Zafran Bibi, 26 years old, was sentenced to death by stoning by Judge Anwar Ali Kahn because she had a baby as the result of a rape by her brother-in-law. Judge Ali Kahn claimed he followed the letter of the law in the Koran. In another case, a woman was acquitted of adultery in Nigeria in a 4-1 vote of the Appeals Court based on technicalities. Examples of Islam as the established religion in the nation's constitution include: Saudi Arabia – "The Kingdom of Saudi Arabia is a sovereign Arab Islamic state with Islam as its religion;" Syria – "Islamic jurisprudence is a main source of legislation;" and Tunisia – "Tunisia is a free State, independent and sovereign; its religion is Islam" [Sources: aMydans, Seth, "In Pakistan, Rape Victims Are the Criminals," *The New York Times*, 17 May 02, p. A3; bSengupta, Somini, "Facing Death for Adultery, Nigerian Woman is Acquitted," *The New York Times*, 26 September 2003, p. A3; bWuthnow, Robert, ed., *The Encyclopedia of Politics and Religion* (Washington, DC: Congressional Quarterly, 1998), pp. 856-863.]
- 73.** As of 2000, Freedom House rated (1 = high, 7 = low) the civil rights of Afghanistan 7, Saudi Arabia 7, Iraq 7, Sudan 7, Syria 7, Iran 6, Egypt 5, Pakistan 5, and Jordan 4.
- 74.** Of the 195 countries worldwide, 6 countries are rated as having full religious freedom by Freedom House. Hence 189, or 97%, do not have full religious freedom.
- 75.** Following September 11, 2001, the FBI has been violating the fundamental legal procedures of due process by rounding up individual Muslims, many of whom are United States citizens, without cause, holding them in jail without counsel, and denying them contact with their families because of their religion and ethnicity. The Palmer raids in 1918 that were directed by Attorney General Palmer had similar characteristics.
- 76.** Religious Discrimination: 'In early Virginia all ministers were required to conform to the tenets of the Church of England. Quakers were banished, Catholics were disqualified from public office, and their priests were not even permitted in the colony. In New York, Peter Stuyvesant established the Dutch Reformed Church, which all settlers were required to support. Baptists who attempted to hold services in their homes were subject to fines, whipping, and banishment. Quakers were not even permitted in the colony. In the Massachusetts Bay Colony, Anne Hutchinson was convicted in 1638 as a "blasphemer," and as a teacher of erroneous doctrines.'

[Source: Sheffer, Martin S., *GOD Versus CAESAR: Belief, Worship, and Proselytizing under the First Amendment* (Albany, NY: State University of New York Press, 1999), p. xvii.]

77. "In the eighteenth century, Pennsylvania was the most liberal American colony on religion. For example, only in Philadelphia was there a legally functioning Roman Catholic Church protected by authorities. ... Only in Pennsylvania were religious objectors to war not penalized. ... Only in Pennsylvania did those who ran the assembly learn in time to defend the rights of minorities such as slaves and Indians. ... Pennsylvania churches remained separate from the government, and its ministers were free to criticize the colony's politicians." [Source: Frost, J. William, *A Perfect Freedom: Religious Liberty in Pennsylvania* (New York, NY: Cambridge University Press, 1991), pp. 4-5].

78. In an address to the Virginia General Assembly, James Madison said, "Torrents of blood have been spilt [sic] in the old world, by vain attempts of the secular arm, to extinguish Religious discord [sic], by proscribing all differences in Religious opinion." (Source: Madison, James, "A Memorial and Remonstrance," General Assembly of the Commonwealth of Virginia, June 20, 1785, p. 3. See www.ku.edu/carrie/docs/texts/memorial.htm).

79. Justice Breyer, dissenting in *Zelman v. Simmons-Harris* (2002).

80. Tocqueville, Alexis de, *Democracy in America, Volume 1* (New York, NY: Vintage Books, 1959), p. 319.

81. The publication of the Pentagon Papers in 1971 by The New York Times and The Washington Post over the protests of the Nixon Administration was the most recent landmark test of prior restraint in the United States.

82. Wuthnow, Robert, ed., *The Encyclopedia of Politics and Religion* (Washington, DC: Congressional Quarterly, 1998), p. 859.

83. Although we can act on matters of principle, that is, conform our behavior to a value, principles govern day-to-day behavior less than habits and routines. Individuals understand this at an intuitive level when they adjust values through self-justifications and rationalizations so they become consistent with their behavior. Our habits and routines are tailored to help us be accepted and successful in family, work, and community environments, which remain fairly stable and unchanging for the majority of the world's population. As a result, habits of behavior, generally, are fairly stable over a person's lifetime, which contribute to the stability of people's attitudes and values. In general, this understanding about how values are shaped helps explain the nearly universal focus of religious institutions on following traditions, correct ritual behavior, and the importance on regular church attendance.

84. Freedom House: <http://www.freedomhouse.org/research/index.htm>

85. Bova, Russell, "Democracy and Liberty: The Cultural Connection," in Diamond, Larry, and Plattner, Marc.F., *The Global Divergence of Democracies* (Baltimore, MD: Johns Hopkins University Press, 2001), p. 69.

86. *Ibid.*, p. 75.

87. Inglehart, Ronald, "Culture and Democracy," in Harrison, Lawrence E., and Huntington, Samuel P., eds., *Culture Matters: How Values Shape Human Progress* (New York, NY: Basic Books, 2000), p. 82.

88. Basanez, Miguel, professor at the Instituto Tecnológico Autónomo de México; and Moreno, Alejandro, professor of political science at the Instituto Tecnológico Autónomo de México.

89. Inglehart, Ronald; Basanez, Miguel; and Moreno, Alejandro, *Human Values and Beliefs: A Cross-Cultural Sourcebook* (Ann Arbor, MI: University of Michigan Press, 1998).

90. Exceptions to the usual conditions that exist when democracy begins to emerge in a country include Japan and Germany after World War II.

91. Samuel P. Huntington, Albert J. Weatherhead III Professor at Harvard University, notes that in 1960, Ghana and South Korea were similar in population size, per capita GNP, "divisions of their economies among primary products," levels of exports, and were receiving about the same amount of international economic development aid. By the 1990s, Ghana's per capita GNP was 1/15 of South Korea's, which had become the 14th largest world economy. South Korea was on its way to becoming an established democracy. No such changes had occurred in Ghana. Their culture made the difference. [Source: Huntington, Samuel P., "Cultures Count," in Harrison, Lawrence E., and Huntington, Samuel P., eds., *Culture Matters: How Values Shape Human Progress* (New York, NY: Basic Books, 2000), p. xv.]

92. According to Inglehart's analysis of the World Values Survey data, "... [E]conomic development leads to two types of changes that are conducive to democracy: It tends to transform a social structure, bringing urbanization, mass education, occupational specialization, growing organizational networks, greater income equality, and a variety of associated developments that mobilize mass participation in politics ... Economic development is also conducive to cultural changes that help stabilize democracy. It tends to develop interpersonal trust and tolerance, and it leads to the spread of post-materialist values that place high priority on self-expression and participation in decision making." [Source: Inglehart, Ronald, "Culture and Democracy," in Harrison, Lawrence E., and Huntington, Samuel P., Eds., *Culture Matters: How Values Shape Human Progress* (New York, NY: Basic Books, 2000), p. 92].

93. Inglehart, Ronald, "Trust, Well-Being, and Democracy," in Warren, Mark E., ed., *Democracy & Trust* (Cambridge, England: University of Cambridge, 1999), pp. 109-110.

94. Inglehart, Ronald, "Culture and Democracy," in Harrison, Lawrence E., and Huntington, Samuel P., eds., *Culture Matters: How Values Shape Human Progress* (New York, NY: Basic Books, 2000), p. 96. Inglehart's analysis is based on his study reported in Inglehart, Ronald; Basanez, Miguel; and Moreno, Alejandro, *Human Values and Beliefs: A Cross-Cultural Sourcebook* (Ann Arbor, MI: University of Michigan Press, 1998).

95. Inglehart, Ronald, "Trust, Well-Being, and Democracy," in Warren, Mark E., ed., *Democracy & Trust* (Cambridge, England: University of Cambridge, 1999), p. 115.

96. Inglehart, Ronald, "Globalization and Postmodern Values," *Washington Quarterly*, 23 January 2000, pp. 215-228. (See http://muse.jhu.edu/journals/washington_quarterly/v023/23.1inglehart.html)

97. Inglehart, Ronald, "Trust, Well-Being, and Democracy," in Warren, Mark E., ed., *Democracy & Trust* (Cambridge, England: University of Cambridge, 1999), p. 109.

98. Weart, Spencer R., *Never at War: Why Democracies will not fight one another* (New Haven, CT: Yale University Press, 1998), p. 13. Also see, Snyder, Jack, *From Voting to Violence, Democratization and Nationalist Conflict* (New York, NY: W. W Norton and Co., 2000).

99. For example, the longest undefended national borders in the world are between Canada and the United States, two robust democracies. Another example is the formation of the European Union, which was possible because the member countries are democracies.

100. In 2002, the Transparency International Corruption (TICP) report summarized, in part, "Seventy countries - including many of the world's most poverty-stricken - scored less than 5 out of a possible 10. Corruption is perceived to be rampant in Indonesia, Kenya, Angola, Madagascar, Paraguay, Nigeria, and Bangladesh, countries with a score of less than 2. Countries with a score of higher than 9, with very low levels of perceived corruption, are predominately rich

countries, namely Finland, Denmark, New Zealand, Iceland, Singapore, and Sweden." The United States ranked 16 out of the 102 countries. Russia and India, two other large, complex countries ranked 71. a According to Francisco Barrio, who was recently Mexico's anticorruption czar, graft cost Mexico 9.5% of its gross domestic product, "twice the education budget." b Mexico ranked 57 on the TICP index and had a Freedom House score of 4 out of 7, for religious liberty. c [Sources: aTransparency International Corruption Perceptions Index 2002, Berlin, German. See www.transparency.org; bRosenberg, Tina, "The Taint of the Greased Palm," *The New York Times Magazine*, August 10, 2003, p. 30; c Marshall, Paul, *Religious Freedom in the World: A global report on freedom and persecution*, (Nashville, TN: Boardman & Holman Publishers, 2000)]

101. "The World in Numbers: Murder by the State," *Atlantic Monthly*, November, 2003, p. 56.

