The imagination is the faculty that produces religion and mythology.

- Karen Armstrong
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The imagination is the faculty
that produces religion and mythology.
Karen Armstrong

As the faculty advisor for the Religious Studies Undergraduate Student Journal since its inception, I have continually marveled at the imagination and creativity of the students who have submitted papers to be published within these pages. Their tenacity, their brilliance, their commitment and their excitement about this process thrills and humbles me. This journal is born out of a recognition that some students really do thrive on good research, writing and thinking. They become ‘hooked’, so to speak, on the joy and hard work it takes to produce a really sound and thoughtful paper. These students, in effect, become young scholars right before our very eyes. Reading these papers each year has not only enjoyable, the work these students produce speaks of promise for the next generation of scholars...a trust that the adventure of careful thinking is not yet a lost art.

I am writing this Foreword to commend not only the students who have submitted papers for publication to this particular journal edition, but to commend all the previous students who took the time and made the effort to participate in this endeavor. This task in my own work as Director of Outreach for the Religious Studies Program at the University of Oklahoma has been one which I cherish each year. This will be my final year to observe, mentor, encourage, challenge and aid in the birth of this undergraduate student journal. I leave this project with nostalgia for all that has been accomplished in the past, and confidence that the future of our brightest and best students is stronger than ever.

I especially wish to thank the former and current student editors who put heart and soul into taking the journal from words on paper to a magazine worthy of notice. These particular students, all of them, have gone on to graduate work in noted schools with great success. I feel sure that the scholarly world will hear from many of them in the years to come. It thrills me that this student journal may have been the point of contact for these students between their dreams and their scholarship.

I wish especially to thank President David L. Boren for making this journal project possible through the funding he supplies to us for the printing and publication. I appreciate his willingness to support this project each year and to celebrate with us once the journal becomes hardcopy reality.

Finally, I wish to thank the donor, Mr. Harry Thompson, who gave the funds awarded each year for the top two student papers. His endowed scholarship in memory of his wife, a writer herself, provides the funds for the journal competition and makes the reward of writing an excellent paper even more enticing to students.

In the pages to follow the reader will find nine papers produced by student writers, from across the campus, from multiple disciplines and for a variety of some of OU’s best professors. We trust that this journal will nurture dialogue and discussion on some quite provocative topics as we work to further the cause of a quality education through research and writing.

Thank you—
Dr. Barbara S. Boyd
Faculty, Religious Studies Program
Jesus, not Christ

Since the formation of the Church, Christians have been striving to determine who Jesus is. The most definitive and verifiable fact that we know about the man is that he was a first-century Jew, and any endeavor to understand him should be framed within that Jewish context. Indeed, the challenge of deciphering Jesus’ identity arises out of the challenge of reconciling the Hebrew Bible’s monotheistic tradition with ambiguous terms like Father, Son of God, Son of Man, Messiah, and Christ, found in the New Testament. The task for Christians has been to “define the relationship between Jesus the Son of God, in whom Christians saw more than a mere man, and this one and only God.”

The resolution about Christ’s identity has been all but uniform, as exemplified by the various creeds created by the early Church councils and the multitude of denominations that have arisen over the years. Although Christians have produced several doctrines about Christ and are well versed in them, the fact is that they hardly know about the man Jesus in an historical sense. And what they often fail to realize

1 Doral, 2007, p. 9
is that neglecting the historical aspects of Jesus' life and death is an impediment to Christians' full understanding of him and his teachings. It is critical to recognize and acknowledge that Jesus was a Jew—ethnically, culturally and theologically—and that this fact colors in the rest of his life, from his birth through his ministry and to his death. This paper will examine the evidence that Jesus’ intention was not to start a new religion but was to strengthen Jewish Law—an aspiration that was not unique to him. 

Back to the source

Sixteenth century German philosopher Herman Reimarus was among the first to employ historiography’s methods to the gospels. He claimed in his *Wolfenbüttel Fragments* that the prerequisite to gaining historical understanding is separating the “catechism regarding the metaphysical Divine Sonship, the Trinity, and similar dogmatic conceptions” from what “Jesus himself actually said and taught.”

Aside from the fact that the identities of the gospel authors are unknown, based on the contradictions and inconsistencies among them, it is safe to conclude that they were indeed written by men. The source of inconsistency within the gospels is simple: timing. The gospels, written at different times after Jesus’ death, reveal the evolution of Christian belief, perception of Jesus’ historical setting, and a changing theology.

Most historians believe Mark was the first gospel written (between the mid 60s and early 70s C.E.), Matthew and Luke ten to fifteen years after (80 or 85 C.E.) and John about ten years after that (90 or 95 C.E.). Before the written record, the story of Jesus was passed down orally, from eyewitnesses to other believers and finally to the writers. In the study of Jesus, timing offers the most significant clue as to who Jesus’ biographers were and what they themselves believed—two things that determined their agendas. Ehrman affirms that generally those historical sources “closest to an event have a greater likelihood of being accurate than those at a further remove.” Using this principle, the sources for the study of Jesus hold a weight proportional to their chronological order: Paul, Q, Mark, M and L. Knowing the chronology of these sources offers evidence for the sequence of change within the gospels. Ehrman notes that as each gospel is written, it becomes more and more theological and less and less apocalyptic.

A failure to acknowledge that the gospels and other books of the New Testament were written within their own historical contexts prevents a full understanding of Jesus’ life. Indeed, Jesus’ words and actions today are “too familiar, too domesticated, too stripped of their initial edginess and urgency. Only when heard through first-century Jewish ears can their original edginess and urgency be recovered.”

The gospels should be approached with Judaism and the historical context of Palestine as the frame of reference so as to interpret and preserve their original meaning and intent.

In her approach to the study of the historical Jesus, Levine recognizes that the theology of Paul’s letters, having come before the gospels, originally takes Jesus out of his Jewish context. During the formative years of Christianity, Paul “would have met with the other followers of Jesus, and together they started the process of articulating a theology that would translate the Jewish Jesus into a gentile Savior.”

While Biblical scholars Sanders, Ehrman and Vermes neglect the importance of Paul’s letters and the effects they have on the rest of the books of the New Testament, Levine points out that Paul’s eradication of Jewish theology from Jesus’ story biases the rest of the books. Order matters, and the gospels are filtered by Paul’s letters. 

Jesus in context: the Roman Empire and Judaism in the first century

Under the authority of man

Jesus was born into the Roman Empire in which there was a division of power based on who had authority over the different aspects

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1 Schweitzer, p. 17
2 Dunn, 1999, p. 58
3 Sanders, 1993, p. 1370-86 (Kindle)
4 Ehrman, 1999, p. 701-11 (Kindle)
5 Ibid., 1233-41 (Kindle)

8 Ehrman, 1999, p. 1241-50 (Kindle)
9 For example, John is the only gospel in which Jesus claims to be equal to God (10:30).
10 Levine, 2006, p. 7
11 Ibid., p. 66
12 Ibid., p. 85
of life in Palestine. During Jesus’ life “Herod Antipas was the tetrarch of Galilee and Perea; Pontius Pilate was the prefect of Judea; Joseph Caiaphas was the high priest in Jerusalem.”13 Though many tend to think Rome “ruled” or “occupied” Palestine in Jesus’ time, it actually governed remotely, leaving matters in the hands of local rulers. Roman rule, however, cannot be too underestimated. All Jews were directly affected by Roman rule, and “paying for Rome’s excesses was seen by many Jews, as well as by many others in the empire, to be both unmanageable and perverse.”14 During Passover especially Roman troops were pervasive in Jerusalem as thousands of Jews assembled there. Only during this time, the Roman governor would come to the capital “with troops in tow in order to quell any possible uprisings.”15 Ordinarily, though, it was the job of the high priests to maintain peace in their domains.

The importance of first-century Roman politics in Jerusalem has implications for the very reasons Jesus was put to death. Levine suggests that Jesus’s theological message crossed into the political area. The Lord’s Prayer, spoken by Jesus in the gospels, was a political message: By addressing God as “father,” Jesus insists “Rome is not the ‘true’ father.”16 Jesus’ threat to the status quo perhaps moved the Jewish high priest, who maintained jurisdiction in the area, to turn Jesus in to the Roman authorities. Sanders asserts that the Temple scene in the gospels is most critical: Jesus’ actions catalyze the high priests’ command to arrest Jesus because it is his duty to keep order in Jerusalem. If he does not, the Roman authorities would enact severe punishments. The high priest, therefore, was at odds to please the Romans and uphold their laws but also to lead and support the Jewish people. He was forced to weigh the consequences.

Under the authority of God

For first century Jews, the obligation of worshipping or serving God encompassed all aspects of life—from daily routines to annual pilgrimages. It included individual and group deeds, as well as attitudes toward others—enemies and fellow Jews. Beyond certain daily rituals, the Temple in Jerusalem was of utmost significance in Judaism. It was a structure built by Solomon, son of King David, to house the ark containing the Ten Commandments, and it was essentially the

embodiment of Judaism. The Temple was the most sacred place for the Jews because they believed that God dwelled in its center.17 Predicting the destruction of the Temple, as Jesus is said to have done, would have been an absurd act. But Jesus was not the first to do so; Ehrman quotes Jeremiah 7:3-4, 9-11, 14-15 and 34, in which the prophet proclaims that because the Jews had strayed from God, he would destroy the Temple.18 No Temple meant there would have been a disconnection between God and the people.

Christians today believe Jesus’ prediction that the Temple would fall is in fact a metaphor for the new covenant, in which Jesus’ resurrection would establish him as the “new Temple.” Jesus, then, is the spiritual center of Judaism fulfilled. But this is the Jesus of another religion—one quite different from what Jews expected to be Judaism’s final stage. To read the gospels in a Christian light misses the point. Christianity was “founded by a Jewish teacher who taught his Jewish followers about the Jewish God who guided the Jewish people by means of Jewish Law.”19 Jesus’ prediction that the Temple would fall implies one of two things: first, that Jesus believed in the new age there would be a new Temple, “one totally sanctified for the worship of God” (a preparatory act for the coming kingdom); or that Jesus believed the Temple would become unnecessary once the kingdom had arrived, since there would be no reason to make atonement for sins that wouldn’t exist.20 Sanders, however, contends that Jesus more likely thought the Temple would literally be destroyed so that God could build a new and perfect Temple. Such a belief, Sanders writes, was standard “eschatological or new-age thinking,” as seen in the Essene tradition.21 What Ehrman and Sanders intimate is that Jesus did not think he would be the new Temple; its destruction was simply part of God’s plan to bring in the kingdom, or a threat to the Jews for not adhering to the Law.

Jews in the first century were totally God-conscious, and they were adamant about following God’s laws. Indeed, they knew them exceedingly well.22 That Jews of the first century had such knowledge meant when gospel writers alluded to Jesus’ fulfillment of Hebrew

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13 Sanders, 1993, Ch. 3 (Kindle)
14 Ehrman, 1999, p. 1618-19 (Kindle)
15 Ibid., p. 2960-71 (Kindle)
16 Levine, 2006, p. 45
17 Ehrman, 1999, Ch. 9 (Kindle)
18 Ibid.
19 Ibid., Ch. 10 (Kindle)
20 Ehrman, 1999, Ch. 12 (Kindle)
21 The Essenes were a first-century Jewish sect that emphasized eschatological beliefs. Sanders, 1993, Ch. 16 (Kindle)
22 Sanders, 1993, Ch. 3 (Kindle)
scripture prophecy, it did not go unnoticed. For a Jewish populace awaiting the coming of God's redemption, Jesus' message was not unfathomable. Sanders writes:

"All Jews, like the Pharisees, believed that they should understand the divine law and obey it. We need only add that from time to time individuals stood up and claimed to be the truest representatives of God. In general terms, this is where Jesus fits. He was an individual who was convinced that he knew the will of God." 23

Jesus' use of the Hebrew Scriptures as the basis of his own teaching is proof of this claim. It was not his purpose to create a new religion, separate from Judaism. Luke's passage about the boy Jesus in the Temple demonstrates his devotion, from an early age, to Judaism: After three days of searching, his parents "found him in the temple, sitting among the teachers, listening to them and asking them questions. And all who heard him were amazed at his understanding and his answers" (Luke 2:46-48). The gospel writers portray Jesus' mission to be renewing (not recreating) the covenant, or the Ten Commandments, between the people and God. The law Moses brought down from Mount Sinai was the same law Jesus used in his teachings. Essentially, he sought to strengthen that law. In this sense, Jesus' teachings are but a continuation of Moses'.

Jesus plays a kind of archetypal Moses role by reestablishing the Law and initiating the redemption of Israel as God's representative. It is clearly not a novel idea to the Jews, who believed that God played a definitive role in their lives, i.e. by engaging in the physical world with people. Indeed, stories of Moses and the other prophets with which the Jews were so familiar gave Jesus credibility in the eyes of his Jewish audience. First-century Jews adhered diligently to the Law as if it was a matter of life and death (and to them it was), and they fervently believed that the scriptures were recorded history. It is only within the frame of Judaism that Jesus' teachings can be viewed. He wanted his message to be not only heard but believed. If God saved the Israelites from the Egyptians once before, why wouldn't he do it again by delivering the Jews from the rule of the Romans? Jesus' mission must be understood in this context, that is, the context of redemption. 24 For first-century Jews, this was a potent notion. They believed God chose Israel and that he had created a covenant with the Jewish people, promising their redemption. Jews were in constant wait for this promised redemption. 25

"Who do you say that I am?"

Self-entitlement

After his baptism, Jesus' mission begins. This statement, though, begs the question: Who did Jesus think he was that he should embark on a mission for God? Both Sanders and Ehrman agree that Jesus is an eschatologist concerned with preparing for the coming kingdom of God. However, while Ehrman makes a definitive claim that Jesus believes he is an apocalyptic prophet, who would serve as nothing more than God's emissary, Sanders is hesitant to define Jesus by any solid title and with any such specific belief. In context, the titles mentioned in Jesus' discourse in the gospels are ambiguous and multifaceted. Although Sanders says that Jesus regarded himself as having full authority to speak and act on behalf of God, 26 his perception of his role in God's kingdom is unclear. A verse in Matthew demonstrates the obscurity:

"And the high priest said to him, 'I adjure you by the living God, tell us if you are the Christ, the Son of God.' Jesus said to him, 'You have said so. But [on the other hand] I tell you, hereafter you will see the Son of Man seated at the right hand of the Power, and coming on the clouds of heaven" (Matthew 26:63).

It is unclear whether Jesus is referring to himself as the future Son of Man. At face value, it seems that Matthew's Jesus "claimed to be expecting a heavenly figure, not his own return." 27 Nonetheless, by keeping Jesus and his titles in their first-century Jewish context means it is impossible to know exactly what Jesus thought of himself and his relationship to God by studying these titles for two reasons: "The first is that there are no hard definitions of 'Messiah,' 'Son of God' or 'Son of Man' in the Judaism of Jesus' day. ... The second is that we do not know that he gave himself titles." 28 Ehrman and Sanders agree that Jesus thought his role in the kingdom would be as a kind of representative of God. It was only later that Jesus was interpreted as being the Son of Man, which has several different meanings in the Hebrew Scriptures:

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23 Ibid.
24 Redemption to Jews in the first century meant the following: national redemption in the socio-political sense; individual redemption at death; or "a great event that would transform the world, exalt Israel above other nations and persuade the Gentiles to convert" (Sanders, 1993, p. 819-34, Kindle).
25 Ehrman, 1999, Ch. 7 (Kindle)
26 Sanders, 1993, Ch. 15 (Kindle)
27 Ibid.
28 Ibid., Ch. 15 (Kindle)
in Ezekiel, it translates, simply, to “mortal”; in Daniel, the title refers to Israel, or “perhaps to its angelic representative”; in 1 Enoch it is the title given to a heavenly figure who judges the world. Sanders, therefore, gives Jesus the title of “vicery.”

Like Sanders, Ehrman states that Jesus thought he had a special relationship with God. But Jesus’ role would not become obsolete once the kingdom had arrived. He indeed told the disciples that they would rule over the twelve tribes of Israel. God’s kingdom would be “ruled by his chosen ones—the twelve disciples on twelve thrones. And Jesus himself would rule over them. He, in effect, would be the king of God’s coming kingdom.” Ehrman emphasizes that it is only in an apocalyptic sense that Jesus thought he was the Messiah, i.e. a kingly Messiah at best, or at least a person anointed by God for some special task. Most important to this aspect of the study of Jesus is that though Sanders and Ehrman may disagree on the details, they do both intimate that Jesus did not consider himself holy or divine.

Levine argues that not only has the modern Church taken Jesus out of his Jewish context, but the New Testament writers have provided the foundation for de-Judification of Jesus. Levine’s Jesus is a Jew who had no intention of creating a new religion that would eventually replace the separation between Jew and Gentile as one between Jew and Christian. Sanders, Ehrman and Vermes claim Jesus did not know he would play the role he played (and plays) in the Christian Church—that of the sacrificial lamb for all who believe in him. This was not a Jewish notion, and Levine asserts it would have been outside the scope of his imagination to understand himself as that. This is because the notion of the sacrificial lamb was not necessary until the kingdom of God failed to come immediately as Jesus seems to have thought it would. Levine strives to humanize history: “When the end didn’t come, Paul’s followers did what all groups convinced that they are living in the last times do: they reflect, they research the Scriptures, they reinterpret, and they recalculate, retract their views, or disband.”

Jesus the eschatological Jew

Throughout his ministry, Jesus’ mission becomes clear: he is a reformer of the Mosaic Law:

“Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them. For truly, I say to you, until heaven and earth pass away, not an iota, not a dot, will pass from the Law until all is accomplished” (Emphasis added; Matthew 5:17; see also Luke 16:16).

Jesus’ call to obey the law is found in each of the gospels, including John. But while the Pharisees taught that the Law must be upheld in all the details of life’s daily routines, Jesus taught that the Ten Commandments “formed ... the very heart of the Law, the commandments to love God above all else and to love one’s neighbor as oneself.” The Law was originally given to Moses to create God’s kingdom on earth. By following the Law, the Jews would be protected by God against all enemies and blessed in all other facets of life. A passage from Exodus is worth quoting at length here to exemplify what Jesus knew from tradition and expected for the future:

“You shall serve the LORD your God, and he will bless your bread and your water, and I will take sickness away from among you. None shall miscarry or be barren in your land; I will fulfill the number of your days. I will send my terror before you and will throw into confusion all the people against whom you shall come, and I will make all your enemies turn their backs to you. ... Little by little I will drive them out from before you, until you have increased and possess the land. And I will set your border from the Red Sea to the Sea of the Philistines, and from the wilderness to the Euphrates, for I will give the inhabitants of the land into your hand, and you shall drive them out before you. You shall make no covenant with them and their gods. They shall not dwell in your land, lest they make you sin against me; for if you serve their gods, it will surely be a snare to you” (Exodus 23:25-27, 30-33).

The definition of God’s kingdom, i.e. the setting in which his Law is perfectly fulfilled and he rules, becomes clear. Moreover, in Exodus 34:10-28, God makes a covenant with Moses through the Ten Commandments. If the Jews abided by this Law, God promised he would

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39 Enoch cannot be proven to be pre-Christian. Thus, Sanders writes, “we cannot say that Jewish eschatology had already established the idea that a heavenly figure called ‘the Son of Man’ would judge humanity at the end of normal history, though this is possible” (Sanders, 1993, p. 4641-57, Kindle).
30 Sanders, 1993, Ch. 15 (Kindle)
31 Ehrman, 1999, Ch. 12 (Kindle)
32 Sanders, 1993, Ch. 15 (Kindle)
33 Levine, 2006, p. 60
34 Ehrman, 1999, Ch. 10 (Kindle)
"cast out nations before you [Israel] and enlarge your borders; no one shall covet your land" (Exodus 34:24). Mosaic Law was thus meant to usher in the kingdom of God on earth (however, the Jews failed to uphold their end of the agreement). Jesus' message carries this notion forward by reforming the Law for first-century Jews in preparation for the coming kingdom of God, the end of time.

Reforming the Law

Before God gave the Israelites the Law, he had delivered them from Egyptian rule and oppression. This story of God's redemption of the Jews was not one first-century Jews forgot. They believed that God was physically involved in the lives of the Jews because of their status as chosen people. Many first-century Jews—probably including Jesus—thought that God would once again restore the twelve tribes of Israel and bring in his kingdom. Jesus' mission, therefore, was to reform the law so as to begin the transition.

Jesus' promotion of the Aseret ha-D'varim\(^{35}\) can only be understood in context—by recognizing the real definition of the words. When a scribe asks Jesus which of the Aseret ha-D'varim are first among them, he answers:

"'The first of all is this, 'Hear, O Israel, the Lord our God is our Lord, and you shall love the Lord your God with your whole heart and your whole soul and your whole understanding and your whole strength.' This is the second: 'you shall love your neighbor as yourself.' There is no other commandment greater than these'" (Mark 12:28-31).

This verse is the essence of Jesus' message of reform, because these "commandments" are actually categories. Thus, his message is this: all those laws regarding human relationships with one another and with God are the most essential and take precedence over everything else. If followed, these are the laws that will usher in the kingdom of God because they themselves characterize that kingdom. As stated by Ehrman, "The commandment to love is at the heart of the Law for Jesus, and keeping it is an apocalyptic necessity, as people prepare for the coming Kingdom.\(^{36}\)

Jesus was a reformer of Judaic law and an apocalyptic, who, Sanders and Ehrman assert, saw himself as playing a vital role in the end of the world. Jesus saw it as his purpose to renew Jewish law by humanizing it and invoking sincere dedication to it. While Christian tradition inherently depicts Judaism as "in need of correction by Jesus," this would not have been Jesus' message. Jesus' task of reinstating a stricter and more conservative version of the law is a common Jewish act, something Jews call "building a fence about the Law" (Pirke Avot 1:1). The point is to take an additional precaution so that a commandment is not violated.\(^{37}\) Where the Judaic law is strict, Jesus imposes an even stricter follow-up. He condemns divorce and calls remarriage adultery, whereas Moses permitted divorce on certain conditions. In Matthew 5, Jesus cites Judaic law and then adds stricter components to it. This is where he reforms the source of Judaic law, which he, in a sense, sees as the bare minimum of spiritual morality. If people are devoted Jews, then they will apply a stricter moral code to everything the law addresses already. Sanders offers some examples from Matthew:

"Not only should people not kill, they should not be angry (5:21-6). Not only should they avoid adultery, they should not look at others with lust in their hearts (5:27-30). Not only should they not swear falsely, they should not take oaths at all (5:33-37). Far from retaliating when injured, they should 'turn the other cheek' (5:38-42). Finally, they should love not only their neighbor but also their enemies (5:43-47)."

In preparation for the coming kingdom, all of these principles begin with the individual but diffuse from him to create a superior community, which was a central focus in Jewish culture.

Jesus' message demonstrates that he was perhaps battling a form of legalism that he believed had permeated Judaism at the time. He was placing the human back in his context as a spiritual being connected to God, who was loving and merciful. His motive was to carry out the will of God—to be perfect in preparation for his kingdom's arrival. It was—and still is today—a message centered on love and complete devotion. But it is not a message that belies Judaic tradition and belief. Indeed, Jewish theological culture in the first century provides substantial implications for the story of Jesus because he was a Jew. While Jewish scholar David Flusser contends that Jesus is a Jew with a unique message of moral perfection, Levine asserts that Jesus should historically

\(^{35}\) The Ten Commandments are written in Hebrew as Aseret ha-D'varim (Exodus 34:28, Deuteronomy 4:13, 10:4), which derives from the root Dalit-Dalit-Reish, meaning "word, speak or thing." It is therefore better translated as the Ten Sayings, Statements, Declarations or Words. They were meant to serve as categories under which the 613 mitzvot (commandments) fell (Rich, Tracey).

\(^{36}\) Ehrman, 1999, Ch. 10 (Kindle)

\(^{37}\) Levine, 2006, p. 46
“be seen as continuous with the line of Jewish teachers and prophets,” for what he preaches is not beyond the scope of Judaism.

Who was this man?

The above portrayal of Jesus belies the image of the Jesus of the Christian church—the one raised high on the wall, hanging on a cross to wash away the sins of the world. To Christians and scholars like Flusser he is something unique. Sanders, Ehrman and Vermes each contend that Jesus was not so unique if examined within the context of first-century Judaism. Levine carries on a step further to say that his uniqueness derives from the message others crafted and attributed to him. These varied opinions reaffirm that the spiritual and social identity of Jesus is left to the beholder. From each perspective, though, important lessons can be garnered. Indeed, what Jesus preached was well in line with Jewish theology and social teaching of the times. He was not a rebel, as some have perceived him to be. Rather, Jesus was much like the prophets in the Hebrew Scripture, preaching a renewal of the Law and reinstating the values of justice, love and community. At the same time, though, the fact that the New Testament message has attracted more followers than any other religion in the world deserves merit. In the end, we are left with the question, What made Jesus unique enough that a world religion developed around his story? To each his own answer.

John Dominic Crossan wrote that Jesus was a revolutionary. He was a simple man born to Jewish parents just before the Common Era, who changed the culture and politics of the world even more than 2,000 years later. What Christians believe, and what scholars think they know, is only possibly true or untrue. As religious scholar Ernest Troeltsch emphasized, history is based on probability—nothing can be absolutely verified. The life of Jesus seems the least probable, but it has been the most convincing to billions of people around the world. His message has brought hope to the oppressed and lowly, war to the power-hungry, and a sense of superiority to those Westerners who believe. How did he become the most influential man in history? That’s a question to which only faith and speculation can provide pseudo-answers. With anonymous writers for sources and an agenda underlining every word, it is difficult—perhaps even impossible—to know whether it was Jesus who made the impact himself or the authors who gave him the ability.

Nonetheless, what we do know is this: Jesus was a Jew, born into a potently Jewish context, whose message regarding the kingdom of God was reminiscent of Jewish Scripture. Many other questions about his identity may always be unanswerable.

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39 Levine, 2006, p. 20
39 Crossan, 1994
40 Davies, 1999, p. 32
Bibliography


During the nineteenth century a fierce battle raged throughout America. One side was cloaked in normalcy, morality, and justice. The other sheathed itself in radicalism, divine direction, and religious freedom. The main weapons utilized were legislative power and executive enforcement. Federal courthouses were the most visible and intense scenes of conflict, with legislators and litigators as the primary front-line combatants. The eventual conclusion of the war not only resulted in the utter defeat of one side, but also set the rules of engagement for decades of further conflict unrelated to the clash of powers. The contestants in this struggle were the United States federal government and the Church of Jesus Christ of Latter-day Saints, more commonly referred to as Mormons. This decades-long legal conflict between two powerful behemoths was centered upon the last “relic of barbarism” still existing in the 1800s: polygamy. Although the legal conflict over polygamy has its roots in and is frequently viewed as a dispute addressed in the nineteenth century that has little relation to current society, it is poised to reemerge in a new form as a controversial modern-day legal issue.

The Church of Jesus Christ of Latter-day Saints was a new

1 Gordon, 2002, p. 55
religious movement that emerged during the Second Great Awakening. The LDS Church incorporated a variety of beliefs and practices considered quite different from more mainstream contemporary Christian denominations. One such religious tenet was polygamy: the colloquial term for the practice of a man having more than one wife. Terms such as “plural marriage,” “celestial marriage,” “The Principle,” “bigamy,” “patriarchal marriage,” and “plural unions” have historically been used to denote Mormon marriage practices of the nineteenth century. As such, these terms will be used interchangeably throughout this paper, all to indicate the practice of one man having multiple wives.

Contrary to popular belief, polygamy was not actually one of the founding creeds of the Mormon faith. While rumors of polygamous practices began following the church in 1831, the first formal link between Mormonism and polygamy can be traced to a document known as the “Revelation on Celestial Marriage,” which the founder of the LDS Church—Joseph Smith—dictated to his secretary the year before his death in 1843. The revelation was kept secret, however, for nearly ten years after its recording. Only high ranking Church officials and Smith’s plural wives knew of the document until the practice of polygamy was incorporated into Church doctrine in 1852, at which time Elder Orson Pratt read aloud the 1843 revelation at the Church’s semi-annual General Conference and expounded upon the religious and spiritual superiority of polygamy in an extended address. From that time forward polygamy was a formal doctrine of the Church of Jesus Christ of Latter-day Saints.

Although Mormon practices of The Principle were sensationalized in newspaper articles, romance novels, and revival-like anti-polygamy lectures beginning in the 1830s, polygamy did not enter the political scene until 1852. In this year, the U.S. Congress entertained a bill that included a provision stipulating that any citizen could be granted land from the government, except those who “shall now, or at any time hereafter, be the husband of more than one wife.” The bill failed, but anti-polygamy sentiment had made its national political debut. Such sentiments continued to spread. Over the next thirty years a plethora of successive legislative acts criminalizing bigamy dealt patriarchal marriage heavy blows. These included the Morrill Anti-Bigamy Act, the Polish Act, the Edmunds Act, and the Edmunds-Tucker Act.

A number of legal cases emerged in response to these pieces of legislation as Mormons challenged the right of Congress to criminalize a practice the church saw as essential to salvation. The most important of these test cases was Reynolds v. United States. The case is significant not only because it embodied the most poignant legal battle of the war on polygamy, but also because it was the first case in which the U.S. Supreme Court expounded upon the scope and application of the First Amendment. The fact that the defendant was indicted on criminal charges for bigamy in a federal territory instead of a state made the First Amendment’s religious free exercise clause—which had not yet been nationalized via the Fourteenth Amendment—applicable for the first time.

The facts of the Reynolds case are thus: in 1879 George Reynolds—private secretary to Brigham Young, the leader of the LDS Church at that time—was convicted under the Morrill and Poland Acts of marrying a second wife while his first wife was still alive. The defendant appealed his conviction to the Supreme Court on the basis of five legal arguments. The first four arguments addressed technicalities such as allegedly improper jury composition, evidence inclusion, and jury instructions. The final—and most important—legal argument regarded Reynolds’s right to free exercise of religion under the protection of the First Amendment. He argued that because plural marriage was a crucial aspect of his faith, the government could not prosecute him for bigamy.

The Supreme Court disagreed, however. In a 9-0 decision, the justices ruled in the negative on the question of whether religious belief can be accepted as a justification of an overt act made criminal by the law of the land.” Chief Justice Waite delivered the opinion of the court. The unanimous majority opinion—accompanied by a

\[2 \text{Gordon, 2002, p. 19} \]
\[3 \text{"Polygamy," Encyclopedia Britannica, 2010} \]
\[4 \text{Gordon, 2002, p. 1.} \]
\[5 \text{Whitaker, 1987, p. 293} \]
\[6 \text{Gordon, 2002, p. 22} \]
\[7 \text{Ibid., p. 23} \]
\[8 \text{Campbell, 2001, p. 1} \]
\[9 \text{Whitaker, 1987, p. 303-303} \]
\[10 \text{Gordon, 2002, p. 47} \]
\[11 \text{Campbell, 2001, p. 1} \]
\[12 \text{Bailey and Kaufman, 2010, p. 86-94} \]
\[13 \text{Wilson and Drakenman, 2003, p. 156} \]
\[14 \text{Reynolds v. United States. Supreme Court of the United States. 6 Jan. 1979.} \]
\[15 \text{Ibid.} \]
concurring opinion disagreeing on the admissibility of the evidence challenged by Reynolds in his other claims—stated that “polygamy has always been odious among the Northern and Western Nations of Europe and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and African people.” The opinion then traced the legal history of polygamy, as well as outlined the nature of marriage as a “civil contract ... usually regulated by law.” The justices described traditional marriage as an institution “upon which society may be said to be built” and asserted that scholarly evidence at the time indicated that polygamy led to the destruction of society and the harm of innocent women and children. The opinion concluded with the employment of the “slippery slope” argument, through which the justices assert that allowing religious exemptions for polygamy could result in making other objectionable practices, such as human sacrifice and self-immolation, acceptable in the eyes of the law if rooted in religious belief.

All of these aforementioned arguments were complementary to the chief legal principle developed in the Reynolds case: the belief-conduct distinction. The opinion hinged upon the idea that the First Amendment rendered the national legislature “deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order.” Essentially, the court ruled that while citizens have the protected right to think and believe whatever they wish, they do not necessarily have the right to act upon such beliefs. This belief-conduct principle continued to reign over Free Exercise jurisprudence well after the conclusion of the legal war over polygamy concluded, shaping the courts’ interpretations of the First Amendment in many later cases.

While the Supreme Court reached the correct decision in Reynolds v. United States, they utilized inappropriate justifications in the process, in turn formulating a flawed legal principle. While the opinion’s description of marriage as a civil contract that supports societal structure is a reasonable one that has since been upheld in other cases and legal writings regarding the institution of marriage, other elements of the decision are far less sound. Using rhetoric that reeks of racism and prejudice against peoples of non-European heritage weakened the validity of the decision by grounding it in a dated and improper reasoning. Furthermore, the Court should have gathered more in-depth and factually based statistics regarding the actual impact of polygamous marriage on society before citing such scholarly evidence as a rationalization for disallowing a religious practice key to a faith tradition. Even more distasteful is the justices’ utilization of the “slippery slope” argument. A proven logical fallacy, this age-old argument crumbles upon even the least strenuous application of reasoned analysis.

The belief-conduct principle is a likewise inadequate legal standard for adjudicating Free Exercise cases. The idea that the First Amendment’s prohibition against Congressional actions “prohibiting the free exercise” of religion extends only to ideological beliefs is ludicrous. The word “exercise” by its very denotation, as well as its connotation, strongly suggests taking some form of action. In addition, if the authors of the First Amendment’s religion clauses had intended to extend protection merely to belief, they would have been satisfied with James Madison’s original wording proposal that included the phrase “dictates of conscience.” In fact, the First Congress’ refusal to restrict religious freedom by employing phraseology that represented a definitively idea-based (instead of an action-based) conception of free exercise protection indicates that the First Amendment was intended to shield against government intrusion in regards to actual action. Beyond simply being illogical, the belief-conduct distinction was a poor principle because it set a hostile precedent for future Supreme Court cases in the realm of religion. Cases such as Employment Division v. Smith, Lyng v. Northwest Indian Cemetery Protective Association, and others have been rooted in this unsatisfactory principle. Such cases have been resolved in a manner that is unnecessarily antagonistic toward religion and religious peoples. In short, the belief-conduct

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16 Reynolds
17 Ibid.
18 Ibid.
19 Ibid.
20 Ibid.
21 Gordon, 2002, p. 253
22 Wilson, 2003, p. 70-73.
23 Employment Division v. Smith was a 1990 U.S. Supreme Court case in which two drug counselors were denied state unemployment benefits because they had been fired for using peyote during a Native American religious ceremony. The Supreme Court ruled according to the belief-conduct principle, stating that there was “no contention that Oregon’s drug law represents an attempt to regulate religious beliefs” (Wilson, 2003, p. 394-397).
24 Lyng v. Northwest Indian Cemetery Protective Association was a 1988 U.S. Supreme Court case in which the Northwest Indian Cemetery Protective Association challenged the U.S. Forest Service’s attempt to build a road through a Native American holy site. The Supreme Court ruled according to the belief-conduct principle, stating that building the road would not result in “the affected individuals being coerced by the Government’s action into violating their religious beliefs...” although the road would effectively destroy the holy site (Wilson, 2003, p. 332-338).
principle developed in *Reynolds v. United States* lingered in successive
cases many years after the resolution of the war on polygamy and has
since haunted citizens seeking to protect their Free Exercise rights
grounded in the First Amendment.