102. Sen, Amartya, *Development as Freedom* (New York, NY: Alfred A. Knopf, 1999), p. 152.

103. Evolution occurs not only biologically, but also culturally. Suggested readings include: Dennett, Daniel C., *Darwin's Dangerous Idea: Evolution and the Meaning of Life* (New York, NY: Simon & Schuster, 1995); Diamond, Jared, *Guns, Germs, and Steel: The Fates of Human Societies*, (New York, NY: W. W. Norton & Co., 1997); Wright, Robert, *Non Zero: The Logic of Human Destiny* (New York, NY: Pantheon, 2000); Newberg, Andrew, D'Aquili, Eugene, and Rause, Vince, *Why God Won't Go Away* (New York, NY: Ballantine Books, 2001); and Wilson, David Sloan, *Darwin's Cathedral: Evolution, Religion, and the Nature of Society* (Chicago, IL: University of Chicago Press, 2002)]

104. Dahl, Robert, *On Democracy* (New Haven, CT: Yale University Press, 1998), p. 8.

105. Iran, for example, is a theocracy making uneven steps toward democracy. Although it is now holding free elections, a minimum requirement for a democracy, it has few civil rights. It was rated a 6 (1 = high, 7 = low) in Freedom House's civil rights rating in 2000, in part because there is no freedom of religion.

106. Diamond, Larry, and Plattner, Marc. F., "Introduction," to Diamond, Larry, and Plattner, Marc F., *The Global Divergence of Democracies* (Baltimore, MD: Johns Hopkins University Press, 2001), p. x.

107. Sen, Amartya, *Development as Freedom* (New York, NY: Alfred A. Knopf, 1999), pp. 10-11.

108. Some have interpreted this as internally contradictory; that "power" over others implies that the "others" are not free. This assumes that freedom and power are absolutes, which they are not. Most of our interpersonal relationships entail some obligation, however slight. To the extent that we have an obligation to another, that person has some power over us. If that obligation is reciprocal, we have some power over them. Our lives are a complex web of social obligations which concurrently can both limit some freedoms and expand our opportunities and freedoms. However, if someone has absolute power over us, we are no longer discussing a condition of democracy.

109. Patterson, Orlando, "Liberty against the democratic state," in Warren, Mark E., ed., *Democracy and Trust* (New York, NY: Cambridge University Press, 1999), p. 159.

110. Swomley, John M., *Confronting Church and State: Memoirs of an Activist* (Amherst, NY: Humanist Press, 1997), p. 130.

111. Sheffer, Martin S., *GOD Versus CAESAR: Belief, Worship, and Proselytizing under the First Amendment* (Albany, NY: State University of New York Press, 1999), p. 26.

- 112.** According to Professor An-Na'im, "While it [human rights] is supposed to have undergone drastic transformation since the adoption of the Charter of the United Nations in 1945, the modern concept of human rights remains bound to domestic frameworks for its practical specification and implementation, including questions of competing claims of religious freedom." [Source: An-Na'im, Abdullahi Ahmed, ed., *Proselytization and Communal Self-Determination in Africa* (Maryknoll, NY: Orbis Books, 1999), p. 14].
- 113.** Inglehart, Ronald, "Trust, Well-Being, and Democracy," in Warren, Mark E., ed., *Democracy & Trust* (Cambridge, England: University of Cambridge, 1999), p. 91.
- 114.** Lipset, Seymour Martin, and Lena, Gabriel Salman, "Corruption, Culture, and Markets," in Harrison, Lawrence E., and Huntington, Samuel P., eds., *Culture Matters: How Values Shape Human Progress* (New York, NY: Basic Books, 2000), pp. 113-114.
- 115.** Certainly, the market had softened as technology stocks lost their glow before this market dive, and it was startled by the September 11th attack on the World Trade Center. However, the decline in technologies was seen as a normal market correction, and al-Qaeda's attack had nothing to do with the soundness of the market's fundamentals. That a loss of trust was a significant factor in the market's decline is supported by the following data. In a July 18-22, 2002, national survey by Harris Poll, that referred to "companies such as Enron, Qwest, ImClone, Xerox, and WorldCom," 68% of the survey respondents rated "senior corporate executives" as less honest and trustworthy" than 10 years ago. In addition, 48% of these respondents believed that similar corporate frauds in the future "probably will have [a] serious effect on" them and their families. (Source: Mead, Deirdre, "The Community Pulse," *The Responsible Community*, Volume 2, Issue 4, Fall 2002, p. 83.)
- 116.** In September 2003, the Archdiocese of Boston settled abuse lawsuits for \$85 million and in June 2003, the Archdiocese of Louisville, KY, settled lawsuits for \$26 million. (Source: Butterfield, Fox, "Church in Boston to Pay \$85 Million in Abuse Lawsuits," *The New York Times*, 10 September 2003, pp. 1 and A18.)
- 117.** Sheler, Jeffery L., "Mysteries of Faith: Catholicism in Crisis," *U.S. News & World Report*, November 2003, p. 17.
- 118.** Steinfels, Peter, *A People Adrift: The Crisis of the Roman Catholic Church in America* (New York, NY: Simon & Schuster, 2003), p. 41.
- 119.** Sheler, Jeffery L., "Mysteries of Faith: Catholicism in Crisis," *U.S. News & World Report*, November 2003, p. 18.
- 120.** Inglehart, Ronald, "Trust, Well-Being, and Democracy," in Warren, Mark E., ed., *Democracy & Trust* (Cambridge, England: University of Cambridge, 1999), p. 101.
- 121.** *Ibid.*, pp. 101-109.
- 122.** Inglehart, Ronald; Basanez, Miguel; and Moreno, Alejandro, *Human Values and Beliefs: A Cross-Cultural Sourcebook* (Ann Arbor, MI: University of Michigan Press, 1998), p. V341.
- 123.** Inglehart, Ronald, "Trust, Well-Being, and Democracy," in Warren, Mark E., ed., *Democracy & Trust* (Cambridge, England: University of Cambridge, 1999), p. 104.
- 124.** Tolerance: Tolerance of individual and group differences is essential to the function of a democracy. Tolerance as a shared social value guarantees that we all can exercise our rights to life, liberty, and participation in the process of government. Without tolerance it is less likely that dissent, debate, negotiation, and compromise will happen, which are the means by which the business of democracy is executed.

Some disparage tolerance as an excuse for relativistic thinking that undermines moral principles. In reaction, some progressives are changing the emphasis in their rhetoric from "tolerance" to "respecting the dignity of others." Although consistent with the idea of "respecting the dignity of others," tolerance is more hard edged. It asks us to put aside our prejudices to do the essential work of governance we all need done so we can get on with our lives. Tolerance grants the other person equal rights at a procedural level. For democracy to work, we do not need to like the other person, their family, their children, or agree with their religion do need to participate constructively with them in our common life together in the same community or country. The behavior of participating with others in the debates and negotiations, so essential to our democracy, tends to transform mere tolerance into mutual respect that opens the door to seeing the dignity in each person. According to Sissela Bok, "... trust is a social good to be protected just as much as the air we breathe or the water we drink. When it is damaged, the community as a whole suffers; and when it is destroyed, societies falter and collapse."^a

Behaviors that undermine this fundamental democratic value include language that demonizes people and groups, fosters a climate of racism, anti-Semitism, homophobia, sexism, or xenophobia, that demeans those with disabilities, or that scapegoats minorities for problems for which they bear no responsibility. "The third rail of American politics is religious intolerance," noted the sociologist Alan Wolfe, Director of the Center for Religion and American Life at Boston College.^b [Sources: ^aBok, Sissela, *Lying: Moral Choice in Public and Private Life* (New York, NY: Pantheon Books, 1978) p. 26; ^bWolfe, Alan, "Under God, Not Indivisible," *The New York Times*, Sunday, 27 February, 2000, p. 17.]

125. "Update," *Voice of Reason*, The Newsletter of Americans for Religious Liberty, No.1 [78], 2002.

126. Rich, Frank, "Religion for Dummies," *The New York Times*, 27 April 02, p. A17.

127. "Is Secretary Paige on the Right Page?," *Voice of Reason*, No. 2, 2003, p. 9

128. Jehl, Douglas, "Bush says he Disagrees with General's Remarks on Religion," *The New York Times*, 27 October 2003, p. A7.

129. "Falwell Calls Muhamad a Terrorist," *The New York Times*, 4 October 2001, p. A15.

130. Kristof, Nicholas D., "Bigotry in Islam – And Here," *The New York Times*, 9 July 2002, p. A21. As another example, " 'The Koran's good verses are like the food an assassin adds to poison to disguise a deadly taste,' writes Don Richardson, a well-known missionary who worked in Muslim countries, in 'Secrets of the Koran' (Regal Books, 2003). 'Better to find the same food, sans poison, in the Bible.' This month, he is scheduled to speak on Islam at churches in five American cities." (Source: Goodstein, Laurie, "Seeing Islam as 'Evil' Faith, Evangelicals Seek Converts," *The New York Times*, 27 May 2003, p. 1) Also see Garry Wills, *Papal Sin: Structures of Deceit* (New York, NY: Doubleday, 2000).

131. MacFarquahar, Neil, "Killing Underscores Enmity of Evangelists and Muslims," *The New York Times*, 25 November 2002, p. A11.

132. Sheler, Jeffery L., "Mysteries of Faith: The Ways of Worship," *U.S. News & World Report*, November 2003, p. 12.

133. "UpDate: Religious Bias on Rise," *Voice of Reason*, No. 2, 2003, p. 12.