*Reynolds v. United States*—while the most famous and important
legal case regarding Mormon polygamy—was not the only battle-
like case between the federal government and the LDS Church in the
struggle over polygamy. Cases such as *Murphy v. Ramsey, Davis
v. Beason, Cannon v. United States, United States v. Snow,* and *Late
Corporation of the Church of Jesus Christ of Latter-day Saints v.
United States* cemented the legislative and judicial campaign against
the “last relic of barbarism.” These cases affirmed Congress’ power
to enact laws denying polygamists the right to vote; held that all
adherents of Mormonism could be excluded from the franchise; and
made polygamy a crime of appearance by broadening the definition
of bigamy to include even “the pretense of marriage—the living, to
all intents and purposes, so far as the public could see, as husband
and wife—a holding out of that relationship to the world.”36 The cases
also allowed the separation of trials for numerous counts of bigamy,
and reinforced the government’s decision to revoke the church’s
incorporation and seize property owned by the church.37

The unrelenting federal legislative and judicial campaign against
polygamy placed the Church of Jesus Christ of Latter-day Saints in
a dilemma. Should the Mormon Church abandon a practice that had
differentiated it from other religious sects and helped define their
unique way of life for years in order to salvage what was left of the
Church? Or should Church members “cling to their beliefs, continue
to resist, and risk being utterly destroyed?”38 Church losses in court
forced a breaking point. Heavy prosecution of Church members had
decimated the Church hierarchy. Large numbers of Church leaders
were either in prison, in hiding, or fleeing to Mexico and Canada
to escape prosecution. A lack of effective leadership caused social
programs implemented by the Church to collapse, and the seizure of
Church property further threatened not only local community programs
but also the entire economy of the Utah Territory.39

Inundated with litigation, rife with internal dissent, and forced
to practice polygamy only in secret,30 the severely strained Church of
Jesus Christ of Latter-day Saints capitulated in 1890, retracting legal
claims to the right to practice Celestial Marriage.31 Thirty-eight years
after its establishment as doctrine, polygamy was withdrawn from
Church dogma by President Wilford Woodruff in a document referred
to as “The Manifesto.” Woodruff proclaimed to the members of the
Church that:

> “inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional
> by the court of last resort, I hereby declare my intention to submit
to those laws…and I now publicly declare that my advice to the
> Latter-day Saints is to refrain from contracting any marriage
> forbidden by the law of the land.”32

Since the issue of the Manifesto, the Church of Jesus Christ of Latter-
day Saints has renounced the practice of plural marriage and sought
to distance itself from association with the practice, so much so that a
Certain “reticence to consider polygamy historically has sometimes
been apparent.”33 Thus, the Church of Jesus Christ of Latter-day Saints
yielded to the power of the federal government that had so vigorously
sought the eradication of the last relic of barbarism in nineteenth-
century America.

Despite the fact that the Mormon Church discontinued the
practice of polygamy over a hundred and twenty years ago, polygamy
has emerged as a modern legal issue. Break-off groups that trace their
origins back to the Church of Jesus Christ of Latter-day Saints continue
to practice polygamy to the present day. Such groups include the
Centennial Park Group, the Latter-day Church of Christ, the Apostolic
United Brethren, the Church of the Firstborn in the Fullness of Time,
and the Fundamentalist Church of Jesus Christ of Latter-day Saints—
commonly referred to as the FLDS Church.34 Polygamy has pervaded
mainstream media through television shows like “Big Love” and
“Sister Wives.”35 In addition, news coverage—including the March
2009 cover of *People* magazine—has focused on the lives of openly
polygamous family units.36

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36 *Cannon v. United States.* Supreme Court of the United States. 14 Dec. 1885
37 Ibid.
38 *Firmage and Manaram.* 2001, p. 205
39 Ibid., p. 205.
However, despite this relative openness of polygamous practices, few trials for bigamy—which is still illegal—have been tried in the century since the criminalization of plural marriage. While many Americans still find the idea of plural unions repugnant, the government has essentially ceased stringently enforcing laws regarding cohabitation. This is due in part to the prosecutorial difficulty incurred by the fact that most polygamous communities are closed to outsiders. In addition, the privatization of what individuals do in the bedroom via cases such as Lawrence v. Texas has largely destigmatized sexual practices once considered taboo. In the majority of the few cases in which polygamists have been criminally charged, there have been factual wrinkles that made the trials about much more than just polygamy. This includes the conviction of Warren Jeffs, leader of the FLDS Church, for not only polygamy but rape as an accomplice. In July 2008 the U.S. Senate Committee on the Judiciary held a hearing titled “Crimes Associated with Polygamy: the Need for a Coordinated State and Federal Response.” This hearing is a prime example of the government’s newfound focus on crimes that accompany polygamous practices, rather than polygamous practices themselves. At the beginning of the hearing Senator Sheldon Whitehouse stated that:

“Today we will have testimony about criminal activity associated with polygamy. As recent events ... make clear, this is an issue of real concern ... the Federal Government has a great interest in addressing the child abuse, sexual abuse, fraud, and other Federal and State crimes that have originated in polygamous communities.”

This statement is indicative of the government’s modern actions regarding polygamy. Rather than specifically targeting the practice of polygamy itself, the Committee sought to address “crimes associated with polygamy.”

This transformation of the federal government’s response to polygamy—the lack of prosecution for the offense unless paired with other infractions—would seem to indicate that it is a non-issue in modern times. However, polygamy could very well emerge as a hot button issue in a new manner. Instead of polygamists being arrested for practicing plural marriage and subsequently defending themselves on the grounds of religious free exercise, it is much more likely that polygamy will resurface in the courts as an issue of government recognition of and subsequent benefits to plural unions. In essence, any major case regarding polygamy will likely come from an FLDS (or other polygamous group) member who is not being prosecuted for bigamy, but rather suing for multiple marriages to be recognized by the state and to receive benefits equal to monogamous marriages.

Thus arises the question of how the courts will address such demands to government recognition of polygamous marriages. Although the rulings of past precedent should stand, it is certain that the majority of the justifications employed in Reynolds cannot be utilized again. The dozen decades that have elapsed between the original decision and today have radically altered jurisprudence. In fact, current courts have ruled precisely in this manner. The ruling in State v. Green, a Utah bigamy case in 2000, the District Court found that even though the ruling of Reynolds “may be antiquated in its wording and analysis,” it still stands as good law. The Court determined that that statute prohibiting bigamy was both “facially neutral” and “operationally neutral,” making it worth upholding.

In regard to the specific justifications used in Reynolds, arguments regarding the fact that polygamy has historically been practiced in only foreign cultures are not only politically incorrect, but also are no longer seen as valid support for disallowing polygamy. Furthermore, the belief-conduct principle has largely—although not completely—been replaced by more sophisticated accommodationist policies, such as the “compelling state interest” test. Some modern legal analysts even disagree with the assumption that polygamous practices are detrimental to society, which could discredit the Reynolds court’s reasoning, which was based on the assumption that polygamy was deleterious to American society.

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27 Nielsen and Cragun, 2010, p. 762
28 Gordon, 2002, p. 233
29 Bailey, 2010, p. 106
30 Davis, 2010, p. 1982
31 Kent, 2011, p. 161
33 Davis, 2010, p. 1960
34 Bailey, 2010, p. 105
35 Ibid.
36 The “compelling state interest” test was a legal principle applied in the case of Sherbert v. Verner, in which a Seventh-Day Adventist was denied unemployment compensation because she refused to work on Saturdays in accordance with her religious beliefs. The test requires that "any incidental burden on the free exercise of appellant's religion may be justified by a 'compelling state interest in the regulation of a subject within the State's constitutional power to regulate...'" (Wilson, 1987, p. 386)
37 Wilson, 1987, p. 386
38 Gordon, 2002, p. 256
Instead of embracing the outdated justifications found in the faulty Reynolds decision, the judiciary should develop a more sophisticated and grounded principle for adjudicating the assertion that the government should recognize polygamous marriages. The first principle employed in the decision could reasonably be the assertion that polygamy is no longer truly a free exercise issue. Because the government, for the most part, no longer prosecutes polygamists for bigamy alone, it is arguably not preventing polygamists from "marrying" however many spouses they deem necessary. Thus, polygamists are essentially free to practice Celestial Marriage as they wish without fear of prosecution. No sense of coercion exists in current government action regarding polygamy, except in cases where other issues are at stake, as well. The very limitation on polygamy is that one may not receive the full benefits afforded to legal monogamous marriage. However, the same is true of a variety of other individuals and groups who engage in a variety of sexual practices, such as cohabitation and homosexuals. Because marriage is a civil contract defined by the state, polygamists do not have a strong claim in forcing the government to officially recognize forms of patriarchal marriage.

Proponents of the recognition of polygamous marriages may assert that polygamists are compelled to choose between practicing their religion and receiving government benefits. This dilemma was addressed in the famous Sherbert v. Verner case of 1963. The justices in Sherbert ruled that a Seventh Day Adventist who refused to work on the Sabbath due to religious objections could not be denied unemployment benefits because to do so "forces her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work." However, a distinct difference exists between the circumstances of the Sherbert case and those presented by a polygamist challenge to the government’s refusal to officially recognize plural unions. While in Sherbert the appellant was originally denied access to all government benefits stemming from her refusal to work, polygamists are only denied expanded— not basic— access to government benefits related to marriage. Polygamists can have their first marriage legally recognized by the state and receive the full benefits of such recognition in the same manner that monogamous couples do. Thus, they are actually on an even level of benefits received from the government as their monogamous peers.

87 Wilson, 1987, p. 386

Seeking to receive additional benefits for additional spouses would create confusion and financial challenges for the government, as it would be forced to provide vast amounts of monetary and other benefits to an ever-expanding circle of individuals engaged in polygamous relationships. The government has a compelling state interest in sustaining traditional marital institutions in regard to tax status and other financial concerns. Furthermore,

"the legalization of polygamy would demand a complete reworking of existing marital-related legislation, causing insurmountable degrees of imbalance and unfairness to multiple spouses and possibly their children in relation to non-polygamous citizens. On issues involving such topics as pensions and inheritance, legal adjustments for polygamists likely would disadvantage polygamists themselves, as payments would get divided (and hence dissipated) among numerous recipients." Thus, it is clear that decriminalizing and subsequently offering legal recognition to polygamous relationships would create significant complications for the government.

Furthermore, as declared in Bowen v. Roy, the government has no obligation to alter valid policies in order to better accommodate individuals who may have religious objections to their enactment. In this case, the Supreme Court ruled that "the Free Exercise Clause simply cannot be understood to require the Government to conduct its own internal affairs in ways that comport with the religious beliefs of particular citizens." While "the Free Exercise Clause affords an individual protection from certain forms of governmental compulsion; it does not afford an individual a right to dictate the conduct of the Government’s internal procedures." Although Bowen addressed the issue of social security cards for minors whose parents adhere to Native American religious beliefs, the principle is pertinent to the case of polygamy. It is unreasonable to expect the government to fundamentally alter its policies regarding the legal recognition and benefits of marriage in order to further facilitate the practice of a religious tenet that— as previously argued— is not actually limited by a policy that is basically unenforced.

86 Kent, 2011, p. 127
87 Ibid.
88 Wilson, 1987, p. 330
89 Ibid.
In addition, the high court would likely employ an argument centered upon the detrimental effects of polygamy on society. However, unlike in the Reynolds opinion, the current justices would almost certainly substantiate their ruling in statistical scholarly fact. While in Reynolds the Supreme Court invoked paranoia and the possibility of a slippery slope toward human sacrifice, considerable research has been performed regarding the effect of plural marriages on society. Numerous experts in the field contend that “polygamous societies tend toward authoritarianism and arbitrary government” as well as child abuse, sexual abuse, fraud, and such crimes. Furthermore, polygamy “is problematic because of the foundational status of monogamous marriage to aspects of civil and family law, in addition to serious human rights abuses that appear in so many polygamous groups.” While certainly not uncontested, such factually-based findings from researchers could be effectively utilized by a court facing the issue of modern polygamy in order to refute the assertion that it should be legalized and recognized on an equal basis with traditional monogamous marriage. Preventing abuses such as those previously outlined is a legitimate compelling government interest and would strengthen the stand against legally recognizing polygamous marriages.

Essentially, the issue of polygamy is one firmly rooted in decades of history and centered upon the nineteenth-century conflict between the U.S. federal government and the Church of Jesus Christ of Latter-day Saints. Nevertheless, it is a modern legal issue that is made relevant by continued practice of The Principle by fundamentalist Mormon groups in America. However, although the central focus of concern in the modern era is no longer simple free exercise of religion, as it was in the 1800s. Instead, the primary issue surrounding polygamy in America today is the fact that polygamous relationships are not officially recognized by the government on the same level as monogamous marriages between a man and a woman. As a result, practitioners of Celestial Marriage could seek redress in the form of legal recognition and ensuing marriage benefits for all spouses. However, a modern court will almost certainly deny claims to the right of recognition for polygamous relationships. Upholding the ruling—if not all of the outdated justifications—of Reynolds, the judiciary could best support such a denial of benefits using past precedents such as Bowen v. Roy and an interpretation of Sherbert v. Verner. In addition, they would probably employ scholarly research to assert that polygamous practices are harmful to society. The ruling would thus not be framed as a true free exercise of religion case, as the lack of prosecution of offenders means that polygamists are largely free to enter into whatever forms of marriage they deem necessary, even if they cannot gain additional benefits from the government for each spouse.

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54 Kent, 2011, p. 173
55 Ibid.
56 Congress.
57 Kent, 2011, p. 172.
Bibliography


Cannon v. United States. Supreme Court of the United States. 14 Dec. 1885


THE RIGHT TO CONSCIENCE AND THE NECESSITY OF SELECTIVE CONSCIENTIOUS OBJECTION

America has been extolled as a beacon for religious liberty and a haven for even the most extreme thought for centuries. The American experiment in religious liberty proved to the world that it was possible and even beneficial for society to allow all religions and political viewpoints to coexist. Yet, even in the United States, our religious and moral duties occasionally clash with our civic duties. One of the most illustrative examples of this conflict between our temporal and eternal duties is when the government calls upon citizens to defend their nation by bearing arms during times of war. For men and women whose deeply held beliefs prevent them from participating in war, this is an impossible choice. In order to follow the dictates of their consciences, these men and women are forced to disobey their government and willingly accept severe consequences. To alleviate this conflict, the American government gradually developed conscientious objector (CO) laws to exempt those who are opposed to war for religious, moral, or ethical reasons. However, current CO laws do not allow people with objections to specific wars, or selective conscientious objectors (SCOs), to receive the same exemptions as absolutist conscientious objectors who are opposed to all wars, even though they have similarly legitimate conscience claims. In order to protect the fundamental right to conscience, conscientious objector exemptions from war must include all people with deeply held beliefs preventing them from serving in war, including selective conscientious objectors.

The right to conscience is the most fundamental human right. Humanity’s ability to contemplate the meaning of life, to explore abstract ideas about the afterlife, and to distinguish good from evil and then to live according to those convictions is what makes humanity different from any other species. Once people discover truths about these aspects of the human experience, they are obligated by their consciences to live accordingly. As Kevin Hasson writes in his book The Right to be Wrong, “Conscience demands not only that we seek but embrace the truth we believe we’ve found. It insists that, at whatever cost, our convictions follow through into action.” These “truths” that people seek often take the form of religion, and bring with them duties owed to a higher power. Once people discover the truths and accompanying duties owed to their God, the fulfillment of these obligations becomes more important than any other responsibilities. As James Madison rightly said in his Memorial and Remonstrance, “This duty is precedent both in order of time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe.” Because religious and other conscience-driven actions have eternal consequences, they supersede mere worldly obligations. The ability to act freely according to one’s conscience is therefore the single most important human right, as it allows humanity to pursue eternal salvation and outweighs legitimate obligations to society and government, and even outweighs life itself. For this reason, the right to conscience and to religious liberty is fundamentally human and inalienable.

The Founders understood the importance of conscience when they drafted the Bill of Rights and embarked upon a daring experiment by creating the first nation with no established religion. The First Amendment boldly declares that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” The right to religious liberty and to conscience is enshrined in the First Amendment and not only prevents a national establishment of religion, but protects the ability of all people to exercise religion as they see fit. Under the First Amendment as later applied to the states,

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1 Hasson, 2005, p. 122.
2 Madison, 1785
3 U.S. Constitution, First Amendment
the government cannot favor one religion over another, or non-religion over religion. This principle of neutrality with respect to religion is fundamentally important to any discussion of religious freedom, but specifically strengthens the argument for selective conscientious objection by preventing the government from favoring religious beliefs against all wars over religious beliefs that only some wars are unacceptable.

However, the right to act freely according to one’s conscience is not absolute. There are times when the government can legitimately infringe upon these rights. For example, in Supreme Court case Reynolds v. United States in 1878, the Court ruled that polygamous marriage was not protected under the free exercise clause. Justice Waite, writing for the majority, argued that “polygamy has always been odious” among civilized nations and that to allow any religious practice whatsoever would “in effect be to permit every citizen to become a law unto himself.” Therefore, because courts recognized marriage as a civil contract rather than a religious one, the state could regulate it. More recent examples of limits on the First Amendment’s protection of religious liberty include Employment Division of Oregon v. Smith, in which the Court upheld generally applicable laws prohibiting the sacramental use of peyote because the government had a legitimate interest in prohibiting the use of a hallucinogenic drug. While the sacramental use of peyote was an act that members of the Native American Church felt obligated to perform and had performed throughout its history, the government’s interest in prohibiting a dangerous substance outweighed their conscience claim. So while the right to practice one’s religion as required by one’s conscience is constitutionally protected, the Court has ruled repeatedly that the government can interfere with those rights when there is a particularly weighty, compelling reason to do so and the law is applied equally to all people and not targeted at religion.

Because the government can limit actions such as polygamy and the careful sacramental use of peyote, it is not a stretch to claim that the imminent and direct threat of an invading army is also a legitimate reason to require action from an individual. When the very existence of the state is in peril, it is reasonable for the government to create a draft to enlist men to defend the nation. For this reason, the draft was seen by many as a sufficient reason to infringe upon one’s right to religious liberty. This mutually exclusive, dual obligation sets up the tension between civil and religious rights. Certain groups see both as exceptionally important moral imperatives, but some people cannot conscientiously serve in violent engagements of any kind. Early in our history, colonial legislatures granted conscientious objector exemptions to COs to prevent such citizens from having to choose between their temporal and eternal duties. Local legislatures in the colonies, and later in the state governments, the Congress and the Supreme Court, gradually expanded the privilege of conscientious objection from only those in traditional peace sects to even people with no religious beliefs. Even with these advances, however, the Court has not done enough to protect religious liberty and the right to conscience for conscientious objectors.

America’s earliest conscientious objectors were Quaker pacifists. They objected to war in all forms, stating that “the Spirit of God … will never move us to fight and war … with outward weapons, neither for the Kingdom of Christ nor the Kingdoms of this world.” They refused to fight under any circumstances. Many people regarded the Quakers as cowards; however, their endurance of severe punishments demonstrated their extreme tenacity. Members of the absolutist peace sects often dealt with heavy fines, especially as events led the colonists towards the French and Indian and Revolutionary Wars. Because the Quakers believed that “a person should not have to pay for doing what he or she considered to be right,” they also declined to pay the militia fee that the government charged to draftees who refused to appear when required by law. In Virginia, men who neglected to attend militia exercises were fined a hundred pounds of tobacco for each offense. Further, the Quakers refused to pay for another person to take their place in the military, as allowing another person to fight in their place still contributed to violence and defied their belief that violence was unacceptable. In many colonies Quakers would have their entire property taken from them for refusal to pay for a replacement. Seven Quakers were literally carried to the frontier but were sent home when they still refused to fight. Others were whipped for not complying. Despite losing their property, being whipped and facing imprisonment, the Quakers would not yield. They held steadfastly, yet quietly, to their consciences and carried out their duty to God rather than caving

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6 Moskos & Chambers II, 1993, p. 6
7 Brock, 2002, p. 4
8 Brock, 2002, p. 4
9 Schlissel, 1968, p. 29
to governmental and societal pressures to fight. Other peace sects, including the Mennonites and the Brethren, also resisted serving in the military during the colonial and revolutionary periods, but were less obstinate in their opposition than the Quakers.\textsuperscript{10}

The Quakers' peaceful persistence in their position against all war led to the development of the conscientious objection exemption from serving in the military. One of the earliest exemptions provided to pacifists emerged in the Colony of Rhode Island in 1673. Roger Williams founded Rhode Island on religious liberty, and the colonial legislature therefore consisted of Quakers and others committed to freedom of religion. The Act of 1673 declared that no person could be made to "train, fight, or kill against their consciences.\textsuperscript{11} This liberal act, though later withdrawn during the Revolutionary War, was an early expression of respect for conscience by a colonial legislature. Other early colonies that provided exemptions included Massachusetts, which passed exemptions from military service in 1661, and Pennsylvania, which followed suit in 1757.\textsuperscript{12} The Quakers' stubborn and peaceable refusal to participate in militias gradually won them recognition in colonial legislatures.

Inspired by a liberal view of the "rights of conscience," James Madison proposed that the Second Amendment include an exemption for conscientious objectors during the Congressional debates on the Bill of Rights. His original proposal read:

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.\textsuperscript{13}

Although the clause was ultimately struck down, Madison's proposed amendments demonstrated the importance of providing an exemption for people whose consciences would not permit them to participate in war. If Madison had succeeded in passing this amendment, conscientious objection would have been considered a right equal to religious liberty, rather than the privilege that it instead became. This action would have prevented many of the struggles that COs have faced and continue to face in the twenty-first century by constitutionally guaranteeing that COs would not be asked to act in discord with their consciences.

As new states entered the Union, peace sects slowly gained recognition and were granted CO exemptions from fighting in war. The state constitutions of Illinois (1818), Alabama (1819), Iowa (1846), Kentucky (1850), Indiana (1851), Kansas Territory (1855), and Texas (1859) all granted CO exemptions but still required either the payment of fines or the hiring of substitutes to fill their place in the military.\textsuperscript{14} Although the majority showed an increasing respect for pacifists' refusal to serve in the military, they still felt that pacifists owed civil society some form of payment, since even those citizens who would not serve in the military benefitted from the protection it provided. Non-COs were expected to face great danger in the name of their state and country. It was only fair, then, that all men should contribute equally to the general defense when called upon. Since Quakers would not fight, they could repay this debt owed to society through fines or paying another man to serve in their place. While these alternative forms of payment to society did little to allay the consciences of pacifists, this growing respect for conscience was a step in the right direction.

The Civil War brought the draft to the states, both in the North and in the South, for the first time in American history. The Conscription Law, as passed in the North, declared that all able-bodied men ages 20-45 years were members of the national armed forces, and that they would be required to perform military duties "when called out by the President."\textsuperscript{15} This law sparked riots across the North. The only exemption the government allowed was a $300 fine, which led the poor and middle classes to refer to the draft as the "Rich Man's Act."\textsuperscript{16} A year later, in 1864, Congress finally provided an exemption for COs, who were permitted to perform alternate service in hospitals or by "caring for freedmen" rather than fighting.\textsuperscript{17} Some pacifists performed the alternate service, but the absolutists who believed that cooperating with the government in any way betrayed their duties to God were not appeased. They often received jail sentences for refusing to contribute to the war effort. In the North, however, government leadership, including President Lincoln, was openly sympathetic to the moral struggles of COs. As such, in the North, the enforcement of fines and

\textsuperscript{10} Schlissel, 1968, p. 18
\textsuperscript{11} Ibid., p. 10.
\textsuperscript{12} Schlissel, 1968, p. 12
\textsuperscript{13} Ibid.. p. 45.
\textsuperscript{14} Schlissel, 1968, p. 57
\textsuperscript{15} Ibid., p. 88
\textsuperscript{16} Ibid.
\textsuperscript{17} Ibid., p. 89
The Right to Conscience and the Necessity of Selective Conscientious Objection

punishments against COs was relatively lenient and often fell short of the potential punishments outlined in the legal code.

In the South, the situation for COs was much more difficult. All peace sects were anti-slavery, which enraged Southerners who insisted that the pacifists' loyalties were with the North. To Southerners, COs were not only cowards but also traitors. The first conscription law in the South had a long list of exemptions for specific professions, such as lawyers, teachers, mail carriers, and salt makers, but had no exemption for religious scruples. Moreover, those who were exempt because of their professions were not required to pay any fines. The second law dealing with the confederate draft, passed in the same year as the first, allowed exemptions for Friends, Nazarenes, Mennonites, and Dunkards, but they were required to pay a tax of $500 or provide a substitute. The sentiment against COs led to heavy fines and a dangerous environment. State laws in the South regarding conscription were even more onerous. As the Civil War ratcheted up and the South grew more desperate, they even ended the few exemptions they had provided. Pacifists in both the North and the South persevered, though, convinced that their right to conscience and their duty to God outweighed their "responsibilities" to the state.

After the Civil War and until the eve of the First World War, arguments for peace spread across the nation. The arguments made for pacifism were no longer only religious but took on a secular logic as well, forever changing the purely religious nature of conscientious objection claims. However, both the religious and the secular COs were still opposed to all wars, and therefore advanced only the universalistic, absolutist form of conscientious objection. CO supporters did not advance the idea of being able to object to specific, unjust wars.

During World War I, the draft made no exceptions for substitutions or for the payment of commutation fees; all men were expected to physically contribute to the war. Although some COs were given religious exemptions from fighting, the Selective Service Act of 1917 stipulated "no persons so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant." Under the law, COs were expected to serve under the President and the Secretary of War when called upon and thus contribute time and effort to the war effort in a non-violent way.

For many objectors alternative service was morally acceptable, but some peace churches still refused to comply because they felt they could not serve under military commanders even in a noncombatant role. With growing fervor for war spreading among the populace, COs began to find themselves in a virulent environment. Pacifists were widely regarded as aliens and foreigners and were referred to as "yellowbacks," "slackers," "atheists," "pro-Germans," and other derogatory terms. Enlisted men took it upon themselves to carry out deadly "slacker-raids," seeking out those who refused to enlist and creating a dangerous situation for COs who claimed they could not fight for conscience reasons. Despite the progress COs had made at the turn of the century, by the outbreak of WWI, the progress was reversed as the fervor for war and the public's dislike for "slackers" left COs in a dangerous situation.

By the time WWI ended, the group of people claiming CO status was much more diverse, ranging from such congregations as Seventh Day Adventists and Jehovah's Witnesses to groups who opposed the war on political and ethical grounds, such as atheists, secular humanists, and radicals. The government had not developed a policy to deal with non-religious objections to war, so when faced with questions about how to deal with non-religious claims the military issued a directive requiring all COs be treated equally until they could decide how to resolve the issue. Most decisions were placed at the discretion of the Board of Inquiry, which traveled around and made decisions regarding which men were to be granted the exemption status and which men were not. Due to the wide discretion given to Board authorities, the treatment of COs by the government during the First World War varied drastically from camp to camp. Public sentiment disfavoring COs, however, still led to harsh punitive treatment when they were not in public view.

Following the World War I, the hostile public sentiment against CO claims led up to the first major Supreme Court cases dealing with CO. In the 1929 case United States v. Schwimmer, the American Civil Liberties Union took on the case of a woman seeking naturalization who was denied citizenship because she was unwilling to swear to bear arms in defense of the U.S. Ignoring the fact that Schwimmer was a fifty-year-old female and therefore could never be called upon to be serve, Justice Sutherland argued in his majority opinion that

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18 Schlissel, 1968, p. 90
19 Moskos, 1993, p. 5
20 Schlissel, 1968, p. 129
21 Schlissel, 1968, p. 129
22 Ibid.
naturalization was merely a privilege that Congress could deny for any reason they saw fit. He reasoned that pacifists were unable to give complete loyalty to the U.S. and, as such, that they could be denied citizenship if Congress thought they would be unwilling to serve the country. Sutherland took his argument even further by writing that conscientious objector status was not even a constitutionally guaranteed right for citizens but rather a mere gift of legislative grace that Congress conferred upon COs and could revoke at any time.  This new understanding of conscience exemptions had grave implications for COs, making the status revocable by a majority in Congress and weakening existing arguments based on the First Amendment's religion clauses.

Sutherland's argument for conscientious objection as a privilege rather than a right subverts the rights of conscience and free exercise of religion to civic duties, directly contradicting the Madisonian understanding of the relationship between temporal and eternal obligations. Justices Holmes and Brandeis dissented from the Schwimmer majority, explaining that while pacifist or other ostracized views might excite popular prejudice, the Constitution's most important principle was "the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate." Holmes extolled the right to conscience and articulated the principle that free thought must not be subverted to worldly causes. It is this principle precisely that can best protect the right of conscience from the whims of the majority and the demands of the state. Although the freedom to practice religion as one sees fit is not absolute, there must be a substantial reason before the state can undermine that freedom. This dissent planted the seeds for a more robust protection of conscience that would develop in the following decades.

Two years later in 1931, the ACLU brought US v. Macintosh to the Supreme Court, which was the first case involving a selective conscientious objector. Macintosh was a Canadian Baptist minister who sought naturalization but would only agree to defend the nation in certain instances. He explained that if he believed the war was morally justified, he would fight for the country, but he could not in good conscience swear to defend the nation in all cases. A close 5-4 majority, ruling that Schwimmer controlled their decision, denied his

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23 United States v. Schwimmer, 1929, p. 644
24 Ibid., p. 654-655 (dissenting opinion)
25 United States v. Macintosh, 1931, p. 605
26 Rohr, 1971, p. 6

claim, noting that Macintosh was "unwilling to leave the question of his future military service to the wisdom of Congress where it belongs." The majority's statement thus ignored the legitimate conscience claims of COs and SCOS and subverted those claims once again to Congress. Chief Justice Hughes, dissenting, argued that though Congress might have the authority to deny COs citizenship, they had not specifically enumerated the requirement that they be willing to fight under all circumstances and thus could not deny Macintosh citizenship on the basis of his SCO status. Further, Hughes explained, enacting such a choice constituted a religious test that favored those whose consciences allowed them to fight, which was an affront to the establishment clause and to religious liberty. The dissent reaffirmed the importance of conscience and reiterated that it outweighed mere temporal obligations. Although the dissent advanced the ideals of CO, even Hughes' dissent did not distinguish between COs and SCOS; he left the question for a later decision. A different outcome in this divisive case might have allowed SCO to be granted status equal to that of CO.

Between 1931 and 1944, the Supreme Court heard several cases in which they applied Schwimmer and Macintosh to various privileges and requirements. In Hamilton v. Regents of the University of California, the Court upheld a state law requiring male students to take classes in military science, and in In Re Summers, it allowed the Illinois Bar to deny admission to a CO because his beliefs made him "morally unfit" to practice law. Because conscientious objection was construed as a privilege and not a right, COs were not protected against various infringements on their religious liberty.

In 1946, the Supreme Court finally shifted course in its CO jurisprudence. In Girouard v. US, the Court expressly overturned Schwimmer and Macintosh, stating that the precedents did "not state the correct rule of law." In Girouard, the Court granted citizenship to a Canadian Seventh Day Adventist who was willing to serve in the military in a noncombatant role but was morally unable to bear arms. In this case, the Court argued that refusal to bear arms was not necessarily a sign of disloyalty but rather that noncombatants still contributed to the war. Justice Douglas explained that because the war effort was so immense and required so many different skills, service
in a non-combative capacity was no less patriotic than serving in a
combatant capacity. In the same way that a person with a physical
handicap could contribute to the war effort without fighting, COs could
contribute through alternative service activities. 32 Although the Court's
intentions were right in restoring the principle that religious liberty and
the right of conscience are fundamentally important, the idea that war
was indivisible and that COs could not escape contributing did little
to assuage the consciences of those who were adamantly opposed to
promoting violence and warfare. In providing noncombatant service
exemptions to alternativist COs (who accepted alternate service instead of
fighting), the Court took a step in the right direction but still failed to
accommodate absolutist COs who remained dissatisfied. 33

Girouard v. U.S. remained the standard through the beginning
of the controversial Vietnam War when men were drafted for military
service. A large segment of the American public was adamantly
opposed to the war, and calls for civil disobedience encouraged men
to burn their draft cards or refuse to comply with the draft. Due to the
controversial nature of the war and the mobilization of public opinion
against the war, the types of CO claims being made during the Vietnam
War shifted from primarily religious claims to more secular claims
from those who believed the war was unjust for various non-religious
reasons. 34 During the war 22,500 men were indicted for draft law
violations, and for the first time in history, 72 percent of those men that
refused to appear for duty were either non-religious or were from a
non-Pacifist church. Those who sought religious CO exemptions were
no longer predominantly from historic peace sects, but rather included
mainline religious groups such as Catholics, Protestants, and Jews.
Until 1965, however, only objections made on religious grounds were
granted.

The increase in secularization of conscience led to two important
CO cases, US v. Seeger (1965) and Welsh v. US (1970). In the first
case, the Court greatly expanded CO to include even beliefs that were
not religious. Daniel Seeger sought CO status based upon a "religious
belief" but stated that he preferred to leave the questions as to his
belief in a Supreme Being open. Under the law at the time, in order
to secure CO status, one had to profess a belief in a Supreme Being.
Seeger argued that his "skepticism or disbelief in the existence of God"
did not "necessarily mean lack of faith in anything whatsoever." 35 In a
unanimous decision, the Court held that CO status could be granted to
non-religious objectors when a belief was "sincere and meaningful ... occupying in the life of its possessor a place parallel to that filled by
God." 36 The Seeger case greatly expanded the scope of conscientious
objection protections to include all those whose objections were
sincere, honest, and parallel to religion, even if they were technically
secular. They did not need to be logical or comprehensible to be
protected. However, this non-religious objector status would not
apply to people who opposed war for a "personal moral code, or those
who decide that war is wrong on the basis of essentially political,
sociological, or economic considerations, rather than religious belief." 37
While people could refuse to fight for incoherent but sincere non-
religious beliefs, they could not refuse to fight for rational reasons
based on economics or politics. This raised conscience claims above
other more worldly considerations. The Seeger decision advanced
conscientious objector jurisprudence by allowing the government to
make the imperative leap from protecting only religion to protecting
all those whose consciences dictate that they cannot fight in wars.
Still, in order to fully protect the right to conscience, conscientious
objection must encompass all deeply held beliefs regardless of their
nature. Artificially labeling some as "religious and parallel to religion," and
others as "moral" or "political," though an improvement upon the
previous precedents, still did not go far enough. The CO protections in
Seeger excluded "moral" considerations, although it seems impossible
to separate religious beliefs from strictly moral ones when they so often
bleed together.

The Court pushed even further in Welsh v. United States (1970),
when they ruled that "ethical and moral beliefs" were just as valid in
determining CO status as religious convictions, despite the fact that
the 1967 Draft Act expressly forbade granting CO status based on a
personal moral code. 38 Although the Court still required that a person
be opposed to all war rather than opposed to only specific wars in order
to be granted an exemption, they redefined CO to protect even purely
secular beliefs. Finally, in Welsh, the Court protected all people whose
consciences were opposed to war for both secular and religious reasons.
The Welsh decision was an essential step for religious liberty, and by

32 Girouard v. United States, 1946, p. 61, 69
33 Moskos, 1993, p. 5
34 Ibid., p. 41
35 United States v. Seeger, 1965, p. 163, 166
36 Ibid., p. 163
37 Ibid., p. 163, 165
38 Welsh v. United States, 1970, p. 333
39 Moskos, 1993, p. 42
extension, for free thought. For a time, it appeared that the COs had won and would no longer have to make the choice between their duties to God and to their country.

A year after the momentous Welsh decision, the Supreme Court dodged the question of selective conscientious objection in Gillette v. United States (1971). Gillette refused to participate in the Vietnam War based on his “humanist approach to religion” but said that he would serve in other, just wars. He argued that the Fifth Commandment, “Thou shalt not kill,” provided the understanding that one could distinguish between wars that were just and unjust. In an 8-1 decision, the Court ruled that Congress’s act limiting objector status to only those who are opposed to all wars was constitutional and therefore that Gillette could not claim CO status. By reaffirming that CO is a privilege and is therefore not guaranteed by the First Amendment, the court narrowly reasoned that Congress’s language did not allow SCOS to be exempt from serving. In a companion case to Gillette, a Catholic man applied to be discharged from the armed forces based on just war theory after the Pope made statements at Vatican II declaring just war doctrine to be the official stance of the Church. The Pope’s endorsement of just war doctrine made the Catholic man’s beliefs religious in nature. Religious beliefs had been protected from the beginning of CO laws, making the case strong for the objector. Nevertheless, the Court narrowly held that only absolutist COs were exempt under the current law and denied the Catholic’s claim. Justice Marshall, writing for the majority, noted that although they were not requiring the exemption, they were not suggesting that “Congress would have acted irrationally or unreasonably had it decided to exempt those who object to particular wars.” Thus, in both cases the court ruled narrowly, stating that although providing SCO exemptions to specific wars would be wise, it was not constitutionally required and was up to Congress’ discretion.