134. Redlich, Norman, "The Religious Clauses: A Study in Confusion:", in Schwaertz, Herman, ed., *The Rehnquist Court, Judicial Activism on the Right*, (New York, NY, Hill and Wang, 2002), pp. 99-114; Garbus, Martin, *Courting Disaster: The Supreme Court and the Unmaking of American Law* (New York, NY: Times Books, Henry Holt & Company, 2002), Chapter 9; Noonan, Jr., John T., *Narrowing The Nation's Power: The Supreme Court Sides with the States*

- (Berkeley, CA: University of California, 2002); and Davis, Derek, "Constitution, U.S.," in Wuthnow, Robert, ed., *The Encyclopedia of Politics and Religion* (Washington, D.C., Congressional Quarterly, Inc. 1998), p. 188.
- 135.** Boston, Rob, "Behind," *Church & State*, Vol. 55. No. 2., February 2002, p. 12.
- 136.** Boston, Rob, "Supreme Mistake," *Church & State*, Vol. 55. No.7, July/August 2002, p. 4.
- 137.** Benen, Steve, "Church, State And The 108th Congress," *Church & State*, Vol. 55, No 11, December 2002, p. 5.
- 138.** People for the American Way, *The Christian Coalition After Ralph Reed* (Source as of June 2000: www.pfaw.org/issues/right/bg_cc.shtml).
- 139.** See the Appendix.
- 140.** Private communication on 7/3/02 with Al Menendez, Americans for Religious Liberty. Mr. Menendez is a nationally recognized expert on church-state separation, and an author of numerous publications on religious liberty.
- 141.** Members of the Interfaith Alliance: African Methodist Episcopal; African Methodist Episcopal Zion; Alliance of Baptists; American Baptist; American Ethical Union; Anabaptist, Anglican; Animist; Asatru; Baha'i; Buddhist, Theravada; Buddhist, Nichiren; Buddhist, Pure Land (Amitabha); Buddhist, Zen (Chan); Christian Church (Disciples of Christ); Christian Methodist Episcopal; Christian Union; Church of the Brethren; Church of Christ Scientist; Church of God; The Church of Jesus Christ of Latter-Day Saints; Community Churches; Congregationalist; Cooperative Baptist Fellowship; Eastern Orthodox; Ecumenical Catholic; Episcopal; Evangelical Lutheran; Free Will Baptist; General Baptist; Greek Orthodox; Hindu (various schools); Humanist; Jain; Jewish, Conservative; Jewish, Orthodox; Jewish, Reconstructionist; Jewish, Reform; Liberal Catholic; Lutheran; Mennonite; Metaphysical Church; Methodist; Metropolitan Community Churches; Moravian; Muslim; National Baptist Convention of America; National Baptist Convention USA; Native American/Inuit (various); Old Catholic; Pentecostal; Presbyterian; Progressive National Baptist Convention; Reformed Churches of America; Religious Society of Friends (Quakers); Roman Catholic; Russian Orthodox; Salvation Army; Shinto; Sikh; Seventh-Day Adventist; Southern Baptist Convention; Taoist; Theosophist; Unitarian Universalist Association; United Church of Christ; United School of Christians; Wiccan; Zoroastrian. (Source as of 10/24/02: <http://www.interfaithalliance.org/Resources/resources.htm>)
- 142.** The website for Americans United for Separation of Church and State: <http://www.au.org/about.htm> .
- 143.** Boston, Rob, "Supreme Mistake," *Church & State*, Vol. 55. No.7, July/August 2002, p. 6.
- 144.** Connolly, Ceci, *Washington Post*, 9 May 2002, p. A29.
- 145.** "At Opryland in Nashville—the old 'Buckle of the Bible Belt'—Bush told religious broadcasters that 'the terrorists hate the fact that ... we can worship Almighty God the way we see fit,' and that the United States was called to bring God's gift of liberty to 'every human being in the world' " (Source: Howard Fineman, 'Fire, Brimstone and Bush's Religious Rhetoric,' *Newsweek*, March 5, 2003; Also at: <http://www.msnbc.com/news/878520.asp?0cv=KA01#BODY>)
- 146.** Examples include programs run by the Campus Crusade for Christ, such as Athletes in Action, or the John Jacob's Power Team. See www.bc-alliance.org.

- 147.** Riedel, Bunnie, *A Matter of Conscience: Why Faith Groups Oppose Government-Sponsored Prayer in Public Schools* (Washington, DC: Americans United for Separation of Church and State, undated), p. ii.
- 148.** Tocqueville, Alexis de, *Democracy in America* (New York, NY: Vintage Books, 1959), Vol. 1, pp. 323, 325.
- 149.** Moeller, Clark, *It's a Matter of Values* (Harrisburg, PA: Pennsylvania Alliance for Democracy, 2000), pp. 7-20. For the web version: www.padnet.org, click Right-Wing Watch.
- 150.** Kramnick, Isaac, and Moore, R. Laurence, *The Godless Constitution: The Case Against Religious Correctness* (New York, NY: Norton & Co, 1996).
- 151.** Madison opposed ... any kind of establishment of religion, no matter how inclusive or exclusive. ... he shared Jefferson's belief in a high wall of separation. He spoke of a 'perfect separation' and believed that 'religion and Government will exist in greater purity, without ... the aid of government.' [Source: Levy, Leonard W., *Origins of the Bill of Rights*, (New Haven, CT: Yale University Press, 1999) pp. 85-86.]
- 152.** According to Nina Shea, director of Freedom House, "This legislation has made it considerably more difficult for the present [Clinton] or any future administration wholly to ignore religious freedom in American foreign policy."a The concerns stimulating this legislation involved the religious persecution of Christians and other denominations in countries such as the Sudan. However, the IRFA states, in part, that "the Secretary of State shall permit, on terms no less favorable than that [sic] accorded other non-government activities unrelated to the conduct of diplomatic mission, access to the premises of any U.S. diplomatic mission or consular post by any U.S. citizen seeking to conduct an activity for religious purposes."b On its face, this policy conflicts with the U.S. Supreme Court's criteria for statutes involving religion. These criteria stipulate that such a statute "... must serve a secular purpose; second, its primary effect must be one that neither advances nor inhibits religion; third, it must not foster excessive entanglement between church and state."c [Sources: aShea, Nina, "Religious Freedom and American Foreign Policy," in Marshall, Paul, *Religious Freedom in the World: A Global Report on Freedom and Persecution* (Nashville, TN: Boardman & Holman, 2000), p. 3; b Decherf, Dominique, *Religious Freedom and Foreign Policy: The U.S. International Religious Freedom Act of 1998*, (Cambridge, MA: Weatherhead Center for International Affairs, Harvard University, June 2001), p. 14; and c *Ibid.*, p. 14.]
- 153.** 108th Congress 1st Session, S. 272, "Charity, Aid, Recovery, and Empowerment Act of 2003," Title VII- Compassion Capital Fund, p. 117+
- 154.** "Bush Backs Faith-Based Program in Arkansas that Converts Jobless," *Church & State*, Vol. 55, No. 7., July/August 2002, p. 16.
- 155.** In addition to the issue of church-state separation, there is no research that shows faith-based programs perform better than other programs. Prof. Byron Johnson at the Center for Research on Religion and Urban Civil Society at the University of Pennsylvania and other researchers note, "The truth ... is that there little reliable research proving the effectiveness of religious programs." Nor is there "evidence showing which religious programs show the best results and how they stack up against secular programs." (Source: Goodstein, Laurie, "Church-Based Projects Lack Data on Results," *The New York Times*, 24 April 2001, p. A12.)
- 156.** For a more comprehensive analysis of the legal issues surrounding charitable choice see Knippenberg, Joseph M., "The Constitutional Politics of Charitable Choice," *Transaction Social Science and Modern Society*, Vol. 40, No. 2., Jan./Feb. 2003, Whole No. 263, pp. 37- 47.

- 157.** In the last 13 years, the number of Wiccans in the U.S. has increased by a factor of 16, to 134,000. In 1986, "a federal appeals court ruled that Wicca was a legal religion protected by the Constitution." a Wiccans "reflect an explicit desire not just to prevent harm to the natural world but also to reconnect the rituals and rhythms of human life with reverence for the sacred spirit or spirits said to reside in natural elements, cycles, processes, beings, and events." [Source: aUrbina, Ian, "Forget About 'Wicked'. Today's Witch is Wiccan," *The New York Times*, 30 October 2003, p. B8; bNorthcott, Michael S., "Ethnicity," in Wuthnow, Robert, ed., *The Encyclopedia of Politics and Religion* (Washington, DC: Congressional Quarterly, Inc. 1998), p. 237.]
- 158.** Dudley, Carl S., and Roozen, David A., *Faith Communities Today, A Report on Religion in the United States Today* (Hartford, CT: Hartford Seminary, 2001), p. 50.
- 159.** Lindner, Eileen W., *Yearbook of American & Canadian Churches 2003* (Nashville, TN: Abingdon Press, 2003), and Ronsvalle, John and Sylvia, *The State of Church Giving through 2000* (Champaign, IL: empty tomb, inc, 2002). The Ronsvalles distinguish between revenues from members' donations used for the financial support of a church and revenues for "benevolences," which support: "... international missions as well as national and local charities, through denominational channels as well as programs of non-denominational organizations to which congregations contribute directly. Benevolences also include support of denominational administration at all levels, as well as donations to denominational seminaries and schools." [Source: Ronsvalle, John and Sylvia, *The State of Church Giving through 2000* (Champaign, IL: empty tomb, inc, 2002), p. 4.]
- 160.** Ronsvalle, John and Sylvia, *Behind The Stained Glass Windows: Money Dynamics in the Church* (Grand Rapids: MI, 1996), p. 121.
- 161.** Editorial, *The New York Times*, 30 December 2002, p. A16.
- 162.** Texas Freedom Network, *The Texas Faith-Based Initiative at Five Years: Warning Signs as President Bush Expands Texas-Style Program to National Level* (Austin, TX: Texas Freedom Network, 2002), p. 2. Also: "Many drug treatment professionals were thrilled to hear a president direct the nation's attention to a social epidemic [drugs] that they say has too long been ignored and under financed. But some were troubled that of all the nation's treatment programs, the president seemed to hold up as a model deserving government support a program that is religiously sectarian, unlicensed, untested and not clinical in its methods." (Source: Goodstein, Laurie, "Bush's Focus on Antidrug Ministry Irks Some," *The New York Times*, 23 February 2003, p. 18.)
- 163.** "Jesus Saves," *The Wall Street Journal*, 20 June 2003.
- 164.** Klieman, Mark A.R., "Faith-Based Fudging: How a Bush promoted Christian Prison Program fakes success by massaging data." Source as of 10/17/03: <http://slate.msn.com/id/2086617/> ; the evaluation report by the Center for Research on Religion and Urban Civil Society is available at www.manhattan-institute.org/innerchange.pdf .
- 165.** "Faith-Based Bias: How White House is Tilting the Playing Field," *Church & State*, Americans United for Church and State Separation, September 2003.
- 166.** Supreme Court decisions that have undercut church-state separation: *Employment Division v. Smith*, 1990; *Rosenberger v. University of Virginia*, 1995; *City of Boerne v. Flores*, 1997; *Agostini v. Felton*, 1997; *Mitchell v. Helms*, 1999; *Good News Club v. Milford Central School*, 2001; and finally, *Zelman v. Simmons-Harris*, 2002. [Sources: Garbus, Martin, *Courting Disaster: The Supreme Court and the Unmaking of American Law* (New York, NY: Times Books, Henry Holt, 2002), pp. 251-282; Sheffer, Martin S., *GOD Versus CAESAR: Belief, Worship, and Proselytizing under the First Amendment* (Albany, NY: State University of New York Press,