In declining to require Congress to provide selective conscientious objector exemptions, the Supreme Court failed to correctly apply the First Amendment’s protections for conscience. The principle that the Establishment Clause prevents government from choosing to support some religious beliefs over others, or support religious beliefs over non-religious beliefs when both are deeply held and related to morals and ethics, is essential to the vitality of the First Amendment. It follows from this principle of government neutrality with respect to religion that the government must provide exemptions for not only absolutist conscientious objection but to legitimate selective conscientious objection as well. The distinction between pacifist beliefs and beliefs against certain wars is unconstitutional under the First Amendment. SCOs make conscience claims, religious and non-religious, that are as legitimate as COs, yet they are denied similar treatment because the Court ruled narrowly on the “privilege” of CO in Gillette when in fact CO stems from religious liberty and thus should be considered a constitutionally protected right under the First Amendment. The right to conscience was advanced slowly based on religious liberty, then slowly expanded to include non-religious reasons. Although conscientious objection might be construed as a “privilege,” religious freedom and the right to conscience are fundamental and constitutionally guaranteed rights. As Justice Jackson wrote in West Virginia State Board of Education v. Barnette:

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”

Jackson explains that the most important right humanity has is the right to believe anything at all. To allow government officials to decide which religious beliefs are protected under the Constitution would be to unconstitutionally establish a government religion by favoring one set of beliefs over another and treating those with disfavored beliefs unequally. By refusing to grant SCO status, the U.S. government is doing just that: it is favoring pacifist beliefs and a belief in absolute non-violence over religions that follow just war doctrine, and therefore establishing a preferred set of beliefs. Though enumerated again and again in the CO cases, the principle of treating all legitimate conscience claims with equal respect has yet to be fully applied in a way that can protect the right to religious liberty and the corresponding right to follow the dictates of one’s conscience.

Under this fundamental principle, the government cannot rationally allow someone with absolutist objections to war to receive exemptions and then require another person with selective objections to violate their obligations to God or to their consciences. As Rohr explains, “Just as Quakers must object to all wars, Catholics must

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* Gillette v. United States, 1971, p. 437
* Ibid., p. 437, 450
* West Virginia Board of Education v. Barnette, 1943, p. 624, 642
object to all unjust wars” under the just war doctrine of the Catholic Church. Similarly, a Muslim living in America might object to the ongoing conflicts in the Middle East as “unjust.” The Qur’an specifically prohibits Muslims from killing other Muslims intentionally and condemns those who do so to Hell, so the conscience claim a Muslim might have is weightier than worldly considerations. Although Muslims are not absolutely opposed to all wars, to ask them to subject themselves to eternal damnation in the Middle East in the name of the U.S. is an unthinkable choice. To ask the Muslim or the Catholic, but not the Quaker, to violate their conscience is unfairly favoring pacifist religions and constitutes an unconstitutional establishment of religion.

Not only is the refusal to grant SCO exemptions unconstitutional, it is also unwise policy. People who are not emotionally and morally committed to a war make poor soldiers. To expect someone who is being coerced into violating their conscience to kill in the name of the very country that is violating their religious freedom is irrational. Further, the military itself teaches just war theory yet continues to punish those who employ those theories by refusing to provide SCO exemptions. This hypocritical view is discouraging to those soldiers with objections to particular wars and can often result in “moral injury,” lasting psychological damage that occurs when soldiers are subjected to wars they consider unjust and that transgress their deeply held moral beliefs. According to the 2010 Truth Commission on Conscience in War report, the consequences for not allowing SCO are very real. An alarming number of veterans of ongoing conflicts have committed suicide because they were forced to fight wars they believed were morally repugnant. Others have refused deployment, been dishonorably discharged, and faced severe sanctions for exercising beliefs instilled in them through military service.

Many opponents to SCO base their arguments on policy concerns, claiming that if we started granting SCO status and we ever needed to reinstate the draft, then cowards and lazy men would take advantage of the opportunity and would refuse to fight for the nation. That problem, however, is already present under our current system, “for if an individual is willing to lie about their beliefs to get out of a certain war, they will certainly do it to get out of all wars.” Certainly, providing for SCO in addition to absolutist CO would not enhance the problem drastically. Even if the number of CO claims did increase under a system that allowed for SCO, that increase in claims would not justify subverting fundamental First Amendment rights to mere policy concerns.

Some people contend that conscientious objection is not a constitutionally protected right and therefore that Congress can limit it as it sees fit. Even if one concedes that conscientious objection is only a privilege, religious liberty is not. The Court has recognized that when the state offers a privilege, it cannot be conditional upon certain religious beliefs. In Supreme Court case Sherbert v. Verner (1963), a Seventh Day Adventist claimed that her right to free exercise was infringed upon when the state denied her unemployment compensation because she refused to work on her Sabbath, which was Saturday. Although unemployment compensation is not a constitutionally protected right, the Court ruled:

“It is too late in the day to doubt that the liberties of religion and expression may be infringed by the denial of or placing of conditions upon a benefit or privilege. ... To condition the availability of benefits upon this appellant’s willingness to violate a cardinal principle of her religious faith effectively penalizes the free exercise of her constitutional liberties.”

The Court’s decision in Sherbert held that benefits and privileges cannot be conditioned upon certain religious or moral beliefs. Likewise, the “privilege” of conscientious objection exemptions cannot be conditioned upon the religious belief that all wars are immoral rather than the belief that only some wars are immoral. In order to protect religious freedom under the First Amendment, the court must apply the same Sherbert principles to selective conscientious objection cases that it has applied to other similar cases for decades.

Moving forward, Congress and the Supreme Court must grant CO status to all people with deeply held, moral, ethical, or religious scruples against military service. By simply determining whether views are deeply held and allowing the person to follow their consciences and their beliefs, we can protect religious liberty and the freedom of conscience more generally. When conscience is the sole qualifying factor when considering an exemption, distinctions between absolutist

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44 Rohr, 1971, p. 104
45 See Qur’an 4:93
46 Truth Commission on Conscience in War, 2010, p. 5
47 Sherbert v. Verner, 1963, p. 398, 404
and selective COs, between orthodox and unorthodox beliefs, and between seemingly logical and seemingly illogical beliefs fall away. Men and women will no longer need to conform to a specific view in order to be protected. Especially when the rights at issue are rooted in human nature itself, the government must subvert mere temporal concerns to the consciences of men and women.

True commitment to religious freedom, the right to conscience, and the rejection of established religion requires a robust protection for religious liberties, especially when those rights are weighed against civic responsibilities. If the government stops forcing citizens to choose between their moral and religious obligations and their civic duties, America can move forward as a nation that can provide an example of religious liberty and successful democracy to the rest of the world. However, granting SCO exemptions to war does not end the debate on conscientious objection. Controversies remain for objectors in healthcare and in other fields, where men and women are forced to choose between their livelihoods and their obligations to their consciences. As the nation considers these dilemmas in coming years, it must never forget to look back to the fundamental rights enshrined in the Constitution for guidance. The right to know truths about conscience, God, goodness, and the human experience requires that all Americans continue to fight for religious liberty even as new challenges arise in the coming years.

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JACINTHA BACHMAN

WOMEN'S MOVEMENTS IN LIBERIA: A MODEL FOR CROSS-RELIGIOUS CONFLICT RESOLUTION

Many scholars, including the authors of the book God's Century, claim that in this century religious actors across the globe are experiencing a, "greater capacity for political influence today than at any time in modern history."1 This massive shift in power toward religious actors and authorities has resulted in religion taking on a significant role in conflicts, movements, and politics worldwide.2 Religion, however, is not only playing a role in creating conflicts that some, like Samuel Huntington, claim will lead to a planet-wide war between civilizations,3 but religious actors are also playing a huge role in resolving these conflicts and promoting democracy. The resurgence of religion has allowed religious actors to act more boldly than ever before and mobilize more people at more levels than ever before.4 There are countless examples of religious peacemaking and conflict resolution in recent history. From the civil war in Northern Ireland, in which Catholic and Protestant Churches working together in the region were able to bring militias on both sides to the peace table to negotiate a ceasefire that ended three decades of violence5 to the fall of the Berlin

1 Duffy, Philpott, and Shah, 2011, p. 49
2 Ibid.
3 Huntington, 2003
4 Duffy, 2011
5 Philpott, 2006
Wall, which was facilitated largely by Christian religious groups that negotiated between the two governments and created a council to act as an interim government until a peaceful reincorporation was completed. These two examples, however, show instances in which both sides of the conflict were of the same religion (or at least for Northern Ireland, both Christian).

The majority of scholarly work on the subject of religious conflict resolution seems to focus on intra-religious cases. Looking solely at intra-religious cases is problematic because it only shows half the picture. In fact, a large number of conflicts today are cross-religious, such as in Nigeria, where Quaker groups were able to act as negotiators and moderators between the Muslim government and the Christian separatists. In this case, however, the negotiation was carried out entirely by an outside party, which may not always be available or functional in all cross-religious conflicts. The key to resolving these conflicts might lie in an understudied example of religious conflict resolution that came from within the two warring parties themselves, the example of Liberia, in which the religious actors were women, both Christian and Muslim, united to end the war. This understudied movement provides a model that could be used to better understand the religious capital women’s groups have in cross-religious conflict resolution.

In order to expand on what essential lessons can be taken from these women’s groups one must walk through the history of the conflict, both the First and Second Liberian Civil Wars and how religious activist groups, particularly women’s religious activist groups formed and operated. The First Liberian Civil War began in 1989 when Charles Taylor’s rebel army came into Liberia challenging the then president, Samuel Doe. In 1990 Doe was killed by the leader of a separate rebel faction, and following his death the war continued in a struggle between warlords for control over the nation. During Doe’s rule many church leaders were reluctant to play a leading role in activism due to the violent response to dissenters elicited by the president. After Doe’s death, however, many human rights groups formed, especially from churches. The Roman Catholic Church formed the Justice and Peace Commission (JPC) in 1990, which documented and reported abuses that were then aired on the church’s radio outlets and forwarded to international human rights organizations. In June of 1990, during the First Liberian Civil War, many Christian and Muslim leaders came together in an informal group, which later became the Inter-Religious Council of Liberia, to issue a statement for peace and call for intervention from other West African nations. Also in 1990, Bishop Arthur F. Kula of the United Methodist Church of Liberia and Catholic Archbishop Michael Kpakala Francis created the Liberian Council of Churches, an organization that, in 1991, organized a mass march to the American Embassy asking for United States intervention in the war. Archbishop Francis had been a major critic of Doe and later Charles Taylor and therefore became a leading voice of dissent that inspired many other activists and groups including many of the women’s organizations.

In 1994, Mary Brownell and other Catholic women founded the first women’s activist group in Liberia, the Liberian Women’s Initiative (LWI), in Monrovia, the capital of Liberia. By their second meeting, the LWI had attracted around one thousand people, including some men. At this meeting the LWI issued a statement calling for an end to the war. Later that year, Brownell and other women raised money to fly to peace talks throughout the region. Although they were never allowed official seats at the peace table, the women’s knack for gaining media attention persuaded delegates to permit them as observers at the 1994 Accra talks in Ghana and other subsequent meetings. At these talks LWI members lobbied rebel delegates of their tribes in the hallways during breaks.

With the formal peace negotiations getting nowhere, in July of 1995 Liberian women’s groups, including the LWI, formulated their own strategy for bringing the rival warlords together. The women held a one-day training session designed to encourage leaders to cooperate with each other on a peace agreement through various exercises. When the men arrived to the session they were all dressed very formally, and when asked why, one of the men responded, “[W]hen your ‘mother’ calls, you have to be at your best.” This illustrates the high esteem in

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4 Johnson and Sampson, 1994
5 It should be noted that I had a difficult time finding scholarly research on the subject of cross-religious movements in Liberia. In fact, there was very little written about peace building in Liberia at all. One book, titled Religion and Development, which highlighted religious conflict resolution around the world and specifically in Africa, mentioned Liberia only briefly as an example of a “failed state”. Even books and articles discussing Liberia failed to give attention to WIPNET and other women’s movements, mentioning them as only a side note, a minute detail to the rest of the story. One book, War to Peace Transition: Conflict Intervention and Peace building in Liberia, discussed women’s movements only briefly in one small chapter devoted to gender relations and a short blurb in a section about NGOs in Liberia.

6 Press, 2010, p. 23
7 Press, 2009, p. 3-22
8 Press, 2010
9 Ibid.
10 Ibid., p. 27.
which all who are mothers or elder women are held in West African tradition. The women’s movements utilized these traditional beliefs to gain respect and legitimacy from the warlords and government officials. At the beginning of the training, both Christian and Muslim prayers were offered to show neutrality and tolerance in order to bring both sides together. What was intended to be a single day session turned into four due to the rebel leader’s enthusiasm. By the end, many participants talked about how useful the training was and expressed wishes that the exercises be included in formal peace negotiations.13

In 1997, a few years after the peace talks, the people elected former rebel leader Charles Taylor president of Liberia. His regime operated without accountability, consistently rewarded loyalists with positions they did not deserve, and violently intimidated and punished dissidents. These actions served only to deepen divisions between groups in society, making cross-religious and cross-ethnic violence inevitable.14 Former President Samuel Doe had headed a violent and oppressive regime; however, Taylor’s was even worse. Human rights and other political abuses intensified under Taylor’s command.15 In late 1999, Taylor and his army came under attack from other, predominantly Muslim, rebel warlord groups, thus marking the beginning of the Second Liberian Civil War.

This conflict heightened tensions between Christians and Muslims as well as other ethnic groups around the country.16 Warlords coerced young boys, usually around ages 9 to 15 years old, into becoming child soldiers, often by intoxicating them with drugs. These young soldiers were given weapons and instructions to go into towns and take whatever they wanted. These units terrorized civilians, killed thousands, destroyed homes, and raped the women and girls. They even invaded refugee camps, where the survivors of these attacks sought shelter. The Liberian army forces were no different from these warlords: they would enter settlements and refugee camps claiming to be there to protect the people but instead continuing on a similar path of destruction, death, and mass rape.17 The civil war displaced massive numbers of Liberians. Over 850,000 people fled to bordering nations, such as Ghana, and about one million became internal refugees, leaving their homes to seek refuge in Monrovia.

13 Press, 2009
14 Press, 2010
15 Press, 2010
16 Frykholm, 2011, p. 32
17 Pray the Devil Back to Hell, 2008, (DVD)

war reached Monrovia, Taylor’s last stronghold, most activist groups, including church groups, broke down to find safety. This is what set the women’s groups apart. Instead of ceasing action as other groups did, the women’s networks and peace groups stepped up their number of protests and rallies.18 In 2001, thousands of women marched to Monrovia’s UN office begging for international intervention.19 Since these women’s groups were the only peace groups still functioning in Liberia, they needed to take their activism further. That would require a kind of solidarity between Christians and Muslims that no one had yet been able to accomplish.

Leymah Gbowee was the woman who would be able to conquer this task, born in a small town outside Monrovia and a member of the Kpelle tribe. Although raised as a Lutheran, she had many friends who were Muslims and from other Christian denominations. Gbowee worked at St. Peter’s Lutheran Church as a social worker in the Trauma, Healing, and Rehabilitation Program (THRIP), dealing with women and child soldiers who had been physically and psychologically damaged by the war. The pastor at St. Peter’s encouraged Gbowee to read works by Gandhi, Martin Luther King, Jr., Hikkias Assefa (a Kenyan peace activist), and John Howard Yoder. Through these readings and her work with THRIP she began to learn about peacebuilding and developed her own strategies for helping victims of the war. One such technique she utilized is called “shedding the weight,” in which women sit in circles and talk about their experiences with rape, death, and other atrocities. In November 2001, Gbowee helped create the Women in Peacebuilding Network (WIPNET) that helped connect women across West Africa and elevate their role as peacemakers.

In the spring of 2002, Gbowee received what she believes was a message from God. One night, she had a dream in which a voice commanded her to “gather the women and pray for peace.”20 After sharing this revelation with a few of her co-workers at THRIP, the women concluded they had to start a prayer group. They created a subsidiary to WIPNET, the Christian Women for Peace Initiative, and began to meet once a week at St. Peter’s to pray, asking God to end the war.21 At the first meeting, one Muslim woman showed up, and the women soon invited more of their Muslim friends and neighbors. To better include the Muslim women, they created a second subsidiary to

18 Press, 2009
19 Press, 2010
20 Frykholm, 2011, p. 33
21 Ibid.
WIPNET—the Women of Liberia Mass Action for Peace. 22 The women began a peace outreach project to gather support; they would travel to local churches on Sunday, market stalls on Saturday, and mosques on Friday. This allowed WIPNET to reach out to women of all faiths to build a unified, cross-religious alliance. In just nine months, the group grew from twenty women to over a thousand. This movement eventually would contain thousands of women from all demographics: Christians, Muslims, educated, non-educated, urban, and rural. WIPNET set up different teams to engage various communities and bring them together to discuss issues within the nation, mostly the war and their shared experiences. Connecting as women with a common goal brought them together on a human level. The women realized that in order to make a difference they would have to “tear down the veils of Christian versus Muslim” 23 by connecting on a level beyond religion, as women, mothers, and victims.

In the spring of 2003 as the war worsened the women of WIPNET decided to go beyond being just a prayer group and to take up protest. They began protesting at the fish market in Monrovia. This was the first time in the history of Liberia that Muslim and Christian women had come together in solidarity. The women utilized their religious connection to the leaders of the war: the Christian women appealed to Taylor, a devout Christian, and the Muslim members reached out to the warlords, the majority of which were Muslim. In their protesting WIPNET drew upon religious symbols, choosing to model themselves after Esther, who saved the Jews from the wrath of the Persians. The women wore only white T-shirts, with no makeup or jewelry. 24 During the street protests they would recite both Muslim and Christian prayers, reaching out to all people regardless of faith in the nation. They also sang songs and held signs demanding peace, which they would wave at President Taylor’s motorcade as it passed. 25

The nicknamed “fish market women” were able to continue their protests when many others were not. This is because they were women and since women did not generally have a place in politics, Taylor and the warlords did not see them as a real political force. The WIPNET women were acting so far outside cultural norms no one knew what to do about them so they were, at least for a while, ignored. 26 Although discounted by the president and rebel leaders, they were not unnoticed by the citizens of Liberia. The daytime fasting during vigils gained considerable attention. As was mentioned before, mothers are highly revered in West African tradition; these women utilized this tradition to gain sympathy from people around them. Citizens began to take notice when they saw mothers sitting on the side of the road starving. 27 Finally, WIPNET numbers grew too large and public support for the movement too great for President Taylor to continue to ignore the women. Initially, he tried to threaten them as he did with all other activist groups; however, unlike the other activist groups, these women did not back down in fear. In response to Taylor’s threats, the women increased their visibility. Finally, Taylor decided to meet WIPNET’s demands and grant the women an audience. 28 For their meeting with Taylor, WIPNET chose Gbowee as their spokeswoman. She told Taylor and his cabinet, “We are tired of war … we are tired of running. We are tired of begging for bulgur wheat. We are tired of our children being raped.” 29 Although her speech did not seem to influence Taylor, it did capture the attention of the international community.