1999), p. 125; Davis, Derek, "Constitution, U.S.," in Wuthnow, Robert, ed., *The Encyclopedia of Politics and Religion*, Washington, DC, Congressional Quarterly, Inc. 1998, pp. 187-190; see also]

167. Editorial, "The Court's Troubling Term," *The New York Times*, 3 July 2002, p. A22.

168. For example, a 15-year-old boy recently has been removed from a Baptist parochial school in Lexington, NC, because of his religion. "Baptist doctrine and teachings do not complement the Catholic doctrine," said school administrator Dan Hightower. "Home, school, and church have to complement one another." The school's policy claims it admits students "whose parents are in agreement with the Christian philosophy, purposes, and standards of the school." (Source: "Update: Catholic Student Expelled from Baptist School," *Voice of Reason*, No. 3 [80], 2002, p. 7).

169. Vouchers: For more than 50 years, voucher proposals that would provide tax revenues to fund religious schools have been rejected by voters at the polls by large margins, generally in the range of 2:1. In November 2000, voters of Washington, California, and Wisconsin voted down voucher referenda. a In a 2000 survey of public attitudes by Phi Delta Kappa/Gallup, 69% of Americans rejected vouchers in favor of "improving and strengthening existing public schools." b In 2001, Governor Tom Ridge of Pennsylvania could not get enough support to bring his voucher bill to the floor of the legislature for a vote. [Sources: a Doerr, Edd and Menendez, Albert J., *Church, Schools, & Public Money: The Politics of Parochialism* (Buffalo, NY: Prometheus Books, 1991), pp. 50-51; bDoerr, Edd, "What Next?" *The Humanist*, November/December 2002, p. 41].

170. Sandel, Michael J., *Democracy's Discontents: America in Search of a Public Philosophy* (Cambridge, MA: Harvard University Press, 1996), p. 58. However, there were several exceptions. These included Supreme Court decisions to approve government support of religious schools with nonreligious books and tax-supported school busing.

171. Remarks by Supreme Court Justice Scalia in his role as a panelist at the conference, "Call for Reckoning," at the University of Chicago Divinity School on January 25, 2002. (Source: <http://pewforum.org/deathpenalty/resources/transcript3.php3>)

172. Wilentz, Sean, "From Justice Scalia, A Chilling Vision Of Religion's Authority In America," *The New York Times*, 8 July 2002, p. A19.

173. Hollman, Hollyn, "Dredging up Ugliness in the Name of Vouchers," *Voice of Reason: The Newsletter of Americans for Religious Liberty*, No. 3. [80], 2002, p. 4.

174. Doherty, Fiona, et al, *A Year of Loss: Reexamining Civil Liberties since September 11* (New York, NY: Lawyers Committee For Human Rights, 2002), available at www.lchr.org; Also Editorial, "The Court's Troubling Term," *The New York Times*, 3 July 2002, p. A22.

175. Garbus, Martin, *Courting Disaster: The Supreme Court and the Unmaking of American Law*, (New York, NY: Times Books, Henry Holt & Company, 2002), p.1; also see: Noonan, Jr., John T., *Narrowing The Nation's Power: The Supreme Court Sides with the States*, (Berkeley, CA: University of California, 2002). John Noonan is the Robbins Professor of Law Emeritus at the University of California, Berkeley, and a senior judge of the United States Court of Appeals for the Ninth Circuit.

176. Loss of other liberties: In the name of national security, the current administration has passed the USA Patriot Act, and Homeland Security Act which make it legal for the government to evaluate you as a national security risk without any evidence. Interviews in November and December of 2002 by *The New York Times*' staff indicate that, "[F]rom New York City to Seattle police officials are looking to do away with rules that block them from spying on people and groups without evidence that a crime has been committed." a

All your credit and debit card electronic transactions for food, liquor, gasoline, medical bills, books and magazine subscriptions, e-mails^b, and telephone calls will be legally available for FBI inspection without your knowledge through the use of powerful government 'data mining' computers.^c This government database will be searched, said Edward Aldridge, undersecretary of Acquisitions and Technology at the Pentagon, "for telltale signs of suspicious consumer behavior."^d In the past, the FBI has illegally spied on citizens, compiling files of unsubstantiated here-say on law-abiding citizens. Now they can do it legally. All this evokes memories of Stasi, the East German Secret Police.^e "Our nation is facing the greatest threats to civil liberties since the McCarthy era," said Kathleen Taylor, Executive Director of the ACLU of Washington.^f The ACLU has made it their top priority to challenge in court the anti-civil rights provisions of the USA Patriot Act.

At the request of the FBI, the list of books you have withdrawn from your local library must be turned over to the government without your being informed. "The secrecy enshrouding the counter-terrorism campaign runs so deep that Section 215 [of the USA Patriot Act] makes it a crime for people merely to divulge whether the FBI has demanded their records, deepening the mystery – and the uneasiness among groups that could be required to turn over information they had considered private."^g This is a restriction on the freedom of expression of public librarians and is radically different than the confidentiality required of medical personnel concerning your medical records, which is designed for your protection. "Experts on consumer profiling say law enforcement officials face two big problems," said Jason Catlett of the Junkbusters Corporation. "Some commercial databases have high error rates, and so little is known about terrorists that it could be very difficult to distinguish them from other people."^h

Muslims have been gathered up by the government, put into detention without due process, held without counsel, and prevented from contacting their families. We don't know why particular Muslims were held and not others. On August 26, 2002, Judge Damon J. Keith of the United States Court of Appeals for the Sixth Circuit, wrote in regard to the Justice Department's secret deportation hearings, "Democracies die behind closed doors. ... When the government begins closing doors, it selectively controls information rightfully belonging to the people. ... A blanket policy of secrecy is unconstitutional."ⁱ Not surprisingly, many American Muslims now feel frightened to identify themselves as Muslims and have no confidence that their civil rights of free speech will be protected if they object to the government's targeting of Muslim people.

No one is questioning that al-Qaeda is a serious threat, but the evisceration of civil rights that is now underway is destroying democracy's strongest weapon for fighting dictatorships, and al-Qaeda is the newest form of a theocratic dictatorship. Unfortunately, our administration's motto seems to be 'in order to save the village, we need to destroy the village.'

[Sources: a Moss, Michael, and Fessenden, Ford, "New Tools for Domestic Spying, and Qualms," *The New York Times*, 10 December 2002, p. A1; bMarkoff, John, and Schwartz, John, "Bush Administration to Propose System Wide Monitoring of Internet," *The New York Times*, 20 December 2002, p. 22A; c"In the Pentagon research effort to detect terrorism by electronically monitoring the civilian population, the most remarkable detail may be this: most of the pieces of the system are already in place. Because of the inroads the Internet and other digital network technologies have made into everyday life over the last decade, it is increasingly possible to amass Big Brother-like surveillance powers through Little Brother means. The basic components include everyday digital technologies like e-mail, online shopping and travel booking, A.T.M. systems, cellphone networks, electronic toll-collection systems and credit-card payment terminals." (Source: Markoff, John, and Schwartz, John, "Many Tools of Big Brother Are Now Up and Running," *The New York Times*, 23 December 2002, p. C1.); dGarrett, Major, "Pentagon to Track American Consumer Purchases" *FoxNews.com*, November 21, 2002 (http://www.foxnews.com/printer_friendly_story/0,3566,70992,00.html); e "The Stasi

[Ministerium für Staatssicherheit, the internal security force of the German Democratic Republic, abolished in 1989] used a huge network of informants to repress the citizens of East Germany. It was not uncommon for members of families to spy on each other for fear of blackmail, as a result of physical threats and even because of monetary rewards from the secret police force. In the late '80s, the Stasi had nearly 175,000 official informants on their books, roughly one informant for every 100 people. (Some estimate the size of the "unofficial" Stasi informant force as nearly 10 times this level.) The Stasi maintained a force of more than 90,000 uniformed and plain-clothes agents." (Source as of 11/24/02: Soviet.ski Collection at www.sovietski.com/Star/stasi.html); f Website of the American Civil Liberties Union as of November 12, 2002: <http://www.aclu-wa.org/issues/otherissues/DefendConstitution.html>; g Moss, Michael, and Fessenden, Ford, "New Tools for Domestic Spying, and Qualms," *The New York Times*, 10 December 2002, p. A24; h Moss, Michael, and Fessenden, Ford, "New Tools for Domestic Spying, and Qualms," *The New York Times*, 10 December 2002, p. A24. Also: "'We have no ability to find terrorist finances unless we are given names,' says the anti-money-laundering head at a big American bank." (Source: "Terrorist finance: The needle in the haystack," *The Economist*, December 14th 2002, p. 69.); iHerbert, Bob, "Secrecy Is Our Enemy," *The New York Times*, 2 September 2002, p. A15.]

177. At this point, the data on civil rights are not organized in a way that facilitates an evaluation of the predictive value of this devolution theory. For example, at what point in the decline in one civil right does it precipitate the decline or collapse of another, interdependent civil right? Although few social science investigations generate that degree of precision, it is an important question. If it can be answered, and I think it can, these answers will advance our understanding of how democracy functions.

Recent developments in the study of self-organizing phenomena suggest how the parameters of civil rights might be defined, changes to civil rights measured, and then how these changes might be analyzed to advance our understanding. Self-organizing phenomena such as earthquakes, growth of bacteria colonies, patterns of human settlements, spread of crime in a city, and the characteristics of internet usage have been found to have frequencies of occurrence that follow the power law used in statistical analysis. It seems plausible that computer models and statistical tools used to make these discoveries can be employed to evaluate the degree to which civil rights are interdependent and how the increase or decline of one civil right affects the viability of others.^a When we have a deeper understanding of these relationships, we will be better equipped to manage our democracy. [aFor an introduction to the computer models used to study complex social phenomena, search "self-organizing systems " on the web; see Rauch, Jonathan, "Seeing Around Corners," *Atlantic Monthly*, April 2002; and Wolfram, Stephen, *A New Kind of Science* (Canada: Stephen Wolfram, LLC, 2002). For more information on the power law, search for "power law" on the web.]

178. In 1776, there were only eleven denominations, ten of which were Christian, in the United States. Today there are over 2,000 denominations, many of which were imported from Europe such as the Episcopalians, Presbyterians, Jews, and Quakers. Others, such as the Mormons, were home grown in the United States. As a result of the great disappointment of October 22, 1844, when the world did not end as foretold by William Miller, the Seventh-Day Adventists and Jehovah's Witnesses sprang into life. In 1776, only 17% of the population were members of churches.^a This grew to about 64% in 1962. ^b Starting in the 1800s, Methodism successfully grew in the Midwest, where few other churches existed. In Pennsylvania, Catholics expanded their influence by placing several priests in different churches in the same coal mining community according to their ethnicity: an Italian priest for the Italian miners, a Welch priest for the Welch miners and their families, one for the Irish, and another for Poles.

The latter half of the 20th century saw significant changes in the theology of some denominations. For the Catholics, the Second Vatican Council between 1962 and 1965 eliminated

the status of moral superiority of the clergy over the laity. As a result, in part, the number of newly ordained priests declined from 994 in 1965 to 479 in 2002. c Some denominations started ordaining women; others began marrying same-sex partners. Meanwhile, over 425 new religions were formed in the United States in the early 1990s. d [Sources: aFinke, Roger and Stark, Rodney, *The Churching of America 1776-1990: Winners and Losers in Our Religious Economy*, (New Brunswick, NJ: Rutgers University Press, 1992), page 1; bPutnam, Robert, *Bowling Alone: The Collapse and Revival of American Community* (New York, NY: Simon & Schuster, 2000), pp. 70-71; cSteinfels, Peter, *A People Adrift: The Crisis of the Roman Catholic Church in America* (New York, NY: Simon & Schuster, 2003), p. 29; and dStark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion* (Berkeley, CA: University of California Press, 2000), p. 255. Also see Armstrong, Karen, *A History of God* (New York, NY: Harper Audio Studios, 1994), and Bloom, Harold, *The American Religion: The Emergence of the Post Christian Nation* (New York, NY;Simon & Schuster, 1992)]

179. "Roberston Charity Wins 'Faith-Based' Grant," *Washington Post*, 3 October 2002, p. A02

180. United States Dept of Health & Human Services, September 22, 2003: [wysiwyg://48/http://www.gov/fbci/](http://www.gov/fbci/); and <http://www.whitehouse.gov/news/release/2003/0922-1.html> new link added 1/23/04 to replace link not working. <http://www.hhs.gov/news/press/2003pres/20030922b.html>

181. Stark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion*, (Berkeley, CA: University of California Press, 2000), p. 284. Stark argues that his theory is based on a rational theory of decision making. a However, many of his explanations and examples, as David Sloan Wilson points out, fit more consistently with the theory of evolution as examples of cultural adaptation. b For example, Stark's first three propositions state: "1. Within the limits of their information and understanding, restricted by available options, guided by their preferences and tastes, humans attempt to make rational choices. ... 2. Humans are conscience beings having memory and intelligence who are able to formulate explanations about how rewards can be gained and costs avoided. ... 3. Humans will attempt to evaluate explanations on the basis of results, retaining those that seem to work most efficiently." c [Sources: a**ibid.**, pp. 42 - 56; b Wilson, David Sloan, *Darwin's Cathedral: Evolution, Religion, and the Nature of Society* (Chicago, ILL: The University of Chicago Press, 2002); c Stark, Rodney, and Finke, Roger, *Acts of Faith: Explaining the Human Side of Religion* (Berkeley, CA: University of California Press, 2000) p. 277.]

182. "Some experts say that in Europe, suspicion of major denominations may run higher because religious leaders directly wielded political power in the past. Others say the unchallenged supremacy of state-blessed faiths in Europe – like the Lutherans in Scandinavia and Anglicans in Britain – perhaps turned out to be a curse." *The New York Times*, 13 October 2003, p. A6.

183. "From the Opinion by Chief Justice Rehnquist" in "Excerpts from the Decision Sanctioning Vouchers for Private Schools," *The New York Times*, 28 June 2002, p. A22.

184. Lane, Robert. *The Loss of Happiness in Market Democracies* (New Haven, CT: Yale University Press, 2000, p. 224.

185. Steinfels, Peter, *A People Adrift: The Crisis of the Roman Catholic Church in America* (New York, NY: Simon & Schuster, 2003), p. 30.

186. "Catholic Charites Under Fire," *Voice of Reason: The Newsletter of Americans for Religious Liberty*, 2002, No.2 [79], p.10. Also see: Gonzalez, Jeffrey, *A Celebration of Public Education* (Harrisburg, PA: Pennsylvania Alliance for Democracy, 2000), p. 12.

187. "On a recent Saturday in a church fellowship hall here, evangelical Christians from several states gathered for an all-day seminar on how to woo Muslims away from Islam. ... Arab International Ministry, the Indianapolis group that led the crash course on Islam here, claims to have trained 4,500 American Christians to proselytize Muslims in the last six years, ... Pat McEvoy, a secretary at a high school in Columbus, said she had known very little about Islam before the seminar. Her school has an influx of students from Somalia, and as she walked through the hallways she regarded these immigrants as 'a virtual mission field.' She said she felt an obligation to save them from an eternity in Hell. 'If I had the answer for cancer, what sort of a human would I be not to share it?' Ms. McEvoy said."a

In another example, "Six California firefighters have gone to federal court seeking an end to the chaplain's corps of the California Department of Forestry and Fire Prevention, saying it impermissibly mingles church and state. ... The department created the corps two years ago, replacing a peer-counseling program that had existed for years. Of the first 52 people to join the chaplain's corps, all but two are Christians and wear crosses on their firefighting uniforms, according to the lawsuit. ... The plaintiffs say that unlike chaplains in the military and most other public safety organizations, the California forestry chaplains mix religious ministry with their day-to-day duties as firefighters or supervisors." b

Last February, President Bush singled out for praise in his State of the Union address in 2003, Mrs. Tonja Myles who helped start the Healing Place near Baton Rouge, Louisiana. This mega church sponsors a faith-based, anti-drug program which includes proselytizing. "The same God who delivered me can do the same for you," preached Mrs. Myles, "... If you're hurting tonight, we know the one who can make you whole, and that is Jesus."c Although anecdotal examples are not proof of a pattern, this example is a vivid illustration that social service programs that proselytize have President Bush's endorsement and are favored for federal grant support. (Sources: aGoodstein, Laurie, "Seeing Islam as 'Evil' Faith, Evangelicals Seek Converts," The New York Times, 27 May 2003, p. 1; bBroder, John M., "Firefighters File Lawsuit Over Chaplains in Ranks", The New York Times, 26 May 2003, p. A10; cGoodstein, Laurie, "Bush's Focus on Antidrug Ministry Irks Some," The New York Times, 23 February 2003, p. 18.)

188. Sources: "Emergency Contraception Services for Rape Victims in Pennsylvania Hospitals," Fact Sheet, Clara Bell Duvall Education Fund, Philadelphia, PA, 2000, pp. 1-4; "United States and Pennsylvania Crime Rates 1960 - 2000," The Disaster Center's Rothstein Catalogue for Disaster Planning: <http://www.disastercenter.com/crime/uscrime.htm> and www.disastercenter.com/crime/pacrime.htm, p2.

189. Church Donations: The Yearbook of American & Canadian Churches 2003 reports that, "Benevolence as a Percentage of Total Contribution" had declined from 21% in 1994, to 15% in 2001.a Family contributions to churches as a percent of income of member families had fallen from about 3.1% in the 1960s to an estimated 1% in 1997, notes Robert Wuthnow of Princeton University.b According to empty tomb in 2000, "Donations for external church activities dropped to a 30-year low as a percent of [church] income, falling below 0.4 percent. ... Most of the money is being spent on salaries, in-church programs, and building-maintenance rather than on outreach efforts such as missions and services for the poor."c One of the reasons for the decline in church contributions is that some of these donations are going elsewhere. Barna Research Group found that, "Half of all Americans (51%) donate money to a non-profit organization other than a church in a typical month [in 1999]. This is up 10 percentage points from 1997. Christians (53%) and non-Christians (49%) were equally likely to have donated money to a non-profit organization, other than a church in the past month (1999)."d [Sources: aLindner, Eileen W., Yearbook of American & Canadian Churches 2003 (Nashville, TN: Abingdon Press, 2003), p. 12; bWuthnow, Robert, The Crisis in the Churches, Spiritual Malaise, Fiscal Woe (Oxford University Press, NY, 1997), pp. 14-15. Wuthnow notes, "In cold financial terms, the amount of money people give to

their churches is indeed quite sparse." ... He also notes, "... in comparison with their role in speaking on behalf of social justice throughout most of our nation's history, the churches seem to have fallen silent on this topic. ... the churches of the 1980s and 1990s seem to have lost interest in these issues or have become ineffective in addressing them..." pp. 16 and 208 respectively; empty tomb's website as of 2/26/03: <http://www.emptytomb.org/about.html>; d"Community Service: Money," Barna Research Online, as of 2/26/03: <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=13>.]

190. Ronsvalle, John and Sylvia, *The State of Church Giving through 2000* (Champaign, IL: empty tomb, inc, 2002), p. 29.

191. Vouchers: Between 1965 and 2003, enrollment in the largest system of private schools in the country, Catholic parochial schools, declined from 4.5 million students to 2 million. Concurrently, the availability of low-cost teachers disappeared as fewer and fewer women became nuns. At the same time, the Catholic school buildings were getting older, requiring more expensive maintenance. As a result, the cost per student skyrocketed, stressing the financial stability of these schools, many of which have closed. As its financial position, declined the Catholic hierarchy began intense lobbying to have state legislatures adopt vouchers so parochial schools could be funded by taxpayers. They were joined by politicians who wanted the Catholic vote.