WIPNET began gaining international media coverage in programs like BBC’s Focus on Africa, CNN, and others. This put international pressure on Taylor to end human rights abuses. In order to stifle international criticism, in 2003 he agreed to meet with rebel leaders in Accra, Ghana for peace talks. 30 Despite their role in getting Taylor to the table, the women were not allowed to be part of the official negotiation procedures. 31 Still WIPNET sent several members, including Gbowee, to Ghana to mobilize Liberian refugees living there. Large groups of women soon gathered outside the hotel housing the negotiations to put pressure on Taylor and the warlords. The women continued to protest but also acted as mediators and messengers between parties trying to facilitate a compromise. Even though these women were not official members of the peace talks, they played an essential role in mediating and driving action.

While the peace talks were going on in Ghana, the situation in Liberia only worsened. On the first day of negotiations President Taylor was indicted for war crimes he had committed in Sierra Leone and immediately fled back to Liberia, leaving his delegates to finish
negotiations. After Taylor’s return to Liberia a full scale war broke out in Monrovia. Rebel soldiers swept the streets terrorizing and killing anyone in sight, many citizens sought refuge in the football stadium. Peace talks dragged on mainly between Taylor’s delegates and two main Muslim rebel groups: Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL). When a warlord was not getting what he wanted in negotiation, he would call commanders in Monrovia and order more attacks. Then everyone in negotiations and the women outside could watch the proof of his threat on live television during coverage of the conflict. Despite the impending pessimism that the women were making no progress, seeing as the situation in Liberia was deteriorating by the day, their shared belief in a higher power reassured members that they had a purpose and provided them with the strength to continue. This shared faith, whether Christian or Muslim, gave the women hope and helped unify them.

Peace talks carried on unproductively for over eight weeks. The warlords had little incentive to come to an agreement considering that as long as negotiations went on, they could stay for free in luxury hotel rooms, much better accommodations than they were used to in the field. The weeks of fruitless peace talks strained even the patience of members of WIPNET. They began dividing along ethnic and religious lines just as the men had. Thinking all was lost, some women even began meeting with rebel leaders, angling for supremacy of their tribal group. Gbowee decided something must be done to speed the process along. One day, after the negotiators entered the conference room, she led the women into the hallway blocking all exits of the room. They informed the men inside that no one was getting out until a peace agreement was signed. Hotel security attempted to arrest the women for blocking the doors, but when they moved in, Gbowee and the other women began to undress. This employed another West African tradition about mothers, the superstition that if a man sees a married woman naked, he is cursed. This deterred the security guards from arresting them, and Gbowee and the others were permitted to stay. The women finally moved from the doors giving the men two weeks to complete a peace agreement, threatening to block them in again if they did not.66

Exactly two weeks later, the warlords and Taylor’s delegates signed a comprehensive peace agreement that removed Taylor’s regime from power and established a transitional government until free elections could be coordinated in a maximum of two years’ time. Unfortunately though, many of the warlords that held up the negotiations were appointed key political positions in the new government despite their war crimes, while the women who had played such an essential role in forging the peace were left out of the new government.

During the transition to peace, the United Nations deployed ground troops to monitor and regulate the transition process. The women who were in large part responsible for the newly created peace were pushed out of any decision making by the blue helmets. Nevertheless, the women persisted to help rebuild Liberia and even had to clean up a few of the UN’s mistakes. In 2003, shortly after the peace agreement was signed, Liberia began its Disarmament, Demobilization, Reintegration, and Rehabilitation Program (DDRR). This program promised former soldiers $300 and free education to turn in their guns. The goal was to help reintegrate former soldiers back into society by providing them with the skills necessary to earn a living. To kick off this program the UN, against WIPNET’s advice, attempted to hold a weapons exchange in which soldiers would travel to the capital with their weapons and trade them for cash. As the women had predicted, filling the streets with newly-discharged, angry young men, armed with automatic weapons, turned out to be a mistake. Due to already high tensions and misunderstandings about the payment the UN was supposed to provide, a riot broke out that left several people dead and lasted for three days until WIPNET and LWJ members were able to calm the rioters down.

WIPNET and other women’s groups worked to build a system of restorative justice, in which both victims and criminals were rehabilitated, to transition Liberia into peace. The women set up programs and camps to rehabilitate and reintegrate ex-child soldiers and other offenders by recognizing that they were victims of the war as well. WIPNET also set up counseling for women who had been victimized, using many of the techniques Gbowee had developed working in the Trauma, Healing, and Rehabilitation Program (THRP).

65 Gbowee, 2009
66 Ackerman, 2009
67 Frykholm, 2011
68 Gbowee, 2009
69 Frykholm, 2011

37 Gbowee, 2009
38 Ackerman, 2009
39 Frykholm, 2011
40 Gbowee, 2009
41 UNIFEM, Getting it Right, Doing it Right: Gender and Disarmament, Demobilization and Reintegration, 2004.
These women's groups additionally became tireless champions of democracy, making it their goal to ensure free elections did take place within the promised timeframe. In November 2005, Liberia elected Ellen Johnson-Sirleaf, a Harvard-educated economist, former UN official and first female head-of-state in Africa. As president she has continued the women's movement's goal of instituting a system of restorative justice, which focuses less on punishing criminals and more on bringing society back together through rehabilitation. Sirleaf's government has made no attempt to prosecute perpetrators of violence from the war, thus instituting a de facto amnesty. A truth and reconciliation commission was included in the peace agreement. Its purpose is to hear and publicly air details of crimes committed during the war. This commission does not have the authority to prosecute offenders, nor can it award damages to victims; these actions have to be taken by the government. Considering many high-ranking members of the new government were once involved in these crimes, there is little motivation to move criminal proceedings along.

Some scholars and critics feel that not heavily prosecuting war criminals is a major failure of Sirleaf's government. However, history shows that perhaps avoiding harsh retributive justice directly after a major conflict serves a nation better in the long run. For example, in Argentina, when the civilian government finally took over after the violent military regime, the new administration attempted to enact retributive justice against the former officials. This included military and civilian trials and imprisonment for many of those involved in actions of the former regime. Although this retributive strategy was initially popular, in a hurt and angry society the trials and imprisonments eventually had a polarizing effect on the citizens. Based on what happened in Argentina, retributive justice could be very dangerous to attempt to implement in Liberia. The deep divides between the Christian and Muslim populations, only recently bridged by WIPNET, run the risk of turning against each other in a violent way if trials end up having a further polarizing effect on society as they did in Argentina. However, in South Africa the post-apartheid government chose a different strategy—one of restorative justice by pardoning many offenders and focusing instead on rebuilding and forgiveness. Although initially the citizens were upset that there was not tough

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42 Pry the Devil Back to Hell.
43 Gbowee, 2009
44 Ackerman, 2009
45 Philpott, 2006
46 Philpott, 2006
47 Press, 2010
48 Golan, 2004, p. 92-96

...rettributive justice, eventually society was generally happier than in cases like Argentina's. Looking at the long-term benefits reaped by South Africa, it seems that focusing on forgiveness and moving forward is a better plan for Liberia.

Despite their significant role in the creation of peace in Liberia, the women activists have been widely disregarded by the scholarly community. One possible reason for this is that these women acted completely outside how scholarly research generally depicts them. By insisting on playing an active role in conflict resolution instead of waiting on the sidelines for men to find a solution, they acted as agents in peacemaking, not as victims. However, regardless of what role they actually play, most analyses of wars and conflict resolution address women purely as victims. Stereotyping women as victims rather than as active and meaningful contributors to resolution is a possible reason women are rarely invited to peace negotiations. Liberia is not the only place where women have been excluded from the peace table. At peace talks in Arusha, Tanzania, to resolve the conflict in Burundi, women were only permitted as observers. In the 1995 Bosnian peace talks in Dayton, Ohio, only one woman was present, and in 1997 at the Tajikistan National Reconstruction Commission, out of 26 commissioners only one was a woman. Finally, as late as 2006, at the Kosovo conferences, only one woman was even invited to participate.

This lack of study of women's conflict resolution potential is considerably troubling because, as we have seen in Liberia, women's movements can be a great resource for peacemaking to be utilized in other conflict situations. As illustrated in the case of Liberia, women's groups can bring together two sides, even ones as deeply divided as the Christian government and Muslim warlords. This is because women inhabit a unique position in society. Women are not generally seen as an oppressor or a soldier, so a woman peacemaker is less intimidating. Moreover, women have the ability to unite on a shared experience of motherhood, and especially in times of conflict, fear for their families. Another reason women make optimal peacemakers is that women tend to listen more genuinely to concerns of the other side. This is shown during the conferences when members of women's groups were able to serve as mediators amongst the warring sides. This is because the women truly listened to the demands, concerns, and requests of
each delegate without being preoccupied with what they wanted to gain for themselves. Additionally, it has been proven that women tend to approach peace with a human rights perspective, drawing on fairness, care, and tolerance. This provides a different perspective on peacemaking and conflict resolution. For example, women tend to associate “security” with food, shelter, and health; whereas men see “security” in terms of weapons and arms. This was evident in Liberia: women’s groups did not care what religion held majority power or if their tribe was awarded more resources after the war; they essentially wanted safety, peace, and care for everyone in the nation, especially the children.

The case of Liberia provides several essential lessons about women peacemakers for further cross-religious conflict resolution. The first is that women’s groups can be utilized to bridge the gap between two religions based upon a shared experience and exhibiting less threatening presence. Second, women’s groups can utilize their role as mothers and caregivers to gain legitimacy in peacemaking in society to get more citizens on board and appeal to leaders. Finally, female delegates should be made more a part of the negotiation and rebuilding process because their unique human rights-centered outlook, better listening style, and expertise in the area can both ensure quicker resolution, a more comprehensive resolution for dealing with human rights, and can prevent disasters such as the UN weapons exchange riot. Overall, these extraordinary women of the WIPNET and the Liberian Women’s Initiative acted outside expectations, using religious capital from multiple levels, and, most importantly, united a nation through a shared experience of war and the shared experience of belief.

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* Golan, 2004, p. 92-96

* Ibid.

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Bibliography


The French Revolution is one of the most intriguing yet difficult to understand revolutions in history and one that perhaps has more lessons for humanity than any other revolution. No education in the fields of history, sociology, philosophy, politics, war or religion is complete without at least a basic understanding of the very complex and far-reaching catalysts, influences, events and outcomes of the French Revolution. This thesis will attempt to look into an aspect that is particularly complex and unique to the French Revolution: the scale of the drama and the immense size and number of complications that the French had with the religious aspect of their revolution.

The religious context of France during the Revolution has been labeled the “French Exception” by more than one author, but the term was originally coined by Abbé Henri Gregoire in a speech before the National Convention on December 21, 1794.1 Van Kley concisely explains the “French Exception” as the unique and continuing incapacity of the successive revolutionary governments to balance the relationships between state, religion, practice, and opinions.2 No other revolution has had such trouble disintegrating religion and

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1 Van Kley, 2003, p. 1099
2 Ibid.
State. Not even when the Papacy lost its temporal property during the Italian Unification (and was placed under unofficial house arrest in the Vatican for over half a century) were these many problems and dramatic situations created. This French exceptionalism resulted from a combination of two things: an inability to conceive of a genuinely lay and religiously plural state, and (particularly) the anti-Christian form that this inability took during the revolutionary period.  

To understand the causes of the French Exception, it is critical to understand the unique aspects of religion in France. A digression, however, into French history and some of the semantics of the Catholic religion is required to fully understand a discussion of France’s religiosity. France has the honorary title of “The First Daughter of the Church.” It holds this title due to its being the earliest convert to join the Catholic-Orthodox Church as a collective nation. In fact, the nation of France was founded when Clovis I converted to Catholo-Orthodox Christianity and was baptized “King of the Franks” in 496 C.E. by St. Remi, Archbishop of Rheims. This act immediately distinguished Clovis and the Franks from everyone else in northern Europe because all other competing Germanic tribes had chosen Arianism over the Catholic-Orthodox faith.  

This produced a fundamental hurdle concerning the topic of religion during the Revolution, as the nation’s founding act was more or less a Catholic Sacrament. This meant that what made a person French (rather than simply German) was that he or she professed Catholic creeds. Being French effectively meant being Catholic. No other Western nation has its identity so intrinsically bound to a particular religion, and it is contended that this is the root of the French Exception.

Due to the special status of the Catholic religion in France, and France’s title as the “First Daughter of the Church,” it appears that the King of France possessed the authority to directly act within the Church than few other Catholic monarchs. As the coronation of the French King was not simply a symbolic ceremonial crowning, but a sacre (an anointing or unction), the Kingship of France was traditionally more than just a secular office backed by Church consent like other monarchs—it was more akin to a minor religious office. Even in the twenty-first century, honoring the unique position of the head of the French nation, President Nicholas Sarkozy has the title of “Honorary Canon” of the Archbasilica of the Most Holy Savior and Saints John the Baptist and the Evangelist at the Lateran. As the seat of the Bishop of Rome is the highest-ranking Church in the Catholic world, this means that the French President is an honorary advisor to the Pope himself.

No other Catholic country has these traits, which allowed the French Church to develop liberties and privileges that gave it a distinct national identity characterized by considerable autonomy within the Catholic world. To fully understand this, one has to fully grasp the nature of the Catholic Church. The term catholic is a Greek adjective that means “universal” rather than bound by cultural or national lines. However, while there is only “one” Catholic Church, the Church is not a monolithic entity. The term “Catholic Church” is more of an umbrella for twenty-three different Catholic Churches, each subdivided into different rites, and each rite has its own traditions. For example, priests can marry in the Western Syriac Rite of the Antiochian Catholic Church, but they cannot in the Latin Rite of the Roman Catholic Church. Still both are a part of the Catholic Church (a better translation might be the One Universal Church). The Roman Catholic Church is the largest and most dominant, but it is just one of the Catholic Churches. The individual Catholic Churches and rites have their own regional flavors and identities, but they are all made Catholic (Universal) by being in union with Churches outside of their geographic, cultural, and national boundaries (generally by recognizing the primacy of and being in communion with the Bishop of Rome, in addition to a few other details that are not important to this paper).

These Churches are not to be confused with the Eastern Orthodox Churches, the Oriental Churches, or any other ancient Churches.

1 Colina, 2007. A Canon is an appointed adviser to a Bishop, and therefore being an Honorary Canon of St. John the Lateran means that President Sarkozy is an honorary advisor to the Pope himself.
3 Catholic Rites and Churches, 2007
4 The Pope, as the Metropolitan of the Roman Province and Patriarch of the West, is the administrative head of the Roman Catholic Church; but as the Bishop of Rome (the “successor” of St. Peter, and to a lesser extent St. Paul), he is the theological head of the Universal Church
5 The city of Milan, Italy, even has its own rite, the Ambrosian Rite of the Roman Catholic Church. The rest of the Roman Catholic Church uses the Latin Rite, which itself is further subdivided into the Ordinary Form and the Extraordinary Form, both of which may be used at will by any priest at the request of the faithful.
which all recognize the basic primacy of the Roman Pontiff, but are not in communion with him. These nuances are very important to understand, as, especially after the policies of Louis XIV, the Church in France was essentially its own Catholic Church, referred to as the Gallican (Catholic) Church. The distinction between the Gallican Catholic Church, the Roman Catholic Church, and the Catholic Church as a whole is important to France’s struggle with religion in the Revolution.

The Gallican Church was experiencing problems that were distinct from other Catholic Churches at the time due to its level of involvement with the French Crown, which viewed the Gallican Church as an extension of itself. Externally, the Church was under attack before the revolution began. The nobility increasingly tried to siphon money and property from the Church. Therefore, the Church was increasingly forced to sell religious property against its will, given inadequate and even wrong information to defend itself in court, having its legal rights increasingly marginalized and sometimes flatly ignored and the clergy were barred from purchasing new property (or even receiving it as a gift) without the expressed consent of the French government. The Church was driven to do everything in its power to conceal its property, as it became more and more clear that the Church’s legal rights would no longer protect it from “the perennial want of the French Kings, the aristocracy, and the Church’s enemies who coveted its wealth.” Greenbaum states, “It is a sobering historical reality that most of the Bishops welcomed the Revolution as the only way left to hold on to their temporal property, never dreaming that its arrival would have the disastrous effect that they were trying to avoid.”

However bad the external situation was, the Gallican Church was also suffering from internal hemorrhaging at a crippling level, which was also the result of being fused with the French Crown. The Gallican Church had become for the Crown little more than a rich field of patronage to bribe the nobility, and the French Kings had grown used to getting their way in Church affairs. This resulted in high-ranking clergy who were interested in personal gain rather than Church activities. For example, the famous prelate Charles-Maurice de Talleyrand-Périgord was predestined by his family for the priesthood against his will, and he was eager to climb the ranks and increase his wealth and fame once he was ordained. Despite not wanting to be a clergyman, he did work hard for the Church when he was there, though other prelates in similar circumstances were not so dutiful.

Rumors about clerical misconduct and wealth were rampant; however, many were unfounded speculation or heavily embellished versions of minor events. Rumor was frequently unjust to the clergy. One example was the widespread rumor that the Church owned a full third of France, but in reality it only owned less than ten percent. While outright scandals were rare, financial abuses were common and caused the biggest problems. The wealthy high-churchmen and nobles often used Church funds for personal embellishment while the lower clergy were virtually impoverished. Unscrupulous decimateurs, who handled Church money, often used every technicality they could to avoid paying the already impoverished parish priests and other lower clerics so that there was more money for them to siphon off. The desires of the laity for Church reform were echoed by complaints from parish priests who were excluded from the wealth bestowed upon the upper echelons of the ecclesiastical hierarchy and often struggled to

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10 Pontiff is a Latin word meaning “builder of bridges.” As the Supreme Pontiff, the Pope is considered to be the primary bridge builder between humans and divinity, and between the various national and ethnic churches.