These supporters and others are being rewarded by the Bush administration. According to a just released research report by People for The American Way, "Over the past three years, more than \$75 million in federal education funding has been diverted to just a handful of private, pro-voucher advocacy groups. This torrent of public funding appears to benefit and strengthen the advocacy infrastructure created by a network of right-wing foundations dedicated to the privatization of public education." Meanwhile, "thousands of public school students eligible for free tutoring are not getting the supplemental services help they desperately need ..." and states "... limited by constrained budgets and a weak economy, continue to struggle with the implementation of an underfunded federal mandate [No Child Left Behind]." b [Sources aSteinfelds, Peter, *A People Adrift: The Crisis of the Roman Catholic Church in America* (New York, NY: Simon & Schuster, 2003), p. 3; bNeas, Ralph G., "Funding a Movement: U.S. Department of Education Pours Millions into Groups Advocating School Vouchers and Education Privatization," People For the American Way, Washington DC., News release, Nov. 18, 2003, pp. 1-2.]

192. Goodstein, Laurie, "Church-Based Projects Lack Data on Results," *The New York Times*, 24 April 2001, p. A12: Professor Byron R. Johnson at the University of Pennsylvania "is among the few social scientists who have tried to measure the influence of religion on social programs. ... The truth, Mr. Johnson and many other social scientists say, is that there is little reliable research proving the effectiveness of religious programs. They also add that there is scant evidence showing which religious programs show the best results and how they stack up against secular programs."

193. Texas Freedom Network, *The Texas Faith-Based Initiative at Five Years: Warning Signs as President Bush Expands Texas-Style Program to National Level* (Austin, TX: Texas Freedom Network, 2002).

194. There can be a significant financial down-side for religious institutions that become dependent on government funding for faith-based social services. The downside is that the religious institution will be left holding the financial bag of staff salaries and other overhead costs when the government stops funding their programs to cut government deficits. This is what has happened in Canada. "Of 323 major service agencies in the province [of Ontario], 14 have religious affiliations. They receive \$92 million in government support ... but now that the

government is withdrawing the money [to cut deficits], decades of reliance on it leave many religious groups incapable of raising substantial funds beyond the collection plate." The resulting down-sizing of services will affect the churches' credibility as reliable members of the wider community. (Source: DePalma, Anthony, "Canada Cutting Back Funds for Faith-Based Charities," The New York Times, 24 June 2001, p. A3.)

195. Dudley, Carl S., and Roozen, David A., Faith Communities Today: A Report on Religion in the United States Today, Hartford, Ct: Hartford Institute for Religious Research, March 2001, p 3.

196. DePalma, Anthony, and Wakin, Daniel J., "Parishes Lack Lay Oversight On Finances," The New York Times, 8 July 2002, p. B1.

197. A recently released study by the Church of England "... predicted that if trends continued, by the year 2030 Church of England attendance would be down to just 500,000, less than two-thirds of the current figure." (Source: Hoge, Warren, "Archbishop of Canterbury Enthroned," The New York Times, 28 February 2003, p. A10.)

198. According to James Madison, the architect of the Constitution, religion should not be used "as an engine of civil policy. ... During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the clergy, ignorance and servility in the laity, in both superstition, bigotry, and persecution." Religion, Madison said, "... flourishes in greater purity without the aid of government." (Source: Madison, James, "A Memorial and Remonstrance," General Assembly of the Commonwealth of Virginia, June 20, 1785, p. 2. See www.ku.edu/carrie/docs/texts/memorial.htm).

199. Time Magazine, July 24, 2000, p. 49.

200. Putnam, Robert, Bowling Alone: The Collapse and Revival of American Community (New York, NY: Simon & Schuster, 2000), p. 67.

201. Smith, Steven Rathbeb, "Government and Nonprofits in the Modern Age," Society, Volume 40, Number 4, May/June 2003, Whole No. 264.

202. Sheffer, Martin S., GOD Versus CAESAR: Belief, Worship, and Proselytizing under the First Amendment (Albany, NY: State University of New York Press, 1999), p. 7.

203. Wuthnow, Robert, Producing the Sacred, An Essay on Public Religion (Urbana, Ill: University of Illinois Press, 1994), p. 156.

204. Wright, Robert, Non Zero: The Logic of Human Destiny (New York, NY: Pantheon, 2000).

205. An exception is Iran, where the religious fundamentalists, led by Ayatollah Khomeini, overthrew the Shah in 1979. However, now Iran is moving toward more democratic procedures.

206. "Is America Moving Leftward?" The Economist, September 28, 2000, p. 77.

207. Patterson, Orlando, "Liberty Against the Democracy State," in Warren, Mark E., ed., Democracy & Trust (Cambridge, England: University of Cambridge, 1999), p. 200.

208. Inglehart, Ronald, "Globalization and Postmodern Values," Washington Quarterly, 23 January 2000, p. 219. Found at <http://muse.jhu.edu/demo/wq23.1inglehart.htm>.

209. Ibid., p. 222. Also see Barna Research: "Age appears to be positively correlated with the importance individuals place on their faith. Of those born between 1965 and 1983, 28% "attend church in a typical week," and 56% "say their faith is very important in their life." In contrast, those born 1946 and 1964, 43% "attend church in a typical week," and 70% of them of "say their faith is very important in their life." Of those born between 1927 and 1945, 50% "attend church in

a typical week," and 80% say "say their faith is very important in their life." (Sources: "Generational Differences," Barna Research Online, 2001, and "Church Attendance: Who," Barna Research Online, 2000, as of 2/26/03: <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=22> and <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=10>, respectively)

210. Rosen, Jeffrey, "How to Reignite the Culture Wars," *The New York Times Magazine*, September 7, 2003, p. 49.

211. Gonzalez, Jeffrey, *A Celebration of Public Education* (Harrisburg, Pa: Pennsylvania Alliance for Democracy, 2001), p. 2. Also on the web at <http://www.padnet.org/Celebration.html>.

212. That is the case unless the religious institution is the organizing vehicle for a community's struggle for freedom or survival, as was the case with churches during the civil rights movement in the United States or the Polish effort to be free from the Soviet Union.

213. Hoover, Ph.D., Stewart M., "Religion, Media, and The Cultural Center of Gravity," an address to the Trustees of the Foundation for United Methodists Communications, Nashville, TN: May 7, 1998. (Source as of 10/22/02: <http://www.colorado.edu/journalism/MEDIALYF/analysis/umcom.html>.)

Robert Wuthnow, professor of sociology at Princeton University, points out several important developments, "... that came to characterize America's quest for spirituality in the late 1980s and 1990s." These included, "... a renewed interest in the inner self as a way of relating to the sacred,..." and the idea "... that spirituality must be found within ordinary life and is thus as varied and as unpredictable as everyday experience and as individuals themselves, certainly not [found] in churches or synagogues, and perhaps not on the therapist's couch either." a Wuthnow's assessment may explain the findings of the Barna Research: "Two out of three adults (66%) contend that religion is losing its influence in American society. This figure has remained relatively stable for years, with the exception of the months immediately after the 9-11 terrorist attacks. Oddly, people tend to view the nation's faith as losing ground at the same time that seven out of ten (70%) argue that their own religious faith is "consistently growing deeper." At least two-thirds of the people in each of the nation's four adult generations maintain this stand." b Of those claiming to be "born again" 10 million are "unchurched," which Barna Research defines as "an adult (18 or older) who has not attended a Christian church service within the past six months, not including holiday services (such as Easter or Christmas) or a special event at a church (such as a wedding or funeral)." Ten million is about 15% of the unchurched adult population of the United States, according to Barna Research. c [Sources: a Wuthnow, Robert, *After Heaven: Spirituality in America Since the 1950s* (Berkeley: University of California Press, 1998), pp 142, 160 respectively; b "Is America's Faith Really Shifting: Is Religion Losing Influence?," Barna Research Online, February 24, 2003, as of 2/26/03: <http://www.barna.org/cgi-bin/PagePressRelease.asp?PressReleaseID=133&Reference=A>; c "Unchurched: How Many?" Barna Research Online, 2000, as of 2/26/03: <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=38>]

214. Putnam, Robert, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000), p. 70.

215. U.S. Census: "Series A 91-22, Population of the United States and outlying areas: 1880-1970," *Historical Statistics of the United States: Colonial Times to 1970*, (Washington DC: U.S. Dept of Commerce, Bureau of Census, 1975), p. 9.

216. U.S. Census Bureau, *Census 2000 redistricting Data (P.L. 94-171), Summary File for states, Tables PL1, PL2, and PL4*, Internet release date: April 2, 2001.

217. Putnam, Robert, *Bowling Alone: The Collapse and Revival of American Community* (New York, NY: Simon & Schuster, 2000), p. 76.

218. "A growing number of Christians across the country are choosing a do-it-yourself worship experience in what they call a "house church." While the numbers for such an intentionally decentralized religious phenomenon are hard to pin down, as many as 1,600 groups in all 50 states are listed on house church websites. ... Some are rebelling against the contemporary culture of the mega-church, in which even mid-size churches have adopted marketing campaigns, multimedia Bible studies and Sunday services as choreographed as Broadway musicals." (Source: Goodstein, Laurie, "Search for the Right Church Ends at Home," *The New York Times*, April 29, 2001, p. 1.)

219. It is not just the Christian Coalition and Focus on the Family that are involved in politics. "As many as one in five churchgoers say that their clergy speak out on candidates and elections," reports the Pew Research Center. According to the September 2000, survey released by the Pew Forum and Pew Research, "70% of respondents believe churches and other houses of worship should not endorse specific political candidates," and 50% of the public are very uncomfortable when presidential candidates and other politicians talked about how religious they are."^b (Sources: a "The Diminishing Divide: American Churches, American Politics," *The Pew Research Center*, p. 3. As of 9/16/97: <http://www.people-press.org/relgrpt.htm> ; b *The Pew Forum on Religion and Public Life*: As of March 3, 2003: <http://pewforum.org/issues/display.php?IssueID=6>)

220. Alan Wolfe, director of the Boisi Center for Religion and American Public Life at Boston University, and *The New York Times* designed a survey to assess the values of Americans, the results of which were published in 2001. In a parallel effort, Wolfe conducted in-depth interviews with 200 Americans across the country. In summary, Wolfe notes, in part, that, "The defining characteristic of the moral philosophy of the Americans can ... be described as the principle of moral freedom. Moral freedom means that individuals should be determining for themselves what it means to lead a good and virtuous life. ... For them, the collapse of traditional institutions of moral authority is something worth celebrating. ... There is a moral majority in America. It just happens to be one that wants to make up its own mind."^a If Wolfe's assessment is correct, the following findings of Barna Research make some sense: "Most adults do not have a lot of confidence in Christian churches. Less than half (43%) said they have a lot of confidence in Christian churches; 37% said they have "some"; 13% said they do not have much confidence in them; and 4% said they have no confidence in these religious bodies. The remaining 3% did not know. When asked to rate their church on various aspects of ministry, there is not a single attribute among those tested for which at least half of all church attenders describe their church as doing an "excellent" job."^b (Sources: a Wolfe, Alan, *Moral Freedom: The Search for Virtue in a World of Choice*, (New York, NY: W.W. Norton & Company, 2001), pp. 195, 197; b "Church Satisfaction: Confidence in the Church," *Barna Research Online*, 1991, as of 2/26/03: <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=12>)

221. For a fuller discussion of this rationale for separation, see Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002) pp. 21-60.

222. Isaason, Walter, "Benjamin Franklin Joins the Revolution," *Smithsonian*, August 2003, p.86.

223. Locke, John, "A Letter Concerning Toleration," *The Second Treatise of Civil Government and a Letter Concerning Toleration* (Great Britain: Basil, Blackwell Oxford, 1940) p.135.

224. Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 60.

- 225.** Madison, James, "A Memorial and Remonstrance," General Assembly of the commonwealth of Virginia, June 20, 1785, p. 1. See www.ku.edu/carrie/docs/texts/memorial.htm; Sandel, Michael J., *Democracy's Discontents: America in Search of a Public Philosophy* (Cambridge, MA: Belknap Press of Harvard University Press, 1996), p. 65.
- 226.** Madison, James, "A Memorial and Remonstrance," General Assembly of the Commonwealth of Virginia, June 20, 1785.
- 227.** Levy, Leonard W., *Origins of the Bill of Rights*, (New Haven, CT: Yale University Press, 1999) pp. 85-86
- 228.** Dreisbach, Daniel L., *Thomas Jefferson and the Wall of Separation between Church and State* (New York, NY: New York University Press, 2002) p. 84.
- 229.** For a fuller discussion of this process see Levy, Leonard W., *Origins of the Bill of Rights*, (New Haven, CT: Yale University Press, 1999).
- 230.** In Jefferson's letter to the Danbury Baptists of January 1, 1802, he wrote, "Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church & State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties."
- 231.** Frost, J. William, *A Perfect Freedom: Religious Liberty in Pennsylvania*, (New York, NY: Cambridge University Press, 1991) p. 75.
- 232.** Federal Courts: United States Supreme Court and lower federal court decisions which have upheld the concept of separation of church and state in their interpretations of the Establishment Clause of the First Amendment include: *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203 (1948) (preventing religious instruction on school property during school day); *Engel v. Vitale*, 370 U.S. 421 (1962) (proscribing nonsectarian prayer at beginning of school day); *Abington School District v. Schempp*, 374 U.S. 203 (1963) (enjoining Bible reading before class); *Epperson v. Arkansas*, 393 U.S. 97 (1968) (invalidating statute prohibiting the teaching of evolution in state-funded schools); *Stone v. Graham*, 449 U.S. 39 (1980) (prohibiting posting copy of Ten Commandments on classroom wall); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (enjoining daily moment of silence for public school classrooms); *Edwards v. Aguillard*, 482 U.S. 578 (1987) (invalidating requirement to teach "creation science"); *Lee v. Weisman*, 505 U.S. 577 (1992) (striking down prayer at public school graduation ceremonies); *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000) (striking down school policy allowing student-led prayer at start of school football games); *Roberts v. Madigan*, 921 F.2d 1047 (10th Cir. 1990) (prohibiting religiously oriented books placed in a classroom library and teachers silently reading the Bible during classroom hours); *Doe v. Duncanville Independent School District*, 986 F.2d 953 (5th Cir. 1993) (prohibiting basketball coach from sponsoring prayer at end of games and practices); and *Berger v. Rensselaer Central School Corporation*, 982 F.2d 1160 (7th Cir. 1993) (enjoining religious organizations' distributing Bibles in classrooms.)
- 233.** Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002) p. 480; also see Dreisbach, Daniel L., *Thomas Jefferson and the Wall of Separation between Church and State* (New York, NY: New York University Press, 2002) p. 57.

234. Bartlett, John, and Kaplan, Justin, *Bartlett's Familiar Quotations, Sixteenth Edition* (Boston, MA: Little, Brown, 1992), p. 501.

235. Blaine amendment: "Section 1.- Neither Congress nor any State shall make any law respecting an establishment of religion, or favoring any particular form of religion, or prohibiting the free exercise thereof; or permitting in any degree a union of church and State, or granting any special privilege, immunity, or advantage to any sect or religious body or to any number of sects or religious bodies,; or taxing the people of any State, either directly or indecently, for the support of any sect or religious body or of any number of sects or religious bodies; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Section 2. - No religious test shall ever be required as a condition of suffrage, or as a qualification to any office or public trust, in any State. No person shall ever in any State be deprived of any of his or her rights, privileges, or capacities, or disqualified for the performance of any public or private duty, or rendered incompetent to give evidence in any court of law or equity, in consequence of any opinions he or she may hold on the subject of religion. No person shall ever in any State be required by law to contribute directly or indirectly to the support of any religious society or body of which he or she is not a voluntary member.

Section 3. - Neither the United States, nor any State, Territory, municipality, or any civil division of any State or Territory, shall levy any tax, or make any gift, grant or appropriation for the support, or in aid of any church, religious sect, or denomination, or any school, seminary, or institution of learning, in which the fait or doctrines of any religious order or sect shall be taught or inculcated, or in which religious practices shall be observed; or for the support, or in aid, of any religious charity or purpose of any sect, order,, or denomination whatsoever.

Section 4. - Congress shall have power to enforce the various provisins of this Article by appropriate legislation." [Source: Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), pp. 299-300.]

236. Smyth, Thomas, *Calvin and His Enemies: A memoir of the Life, Character, and Principles of John Calvin*, 79 (1856; Philadelphia: 1881) as cited in Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 345.

237. Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), pp. 281-282.

238. *Debates and Proceedings of the National Council of Congregational Churches Held at Boston, Mass., June 14-24, 1865*, as cited in Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 345.

239. Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 282-283.

240. Bellows, Henry, *Church and State in America*, 6 (1871) as cited in Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 342.

241. Newman, John P., "Religious Liberty." A Sermon in the Metropolitan Memorial Methodist Episcopal Church, in Washington D.C., on November 25, 1875, 7 (Washington, D.C.: 1875) as cited in Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 351.

242. Blakely, ed., *American State Papers Bearing on Sunday Legislation* (1890; Washington, D.C.: National Religious Liberty Association, 1911) as cited in Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 357.

- 243.** Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 247.
- 244.** *Everson v. Board of Education of Ewing Township*, 330 U.S. 1, 18 (1947).
- 245.** *Ibid.* p.661:7.
- 246.** Gettleman, Jeffrey, "Judge's Bible Monument Is Ruled Unconstitutional," *The New York Times*, 19 November 2002, p. A26.
- 247.** Pat Robertson has rejected church-state separation out of hand, claiming it does not exist.a James Kennedy has made a career of misrepresenting history to bolster his opposition to church-state separation and to assert without proof that the majority of the signers of the Declaration of Independence were fervent Christians.b [Sources: aBenen, Steve, "Church, State and the 108th Congress," *Church & State*, Vol. 55, No 11, December 2002, p. 5.; bMenendez, Albert J., *Three Voices of Extremism: Charles Colson, James Dobson, D. James Kennedy* (Silver Springs, MD: Americans for Religious Liberty, 1997), 69-74.]
- 248.** In this context, "America" is an informal reference to the residents of the United States. It can also refer to the land area, economy, or infrastructure, as in America has the most extensive highway system in the world. However, "America," more properly refers to the continents of North and South America, but this is not what Robertson and Kennedy mean when they talk about "America."
- 249.** Sheler, Jeffery L., "Mysteries of Faith: The Ways of Worship." *U.S. News & World Report*, November 2003., p. 8.
- 250.** Wolfe, Alan, *Moral Freedom: The Search for Virtue in a World of Choice*, (New York, NY: W.W. Norton & Company, 2001), p. 169.
- 251.** Examples include: Forgiveness - 'turn the other cheek.' - Matthew 5:39, Luke 6:29. No forgiveness - "As for those enemies of mine who did not want me to be king over them - bring them here and slaughter them in my presence." - Luke 19:12-27. Judas is not forgiven by Jesus for betraying him. - Mark 14:18-21.
- 252.** Pagels, Elaine, *Beyond Belief: The Secret Gospel of Thomas* (New York, NY: Random House, 2003).
- 253.** For example, "[i]f you take the first three Gospels, they claim that the Eucharist was instituted during or after the traditional Jewish Passover meal," points out A.N. Wilson, scholar at New College, Oxford, England. "If this is the case, then every single event which follows - the arrest of Jesus, his trial, his execution, must be a work of fiction, since it is unthinkable that the Jews would have broken their most sacred religious observances in order to put a man on trail. The Fourth Gospel tells us that the meal took place well before the Passover. It was not a Passover meal, and in this account there is very conspicuously no institution of the Eucharist." [Source: Wilson, A.N., *Jesus: A life*, (New York, NY: W.W. Norton, 1991), p. x.]
- 254.** The Catholic Church's "official response [about why priests have to be male] has been that we know Jesus' choice was not a cultural limitation, a historical artifact, or even an alterable religious symbol like circumcision. It was indicative of an unalterable, essential relationship because, in a larger theological understanding of Christian priesthood, the priest must act, especially in presiding at the Eucharist, in persona Christi - literally, 'in the person of Christ' - and that to do so the priest must be male. This answer, of course gives rise to fresh questions. What exactly does in persona Christi mean? 'As a representative of Christ'? 'An image'? 'An icon'? Each formulation implies some shift in meaning. ... Does a chubby, blue-eyed, red-faced, bibulous, weak-willed, and irritable seventy-year-old man display more of such a 'natural resemblance' than a fit, dark-haired, brown-eyed, olive-skinned, strong-minded, eloquent, and

compassionate women of thirty five?" [Source: Steinfels, Peter, *A People Adrift: The Crisis of the Roman Catholic Church in America* (New York, NY: Simon & Schuster, 2003), p. 294-5.]