11 Ancient-Churches not in communion with the Bishop of Rome are considered to be in “schism,” while modern Churches (Protestant and Sectarian) not in communion are considered to be in “heresy.”

12 Greenbaum, p. 45

13 Baron, 2010, p. 1

14 For example, the Duke of Orleans, in 1780, tried every legal trick to force the Church into paying him an homage tax so that he could have more funds to support his extravagant lifestyle. (Greenbaum, p. 51)

15 Ibid., p. 70

16 Ibid., p. 64

17 Ibid., p. 64

18 For example, the Duke of Savoy donated property to the Church. The Church had legally owned the donated property for almost 400 years before the King of Savoy suddenly demanded it back. The Courts ruled in favor of the King, and the land was taken from the Church without compensation on the grounds that ‘gifts and donations are reversible,’ even ten generations later. The King then sold the land to pay for his daughter’s wedding. (Greenbaum, p. 61)

19 Royal decrees in 1666 and 1749 forbade the clergy from receiving any type of property—lands, buildings, or rents—either by donation or purchase without express governmental authorization. (Ibid., p. 58)

20 Ibid., p. 50

21 Ibid., p. 46
get by on their insufficient salaries. By the eve of the Revolution, the Gallican Church had become socio-economically stratified in the same manner that France's secular institutions had.

In 1785, Tallyrand tried to implement a new plan that would have immediately curbed secular abuses of power against the Church, preserved ecclesiastical temporal property and increased the clergy's prestige. However, he was unable to gain enough support for the reforms even among the clergy themselves. The fact that even the clergy were unwilling to change the status quo to protect and strengthen the Church shows that on the eve of the Revolution, the French government's meddling in the Gallican Church had entangled the two to the point that religion and government were "virtually indistinguishable from the rest of the social and institutional furniture." One could not change the Church without changing the government, and the fate of the government was the fate of the Church; their mutual collapse proved their interdependence.

The Revolution seemed to be going relatively well until the revolutionaries attempted to subordinate the Church to the secular government as a constitutional Church in the same fashion that the Crown was subordinated into a constitutional monarchy. Here, the technicalities involving the differences between the Catholic Church, a Catholic Church, and what even qualifies as Catholic come crashing into the Revolutionary scene. The ramifications are still reverberating today in the Traditionalist, Restorationist, and Sedevacantist movements in the Catholic Church. The revolutionary government drafted the Civil Constitution of the Clergy in an attempt to reconcile the French nation's religious identity with the ideals of the Revolution by removing the Church's say in state affairs and nationalizing the Church entirely. They failed, however, to take into account what it meant to be a Catholic Church and left no provision for canon law or theological necessities. "Above all, the deputies' single-minded zeal for national sovereignty and the conviction of their own rectitude lead them to elaborate and enforce an ecclesiastical reform without respect for the canonical means by which ecclesiastical decisions are made."

By making the Gallican Church subordinate to the government, but not independent of the government, the Civil Constitution of the Clergy compromised the Gallican Church's catholicity. It ceased to be the Gallican Catholic Church and had become the "National Church of France." While the intentions may not have been the same, the theological effect was actually worse than Henry VIII's severed of the Anglican Church's catholicity. While the Civil Constitution of the Clergy was sent to the Pope for approval, the Pope had no choice but to reject it, as even he is bound by the canons of the Church and the theological articles of the religion. The single-minded march for "progress" meant that none of the drafters bothered to consult actual Church experts on what effect this would have, and the government's refusal to reconsider ultimately transformed the Church from an important supporter of the Revolution into an insurmountable stumbling block.

However, the religious conflict that derailed the Revolution was not entirely the drafters' fault. Their unfortunate overlooking of the nature of the Catholic Church was met by Rome's equally unfortunate misinterpretation of the drafters' intentions. In severing the Church's catholicity, Pope Pius VI thought that the aim of the Constitution was to destroy the Catholic religion in France. He therefore levied his anathemas against the principles of the Revolution rather than the specific legislation that was incompatible with catholicity. The result of the combination of the shortsighted legislation and resulting misinterpretation was a schism, which no one had intended. This schism eventually brought about actual attempts to destroy the Catholic tradition and (indeed anything having to do with Jesus Christ), as demonstrated through the government's effective genocide of Catholics in the Vendee region.

The rupture with Rome both compounded the Revolution's problems and created new ones that originally never existed. The resulting debates caused by concerns of the validity of sacraments performed by the Constitutional clergy helped to reinforce the coming of the Terror and de-Christianization. Van Kley argues that it is helpful to recover neglected insights of a much older and classic historiography best embodied by Edgar Quinet and Albert Mathiez and echoed in the writings of the historian Bernard Plongeron. While it cannot be said definitively that the king would not have been executed

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32 Berto, 2010, p. 2
33 Greenbaum, p. 68
34 Van Kley, 2003, p. 1091
35 McManners, 1982, p. 5
36 Van Kley, 2003, p. 1096
37 Van Kley, 2003, p. 1096
38 Ibid., p. 1097
39 Ibid., p. 1098
had the Civil Constitution of the Clergy not caused a religious rupture, I do agree with Van Kley, Mathiez, Oxinet, and Plongeron that the religious problems caused by the Civil Constitution of the Clergy had an undeniable role in at least the way that the execution, ensuing war and resulting reign of terror came about. Without the religious schism created by the Civil Constitution of the Clergy, the King and Queen would not have been blockaded while attempting to go to Saint Cloud to find a non-constitutional priest in order to receive valid sacraments for Easter Communion. That blockade sparked increased fear in the King and Queen over their situation, and they decided to flee to the border-town of Varenne to find safety with Marie Antoinette’s brother, the Emperor of Austria. Had the royal couple not been caught trying to flee, the revolutionaries would have had little reason or excuse to execute the Constitutional Head of State, and without the King’s execution, the massive continental war that resulted would likely never have occurred.

Even before the King’s religiously inspired trip to Saint-Cloud to find a non-constitutional priest was blocked, the schism was already taking its toll by unnecessarily fracturing the already numerous factions vying for influence in the new order into smaller and smaller groups. There were groups united on one issue but suddenly in strong disagreement over the new refractory versus constitutional-clergy divide. The schism caused by the constitutional clergy debacle forced the people of France to choose between their country and their religion. The constitutional clergy experiment was short lived, but its brief existence proved extremely divisive, splitting the clergy, and alienating from the Church and the state many of the notable clergy and laypeople who were otherwise natural supporters of progress and the Revolution.40

Crook points out “the Episcopal elections of 1791 were fatally destabilized in the regions loyal to the refractory clergy, and they became a watershed in the course of the French Revolution. These un-canonical election assemblies served only to sap the strength from the foundations of the new order.”41 The religiously inspired uprisings in the Vendee, the compounding of fractures already subverting the stability of the new socio-political order, and the further de-unifying effect of the execution of the King and the losses suffered by the military to the invading armies created a chaotic situation that would have set the stage for a terror in any country. The Terror can be traced back to the fact that the “Constituent Assembly’s attempt to refashion Catholicism into a national church and religion ripped the new nation apart and culminated in schism, intolerance, and religious terror.”42 However, the passing of the Civil Constitution of the Clergy does not itself explain the French Exception. The religious disaster could have been remedied by allowing the French Catholics to make their own decisions about their religious beliefs and practices, but instead the situation only worsened and was dragged out for an entire decade. Even then, the French Exception was only laid to rest when Napoleon reinstated autocratic monarchy and ended the chaos, remarking to his brother in 1801 that skillful “conquerors do not get entangled with priests.”43 The government’s attempts to dictate to the Church, and its general inability to leave religion alone, eventually strangled the Revolution to death and poisoned the topic of religious belief and practice so badly that it is still a relatively sensitive issue in France over 220 years later.

Understanding the French Exception has grown increasingly complex with the present state of the historiographical fields of the French Revolution and the European Enlightenment in general.44 Polarized historiographies (Van Kley uses the term Manichean) that portray the Church as all bad and the Enlightenment as all good, and where one had to be destroyed for the other to survive, are increasingly being abandoned. Many new historiographies have broken the old molds and shown Christianity (and especially Catholic Christianity, due to intellectual groups like the Jesuits) to be a major catalyst of the Enlightenment—but also the source of traumatic reactions to the very ideas that it produces.45 The vicious theological fight between the Jesuits and Jansenists influenced the Enlightenment in almost every single European country, and in a unique form in France; particularly the Jesuit’s role in rehabilitating the image of human nature, and the special position of political power that the Jansenists were able to achieve in France.46

Studies into the laity’s reaction to the French Exception has played a major role in these newer historiographies by providing more

40 Crook, 2000, p. 976
41 Ibid., p. 976. This is one of the historical examples of “democratic election” of bishops by the laity leading to major and sometimes insurmountable problems in maintaining catholicity.
42 Van Kley, 2003, p. 1099
43 Nigel, 2002, p. 255
44 Van Kley, 2003, p. 1085
45 Ibid.
46 Ibid., p. 1086
The Church and the French Revolution

Evidence that neither the Catholic tradition, nor Christianity as a whole, were inherently incompatible with the basic Enlightenment and the French Revolution. Mary Cooney’s look into the claims of the fate of the Cathedral of Chartres goes a long way in dispelling the polarized myth that the revolutionaries hated great works like the Cathedrals. She found that despite financial setbacks and lack of support from Paris, the revolutionary administration of Chartres time and again sought to preserve the structure and looked for ways to minimize damage to it during the Terror and de-Christianization.56 Cooney dispels some of the ultra-conservative Catholic portrayals of the Revolution as a demonic usurpation of the country—a view that is still held by some Traditionalist and Restorationist Catholics today.

Suzan Desan attacks the traditional “Church versus Enlightenment” mold from the other end. In her pivotal work, Reclaiming The Sacred, she explores the lay reactions of Catholics during the Terror and de-Christianization periods. She discusses how the laity adapted to the loss of ritual sacraments,48 and how they performed ‘white’ masses in the absence of a validly ordained clergyman.49 Her research challenges the historiographies portraying the laity as oppressed people seeking to be free of the yoke of mystical religion. Desan’s pivotal research reveals just how badly these people were yearning to practice their religion.

Ultimately, attempting to understand the French Exception (and the French Revolution as a whole) forces one to look deeper into the details and look further back in history, as well as into the doctrinal, theological and philosophical developments of the Catholic Church. The French Exception was not caused by the incompatibility of the Church and the ideals of the Revolution, but by an accidental severing of the Gallican Church’s catholicity and the ensuing schism. This compounded the problems and the Terror became a desperate attempt to keep order. Despite being an accident, however, the French Exception was all but unavoidable because of the multitude of issues that influenced the situation stemming from France’s national identity, the semantics of catholicity, and the state of the Gallican Church at the time.

Flowing from the unique qualities of the French Church and the French Crown, things had progressed to a level that the Gallican

Church and the French government could not be separated. Edgar Ounet states that “the idea of separating the Church from the State was apparently all but a conceptual impossibility in France in 1789.”50 Thus, when the Crown was subordinated, it necessitated the subordination of the Gallican Church while keeping it together with the Crown. This inherently broke the catholicity of the Church (because no Church can take orders from a secular-national government and still be Catholic51), which virtually guaranteed the chaos that brought the Terror.

No single factor or event necessitated the Terror, de-Christianization, or the general derailment of the Revolution, but a complex interaction of factors played out over an extended period of time guaranteed that the French Exception component of the revolution was unavoidable. Van Kley’s conclusion sums it up well:

“The continuity of the conflicts described by McManners provides context for the revolutionary ruptures at the core of Plongeron’s volume. Considered together, they conclude that the [French Exception] cannot be entirely understood without reference to the multi-secular conflict within French Christianity as well as those between Christianity and eighteenth-century ‘lights’; nor for that matter is the French Enlightenment entirely intelligible except in relation to the prerevolutionary conflicts within the Gallican Church. The conflicts of The Age of the Democratic Revolution still cannot be fully understood without reference to those between Catholics and Unbelievers in Eighteenth-century France.”52

Quick judgments, failure to understand a religion before engaging it, allowing a government in any way to make decisions for, in, or about a religion, and especially the danger of confusing ‘change’ with ‘progress’, are the main lessons that a twenty-first century audience can learn from the French Exception.

The French Revolution is unique among all other socio-political restructurings in Catholic history, just like the Spanish Inquisition is distinct from all other legal investigations in Catholic history. It is interesting to note that the most distinguishing factor in both of these “exceptions” was that they were both characterized by the State holding the opinion that it should have authority to direct religious

50 Van Kley, 2003, p. 1098
51 As seen in the drama that unfolded in England under Henry VIII.
52 Van Kley, 2003, p. 1104
issues or otherwise trying to make the Church and religious practice conform to the government’s opinion. It is important to remember that “separation of Church and State” was devised as a means of protecting the Church from the State, and not the other way around. The state interfering with religion, and the opposite—the state marginalizing people with religious belief from equally participating in government—are the primary causes of the horrors and disasters of the French Revolution and the Spanish Inquisition. It is no coincidence that both violate the original meaning of separation of Church and State. The current socio-political mind of the Western world would be wise to refresh its historical memory of what happens when the State thinks it can have a say in matters of religious tradition, teaching, belief or practice. It would be disappointing to repeat history by making an innocent mistake that culminates into something much larger.

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53 The two primary factors that led to the Spanish Inquisition taking the course that it did was the unique type of 'heresy' it targeted, and, most especially, the unique role and involvement of the Spanish Government. Lu Ann Homza, trans., The Spanish Inquisition, 1478-1614: An Anthology of Sources (Indianapolis: Hackett 2006): xv.
GAY IS NOT OKAY:
THE RELIGIOUS
RIGHT’S EFFORT
TO ELIMINATE
HOMOSEXUALITY

Since it was struck from the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (DSM) in 1973, homosexuality has become one of the most controversial issues in the United States today. While rapidly decreasing in both popularity and credibility, sexual orientation change efforts (SOCE), otherwise known as reparative, conversion, or ex-gay therapy, are still promulgated by a small sect of society, mostly by Christian groups. Clients seek SOCE for a number of reasons, but the most prevalent is the frequent conflict between religious and sexual identities, particularly within conservative religious traditions. Many ex-gay therapy clinics espouse enormous success rates, claiming that all people are truly heterosexual and that “freedom” from homosexuality is possible for all who seek it; however, these claims are backed with no legitimate scientific evidence, and the religious right has twisted certain studies’ results in order to suit their own agendas. The vast majority of psychiatric or psychological institutions consider homosexuality to be healthy, normal, and unchangeable—in fact, there are significant indications that seeking ex-gay treatment can be psychologically damaging, sometimes resulting in depression, anxiety, and even suicide. Though society has made great strides in the acceptance of homosexuality in the past few decades, ex-gay treatment clinics hinder this progress and promote social stigmas that are detrimental to the overall well-being of the clients they treat.

The term “homosexuality” was first coined in the mid-nineteenth century, when the scientific community began actively researching this historically taboo subject. Generally considered a mental disorder or sick perversion, scientific studies on homosexuality continued to be filtered through this lens, and the social values of the time infiltrated the approaches and results well into the twentieth century. Largely building on the work of Freud, homosexuality was seen as a result of psychological immaturity (in other words, a “phase”), detachment disorders, “wrong social setting[s],” incest, molestation, and/or neurotic illness. When behavioral therapy was developed in the 1960s, homosexuals were often subjected to aversion treatments, linking homosexual thoughts with negative effects—vomiting, paralysis, electric shocks, and/or hypnosis—in an effort to eliminate homosexual fantasies and alter their sexual orientation.

However, in 1957, Dr. Evelyn Hooker conducted a study that compared the results of homosexuals and heterosexuals in three psychological tests to determine functionality and adjustment. Hooker found that both the homosexuals and heterosexuals scored equally, and when viewed by results alone, they were utterly indistinguishable. Experts who examined some of the tests while similarly blind to sexual orientation made the same observation—the differences between the two were imperceptible, showing that the homosexuals in the study were just as equally well-adjusted as the heterosexuals. Hooker’s research, along with a few others, sparked the revolutionary idea that homosexuality was not an illness and therefore should not require treatment. Finally, in 1973, the American Psychiatric Association removed homosexuality from the DSM, and the American Psychological Association followed suit a year later.