- 255.** Rosen, Jeffrey, "How to Reignite the Culture Wars," *The New York Times Magazine*, September 7, 2003, p. 50.
- 256.** Hoge, Dean R., *Converts, Dropouts, Returnees: A Study of Religious Change Among Catholics* (Washington, DC: United States Catholic Conference, Pilgrim Press, 1981) p. 167, as cited in Bellah, Robert N. (with Madsen Richard, William M. Sullivan, Ann Swidler, & Steven M. Tipton), *Habits of the Heart: Individualism and Commitment in American Life* (New York, NY: Harper & Row, 1985), p. 128.
- 257.** Wolfe, Alan, *Moral Freedom: The Search for Virtue in a World of Choice*, (New York, NY: W.W. Norton & Company, 2001), p.197.
- 258.** Source as of August 11, 2003: <http://www.religioustolerance.org/inerran4.htm#clergy>
- 259.** Krakauer, Jon, *Under The Banner of Heaven: A Story of Violent Faith* (New York, NY: Doubleday, Random House, 2003), pp. 10-27.
- 260.** <http://www.uua.org/programs/layleader/>
- 261.** Diamond, Sara, *Roads To Dominion: Right-wing Movements and Political Power in the United States*, (New York, NY: Guilford Press, 1995), p. 246.
- 262.** Coino, "Graced Under Pressure," p. 19; Goetz, Randall Terry and the U.S. Taxpayers Party," p.1, as cited in Berlet, Chip, and Lyons, Matthew N., *Right-Wing Populism in America* (New York, NY: The Guilford Press, 2000), p. 247.
- 263.** Diamond, Sara, *Roads To Dominion: Right-wing Movements and Political Power in the United States*, (New York, NY: Guilford Press, 1995), p. 246. Rousas J. Rushdoony in his influential book *The Institutes of Biblical Law* (1971). This vision calls for public schools to be abolished; women to have few rights; and having an abortion, being homosexual, committing adultery, practicing witch craft, and being an "incorrigible" delinquent would be the grounds for execution. (Source: Diamond, p. 248.)
- 264.** Goodstein, Laurie, "With Conservative Episcopalians Making Plans to Separate, Gay Bishop-Elect Stands Firm," *The New York Times*, 24 October 2003, p. A 14.
- 265.** Putnam, Robert, *Bowling Alone: The Collapse and Revival of American Community* (New York, NY: Simon & Schuster, 2000), pp. 70-71.
- 266.** Wakan, Daniel J., "Prayer And the Mayor: A City of Religious Diversity Demands a Deft Approach to Faith," *The New York Times*, 31 August 2003, p. 31.
- 267.** Steinfels, Peter, *A People Adrift: The Crisis of the Roman Catholic Church in America* (New York, NY: Simon & Schuster, 2003), p. 29.
- 268.** Finke, Roger and Stark, Rodney, *The Churching of America 1776-1990: Winners and Losers in Our Religious Economy*, (New Brunswick, NJ: Rutgers University Press, 1992), p. 30.
- 269.** *Ibid.*, page 15.
- 270.** B.B. Edwards, Review of Isaac Taylor, "Spiritual Despotism" (1835) in *Biblical Repository and Quarterly Observer* cited in Hamburger, Philip, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), p. 257.
- 271.** Literacy: A high level of literacy generally existed among the ruling colonial elite, those few who governed the colonies, crafted the Constitution, ran the trading companies, and the clergy. However, in 1776 the majority of the 3.9 million colonists were not very literate. It was

not until after the colonies became states that Sunday schools, one of the first semi-organized efforts for providing literacy education, got started in the 1790s.^a

If a person can't read or write, or only can read and write at the most rudimentary level, expressing spiritual or religious concerns in writing seldom happens. Because of this, and the lack of attitude surveys, we have little recorded documentation regarding what most colonists believed.

The probability that low literacy levels was the norm in 1776 is evident from the following. To start with, 20% of the colonial population in 1790, and 42% of the population of the Southern colonies, were slaves,^b who were denied education. Slaves, freed slaves, and Native Americans who could read and write English were remarkable exceptions.

The overwhelming majority of the white population were rural farmers, related tradesman, or new settlers on the western edge of the colonies. These families were generally large and relatively poor. Most of the wealth in the colonies was held by the landed gentry and wealthy merchants. In Philadelphia, for example, they controlled 95% of the wealth in the city.^c Few farmers, tradesman, or rural settlers could afford formal schooling for their many children,^d and, in any case, few schools existed in the rural areas. Those schools that did exist were in the Northern colonies. Almost none existed in the South. Students who did get educated in schools were generally white males. The drive for literacy that would be led by the Protestants in the 1800s to promote Bible reading had not reached the vast majority of colonists by 1776.

Most of the education that did take place for children occurred at home and was provided by parents with limited education. Only candles or oil-lamps provided the light for studying in the evening after a day of field work. Books for home study in rural areas were not readily available. "Books were rare and precious commodities in the colonies," notes Regina L. Smith, Director of the Jenkins Law Library. "Ships that arrived in Philadelphia had the necessities for daily life, but very few books. The books that did come to America were expensive and owned mostly by the wealthy."^e Aside from the first public library established in Philadelphia by Ben Franklin in 1731, few public libraries existed in the colonies in 1776.

Immigrants arriving in America were, on average, young males seeking economic opportunity, and were, in some cases, convicted criminals relocated to America by English courts. Between 1718 and 1775, the English courts forced over 50,000 people convicted of capital crimes to relocate in America.^f It is unlikely that this was a very literate population of immigrants. These and many other immigrants added to a sizable poor, and sometimes homeless, population in the colonies.

The literacy rate of the poor and vagrant in Rhode Island was estimated by Ruth Wallis Herndon, professor of department of history, University of Toledo, Ohio. Based solely on whether a person signed an official Rhode Island record with his or her signature, rather than just making a mark, she estimated "literacy" rates between the years 1750 and 1800. She found that 31% of white men did not sign their names, 78% of white women used marks, and 79% of colored men and 93% of women of color did not use signatures. As a result, Herndon suggests that the estimates of high literacy rates for New England in the 1700s by modern writers have "present[ed] an inflated view overall of New England literacy."^g

To put the general level of literacy that probably prevailed in 1776 into perspective, it took 141 years of educational system building between 1776 and 1917 before the United States graduated 15% of its students from high school.^h By 2000, 82%ⁱ of students graduated from 12 years of high school. Today, 97% of people over 15 years old are literate in the United States.^j [Sources: ^aMoore, R. Laurence, *Selling God: American Religion in the Marketplace of Culture* (New York, NY: Oxford University Press, 1994), p. 61; ^bFinke, Roger and Stark, Rodney, *The Churching of*

America 1776-1990: Winners and Losers in Our Religious Economy, (New Brunswick, NJ: Rutgers University Press, 1992), p. 26; cPhillips, Kevin, Wealth and Democracy: A Political History of The American Rich, (New York, NY: Broadway Books, 2002), p. 6; dPersons per household: In 1790, 76.7% had 4+ persons, and 35.8% had 7 or more persons In 2001, the average person per household was 2.60. [Source: Historical Statistics of the United States: Colonial Times to 1970, Part 1 (Washington, DC: Bureau of the Census, U.S. Department of Commerce, 1975), p. 42; and U.S. Census: <http://www.census.gov/population/projections/nation/hh-fam/table4n.txt>; eSmith, Regina L., "Philadelphia- Birthplace of Libraries," AALL Spectrum, Volume 4, Number 7 (April 2000) found at: <http://www.jenkinslaw.org/about/history/regina-philabirthlib.shtml>; see also: Conaway, James, "America's Library: The Story of the Library of Congress 1800-2000," found at: <http://www.yale.edu/yup/chapters/083084chap.htm>; fFinke, Roger and Stark, Rodney, The Churching of America 1776-1990: Winners and Losers in Our Religious Economy, (New Brunswick, NJ: Rutgers University Press, 1992), p. 35; gHerndon, Ruth Wallis, "Literacy Among New England's Transient Poor, 1750-1800." See: http://chnm.gmu.edu/jsh/volumes/29/issue_4/abstracts_4.htm; h Bracey, Gerald W., Setting The Record Straight: Responses to Misconceptions About Public Education in the United States (Alexandria, VA: Association of Supervision and Curriculum Development, 1997), pp. 70-71; i Schmitt, Eric, "Census Data Shows a Sharp Increase in Living Standard," The New York Times, 6 August 2001, p. A1; and jWorld Fact Book, 2003: <http://www.odci.gov/cia/publications/factbook/geos/us.html#>]

272. The clergy represented 70% of those professionally educated in 1740. [Source: Moore, R. Laurence, Selling God: American Religion in the Marketplace of Culture (New York, NY: Oxford University Press, 1994), p. 17.]

273. The Jews, Mormons, and many other religious groups have used the following Biblical passage of Deuteronomy to stake their claim as a special people before God: "For thou art an holy people unto the Lord thy God, and the Lord hath chosen thee to be a peculiar people unto himself, above all the nations that are upon the earth." - Deuteronomy 14:2.

274. Sheler, Jeffery L., "Mysteries of Faith: In John Smith's Steps," U.S. News & World Report, November 2003, p. 35.

275. Wolfe, Alan, ONE Nation, After All (New York, NY: Viking, 1998), p. 62.

276. Hamburger, Philip, Separation of Church and State (Cambridge, MA: Harvard University Press, 2002); Gedicks, Frederick Mark, The Rhetoric of Church and State: A Critical Analysis of Religion Clause Jurisprudence, (Durham, NC: Duke University Press, 1995), p. 3.

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