From there, SOCE’s popularity dwindled as the acceptance

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1 APA Task Force, 2009
2 Ibid.
3 Ibid.
4 Ibid.
5 Ollendorff, 1966, p. 117.
6 These studies include, but are not limited to: Sexual Behavior in the Human Male (Kinsey, Pomeroy, & Martin, 1948); Sexual Behavior in the Human Female (Kinsey, Pomeroy, Martin, & Gebhard, 1953); C. S. Ford and Beach (1951); Armon (1960)
7 APA Task Force, 2009
of homosexuality spread throughout the mental health community. Concerned that their behavioral therapy methods harmed more than helped, professional therapists totally changed their approach and began to focus on teaching coping skills and helping homosexuals embrace their natural identities. But still, some refused to accept the change to the DSM, insisting that homosexuality was still, and will forever be, a disorder requiring treatment.10 Exodus International, founded in 1976, is at the forefront of this movement, with a dedication to "encouraging, educating, and equipping the Body of Christ to address the issue of homosexuality with grace and truth."11 Exodus provides a myriad of resources for Christians seeking to alter their homosexual orientation. The majority of these are non-professional ministries, though on occasion are associated with professional therapy clinics as well.12 Ironically, a few years after Exodus' birth, two of its male founders left the organization and their wives to become lovers, and one is now actively outspoken against all SOCE.13*

Another SOCE group, The National Association for Research and Therapy of Homosexuality (NARTH) came to fruition in 1992, claiming to be a “professional, scientific organization that offers hope to those who struggle with unwanted homosexuality.” Though this is their main mission statement, they do acknowledge and respect that not all homosexuals are desirous of change; their goal is to assist those who do wish to suppress their homosexual desires in favor of religious or community identities.14

Truth Wins Out, an organization dedicated to combating egay therapy and the ideas it promotes, sent an undercover spy into Bachmann & Associates, a Christian therapy clinic run by Michele Bachmann’s husband, Marcus Bachmann. John M. Becker posed as a gay man seeking reparative therapy and carefully documented his five clinic visits with hidden cameras. Becker was assured during his “treatments” that “it’s possible to be totally free of [same sex attraction]. For sure.”15 His counselor was careful to address the most common fear of males seeking SOCE according to the APA by assuring Becker that his masculinity was in no way shaped or harmed by his

homosexuality,16 even though Becker had not articulated this concern.17 Though he was repeatedly promised that conversion to heterosexuality is feasible, Becker was never informed of other treatment options (including gay-affirmative therapy) or asked to sign an informed consent document that stated the American Psychiatric Association, American Psychological Association, American Medical Association, and American Counseling Association all renounce ex-gay therapy and warn of the potential damaging effects, like depression and suicidal ideation.18 Becker was also never told that most of the therapists (including Bachmann) are not trained psychologists, nor that Bachmann was intentionally hiding his clinic’s ex-gay practices from the public eye.19 When Becker asked his therapist about Bachmann’s quote from 2010 calling homosexuals “barbarians” who “need to be educated,” the therapist stuttered and then claimed the recording of the quote was faked instead of outright denying his boss’s statement.20

Despite these gaping holes in ethical conduct, lack of scientific evidence for its claims, and entirely unprofessional counselors, Bachmann & Associates has received about $137,000 from Medicaid and continues to bar the media from the premises.21 The utter lack of accountability for Bachmann and his clinic is nothing less than shocking. Considering Michele Bachmann claims that she is “submissive” to her husband, his supremely influential role on this political figure and her constituents has horrifying implications.22

Clinics like Bachmann & Associates usually cite very few, but nonetheless prominent, studies on ex-gay therapy to “prove” that their methods work, but more often than not, the references they quote have been misunderstood, misused, or were simply poor studies from the outset. Robert L. Spitzer conducted research in 2001 to evaluate the effectiveness of ex-gay therapy and potential harms of attempting to change sexual orientation. Out of the 200 participants, 93 percent considered religion to be important in their lives, and 79 percent stated they wished to change specifically to align with their religious values.23 Therapy was considered successful if the client reached “good heterosexual functioning,” which is defined by the following criteria

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10 APA Task Force, 2009
11 Exodus International, "About Us".
12 Ibid.
4 Since this paper was written, Exodus International has officially discontinued conversion therapy (Exodus International, "Exodus Official Position.").
16 APA Task Force, 2009
17 Becker, 2011
18 Becker, 2011
19 Goldberg, 2011
20 Becker, 2011
21 Goldberg, 2011
22 Ibid.
during the past year, the participant was in a heterosexual relationship and regarded it as “loving”;

- overall satisfaction in the emotional relationship with their partner (at least 7 on a 1 to 10 scale...);

- heterosexual sex with a partner at least a few times a month;

- physical satisfaction from heterosexual sex at least 7 (the same 1 to 10 scale); and

- during no more than 15 percent of heterosexual sex occasions thinks of homosexual sex.24

Prior to receiving ex-gay therapy, none of the females had reached “good heterosexual functioning,” and only 2.1 percent of males did. After participating in therapy, 44 percent of women and 66 percent of men had met the criteria.25 These results seem remarkable, and both the media and ex-gay organizations were quick to embrace this “evidence” as proof that their work was indeed legitimate. The study, however, possessed serious flaws: nearly all of the participants were inducted into the study through NARTH or other ex-gay clinics, and all subjects were chosen because of their self-proclaimed success stories—some were even ex-gay therapists themselves. This selection grossly misrepresents the whole of ex-gay therapy recipients, as the number of failed attempts was never mentioned. The data was collected via a single 90-minute telephone interview and relied entirely on self-reports. Because the assessment of actual biological reaction to homosexual stimulation was far too costly for the study, Spitzer claimed that he trusted his participants’ reports to be accurate, though since this time period was usually at least 10 years prior to the study, it is likely that many of the subjects remembered their lives before therapy as remarkably worse than it actually was.26 Spitzer also entirely ignored the issue of bisexuality, which could account for much of the behavior change; 27 if the subjects were bisexual instead of homosexual, they could concentrate on heterosexual attractions that were already present.

24 Spitzer, 2006, p. 42.
25 Ibid., p. 49.
27 Ibid.
their sexual and religious identities, both extremely significant, clash in a debilitating way. People who seek SOCE have chosen to make their religious identity superior to their sexual identity and therefore attempt to suppress their biological urges in favor of religiosity.\textsuperscript{33} To some, this can be a much easier and far less devastating approach than disregarding their religious doctrines. Religion often serves as a moral compass, contextualizes life events, comforts in times of duress, enriches spirituality, and ties communities together inextricably.\textsuperscript{34,35} While some eventually manage to integrate the two identities and reach peace, there are a great many others who attempt to eliminate one or the other to avoid depression and anxiety. It is for this reason that ex-gay therapy has not been banned outright. It would be unethical to deny the client’s right to embrace whichever identities he or she chooses, as long as it is a fully informed choice. Counselors must respect the patient’s autonomy in every therapeutic endeavor, even if said counselor does not hold the same views as the client. NARTH claims that “people who are dissatisfied with their unwanted homosexual attractions should be given the opportunity to choose their own path and to pursue change if they so desire” and the organization provides numerous resources to fulfill this goal.\textsuperscript{36}

However, continuing to treat homosexuality as an illness—especially now that professionals have removed it from the realm of pathology—is a disservice to any and all clients, whether they view their orientation this way or not. There is no scientific evidence that homosexuality is a mental disorder, as both APAs and several other organizations have indicated, and therefore any attempt to “cure” said “condition” would simply be patronizing the client.\textsuperscript{37} Because ex-gay clinics do not follow the APA’s treatment guidelines, most must operate as independent organizations. Unfortunately, this means these clinics can forego professional and scientific accountability and become breeding grounds for gross negligence, using the excuse that God’s ethics supersede any “earthly” guidelines.\textsuperscript{38} Arguing that religious practices are an adequate substitute for scientific research is detrimental to both fields and creates nothing but confusion.

Fortunately, not all religions maintain an anti-homosexuality position. Buddhism has become enormously popular amongst gays and lesbians. Instead of allowing external forces to dictate spirituality or sexuality, Buddhism encourages its followers to seek truth within themselves and acknowledge every aspect of their being via meditation and honesty with their fellow man. Native American traditions are similarly appealing due to their focus on nature and maintaining harmony. Native Americans are some of the few people who actively embrace homosexuality. Known as “two-spirited” people, homosexuals are seen as particularly in tune with the spiritual world and are often shamans as well as political leaders of their tribes.\textsuperscript{39} Even within Abrahamic traditions, more and more groups are speaking out against homophobia. Episcopalians permit homosexuals to become clergy members, and both Reform and Conservative Judaism affirm homosexuality.\textsuperscript{40,41} In nearly every tradition, there is at least one faction that is dedicated to nurturing the spiritual maturation of homosexuals while showing love and acceptance. Some of these may be more limited than others—LGBT groups for Orthodox Jews are extremely rare,\textsuperscript{42} and there are only a few in the Middle East for Muslims—but the Internet is making these groups easier to find, providing a sense of community all over the world to those who could never belong in an orthodox religious setting otherwise.

How do such drastic disagreements about homosexuality take place within these traditions, specifically Abrahamic faiths? Most proponents of ex-gay therapy look to the Bible for answers, at what Evangelicals Concerned Inc. calls the “clobber passages” because of their notorious role as a weapon against the LGBTQ community.\textsuperscript{33} Conservatives and liberals tend to interpret the clobber passages in radically different ways. Genesis 19 describes the story of Sodom, in which strangers come to visit Lot and are threatened with rape by a group of men outside. Shortly thereafter, Sodom is destroyed by God. Conservatives see this as clear condemnation of homosexuality, whereas liberals claim the sin here is inhospitality. The latter quotes Ezekiel 16:48-49 to support this view: “Behold, this was the iniquity of thy sister Sodom, pride, fulness of bread, and abundance of idleness was in her and in her daughters, neither did she strengthen the hand of

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\item \textsuperscript{33} Barrett, 2002, p. 152
\item \textsuperscript{34} Haldeman, 2002
\item \textsuperscript{35} Barrett, 2002, p. 153
\item \textsuperscript{36} NARTH, “NARTH Mission Statement.”
\item \textsuperscript{37} Haldeman, 2002
\item \textsuperscript{38} Silverstein, 2006
\item \textsuperscript{39} Barrett, 2002, p. 152
\item \textsuperscript{40} Religion Facts. “Homosexuality and Judaism,” last modified 2010, accessed November 30, 2011
\item \textsuperscript{41} Most Orthodox Jews condemn homosexual sex, but mere same-sex attractions are not considered sinful (ibid.)
\item \textsuperscript{42} Orthogays, “Home Page,” last modified 2004, accessed November 30, 2011
\item \textsuperscript{43} Starjack, “Resources for LGBTQ Muslims & Allies,” accessed November 30, 2011
\item \textsuperscript{44} Evangelicals Concerned, Inc., “The Bible is an Empty Closet,” accessed November 30, 2011
\end{itemize}
the poor and needy. Leviticus 18:22, which declares homosexual acts to be an “abomination,” is commonly shared by Christians and Jews—however, many Christians hold that both Jesus and Paul rejected ritual laws, and therefore the rules of the Torah no longer apply to modern-day Christendom. 1 Corinthians 6:9 is perhaps one of the most contested clobber passages on homosexuality in the entire Bible. In the original Greek, the author used the words malakoi and arsenokoitai, neither of which can be clearly defined. The closest interpretations scholars can somewhat agree on are “effeminate call boys” and “men who abuse themselves with men,” respectively. The King James Version, which is over four hundred years old, calls them “abusers of themselves with mankind.” It was not until 1958 that arsenokoitai was translated to mean “homosexuals,” but many conservatives still generally maintain that “homosexual” is the correct term.

Differing translations and definitions of terms lie at the heart of the problem of homophobia and continue to drive conservatives and liberals further and further apart. Both groups even disagree on the very definition of “homosexuality”: conservatives usually see homosexuality as a behavior, whereas liberals see it as an orientation—what one does versus what one is. Human sexuality can be split into three aspects. Sexual behavior refers to the sexual actions of a person, sexual orientation is the “core” of a person’s attraction, and sexual identity is the label a person chooses for him or herself. When attempting to understand and/or study homosexuality, distinguishing the subtle differences between these terms is of the utmost importance, and unfortunately it is often overlooked. It is difficult to ascertain whether all three of these components are affected during ex-gay therapy. Certainly sexual behavior and identity can change, as these are entirely controlled by the individual, but sexual orientation is still a widely misunderstood and confusing concept to both scientific and religious communities.

The attitude toward homosexuality in the U.S. is rapidly changing from one of fear, ignorance, and condemnation, to one of love and acceptance. J.S. Spong, bishop of the Episcopal Church, claims that we are currently in a “New Dark Age” in the Western world, which is “marked by the rise of religious systems that seek to build security by encouraging prejudice against a designated victim.” Religious fundamentalism is a counter-culture, developed in order to cope with a rapidly changing society and to provide a “self-defense” against a perceived threat pervasive in our world. But, like all Dark Ages, this one is destined to eventually die out in favor of intellectual growth and acceptance. The evidence of this is becoming more and more apparent. For the first time in history, a majority of Americans now support same-sex marriage; the number of states that allow same-sex marriage is slowly increasing; and (perhaps most importantly) ex-gay therapy is rapidly becoming utterly discredited and unacceptable, even within religious communities. Our society has made tremendous leaps in its position on homosexuality in the past century, and as our knowledge and understanding of human sexuality increases, the voice of prejudice against homosexuality will soon be silenced.
Bibliography


DON'T PREACH IN MY CLASSROOM AND I WON'T THINK IN YOUR CHURCH

“I cannot believe—and I say this with all the emphasis of which I am capable—that there can ever be any good excuse for refusing to face the evidence in favour of something unwelcome. It is not by delusion, however exalted, that mankind can prosper, but only by unswerving courage in the pursuit of truth.”

Bertrand Russell. Fact and Fiction, 1994

Evolution is a magnet for visceral controversy and debate. This maxim holds true whether examining the scientific theory of evolution or the numerous court cases that have argued the merits of both sides—for and against the teaching of evolution, as well as the call for equal time for creationism and/or Intelligent Design. This ongoing battle in United States courts has lasted nearly a century and is sure to continue as time progresses. Along the way, this debate will continue to confront theological understanding, scientific discovery and legal precedents. Both sides have a base that is diverse and expansive, but one group has its evidence rooted in science while the other is rooted in theology. Both views have at one point challenged the status quo, but there can be only one valid scientific theory regarding the explanation for the origin of species.

The history of this question culminated in the Kitzmiller v. Dover Area School District court case just six years ago. Examining the main questions and the general arc of the associated history therein will serve to frame the current state of this ongoing national debate. The evolution debate is certainly a pressing and intriguing issue that has already had its fifteen minutes in the public spotlight and will
most certainly have its day in the U.S. Supreme Court in the coming
years. Therefore, providing the context with which to properly view
the *Kitzmiller v. Dover* case is integral to understanding the future
implications of this debate. Ultimately, which lens—scientific or
theological—one needs to look toward the future will become clear.

*Legal Principle in Question*

In accordance with the First and Fourteenth Amendments to
the U.S. Constitution, the federal and state governments must be in
agreement with the Establishment Clause. Thus the legal principle
in question surrounding the evolution debate is the establishment
of religion. The state cannot endorse theological ideologies, tacit
or implied, by way of public services offered. The public education
provided to the denizens of a state, city, township, or district is a direct
extension of the government and therefore funded directly by taxpayer
money. The providers of public education must walk the fine line of
education and establishment concerning the sensitive areas of religion
and biological science, such as the teaching of the history of humans.

Historically, the debate concerning the establishment of religion
has been about teaching the history of religion’s role in the U.S. and
throughout the development of Western cultures. While the simple
answer seems to be to remove all religious references when teaching
these subjects, this protocol has no validity in application. While
this aggressive blanket protocol might solve the problem of the state
sponsoring religion, a student will not be able to understand today’s
society or even the modern world without the juxtaposition of religious
influence onto historical periods. The sentiment of the courts and the
general public seems to be that as long as there is no proselytization,
religious history can be taught as historical fact and religious texts can
be examined as purely literary works. It is clear that the government—
state or federal—cannot advocate or establish a religion, but the
question has now come to regard a matter of the degree to which the
state should support religion.

There is still an inherent conflict, however, concerning the
concept—or rather the misconception—that religion and science
are in direct contention with each other. Proponents of the theory of
evolution, most notably Dr. Richard Dawkins, need to operate within
their field of study and remain in the lab rather than pursue the arena of
pseudo-philosophy. Likewise, religious authorities—mainly Christian

Evangelical Fundamentalists—must understand that Genesis is not
a science book and that when theology steps out of the metaphysical
realm, it only advocates pseudo-science. The perception that evolution
is an assault on conventional theism has given rise to the pushback
manifested in the likes of (the now defunct) creationism and, more
recently, Intelligent Design.

*The Evolution of the Evolution Debate*

The start of this ongoing series of court battles can be traced back
to the 1927 *John Thomas Scopes v. The State of Tennessee* case. The
Scopes trial set the state precedent that it was constitutional to teach
the history of evolution in a classroom setting. The debate has since
morphed into the question of ‘equal-time,’ as seen first in the 1975
*Daniel v. Waters* court case in Tennessee. This new argument was that
evolution was to be taught in conjunction with creationism, affording
equal time in the classroom to both concepts. This precedent was used
over 40 years later in the 1968 *Epperson v. Arkansas* U.S. Supreme
Court case to allow evolution to be taught free from persecution
anywhere in the country.

The public perceived that “God” had been removed from the
public school classrooms across America. This is when the religious
right and the fundamentalist Christians introduced the idea that
removing God from the history of the origin of man strips away any
morality humanity may have. The memory of Nazi Germany’s war
crimes still lingered in the annals of Westerners’ minds, and thus the
ruling provoked a fear that this potential removal of morality could
create a resurgence of eugenics in modern society too reminiscent of
the Nazi death camps and the underlying message of Hitler’s “final
solution.” This idea motivated proponents of creationism to promote
the reintroduction of religious values in American education.

The response by the anti-evolutionists was a doctrine of ‘equal
time’ in the classroom for the theologically anchored theories in
opposition to evolution. To counter the fact that evolution could now
be taught in the classroom, anti-evolutionists asserted that creationism
should be offered as an alternative theory, to be implemented in as a
side-by-side comparison in science classrooms. However, this idea was
struck down in Tennessee, during the *Daniel v. Waters* case in 1975,

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1 Kimball, 2011, p. 159
2 Raden, 2008, p. 126
which did proceed up to the district court but failed to make it to the Supreme Court. Only two years later, this issue returned to the courts, this time in Indiana, in the 1977 *Hendren v. Campbell* case. The issue this time was the textbook that was proposed to teach creationism in public schools and its inherent promotion of Biblical creationism. Once again, the judge struck down the teaching of creationism in the classrooms of Indiana. While this was an obvious milestone for removing pseudo-scientific creationism from public schools, it still only applied to the individual state of Indiana. This trend of ruling the teaching of creationism as an infringement on the Establishment Clause continued with the 1982 case *McLean v. Arkansas*. This case was nearly identical to the *Daniel v. Waters* case but with a different location—this time in Arkansas.

The question of equal time for creationism would finally be answered in 1987. Anti-creationist sentiment had spread all the way down to Louisiana, revealing itself in the case of *Edwards v. Aguillard*. This court case again dealt with the issue of teaching creationism alongside evolution in a public school classroom. The difference in this case, however, was that it made it to the U.S. Supreme Court. The *Edwards v. Aguillard* case was a formidable success for the evolutionist camp. Drawing from the precedents and merits of the previous cases concerning creationism, the Supreme Court knocked down the notion of equal time for creationism and evolution in the science classroom. The implications of the ruling meant that teaching creationism as a scientific theory in class was banned on the federal level, putting the final nail into the coffin of creationism as a teachable scientific theory.

What arose from this landmark decision were the reheated leftovers of creationism or, depending on perception, an entirely new scientific theory to combat the monopoly of Darwin’s Theory of Evolution in public classrooms. The ‘Intelligent Design movement’ was now introduced as a new attempt to inject an alternative view about the origin of life into American classrooms. It emerged suspiciously and suddenly after the deathblow creationists had suffered in the 1987 ruling. This new movement would buy more time for an alternative theory to evolution, as Intelligent Design (ID) had a twenty-year run before it faced its day of reckoning in court. The proponents of ID—Michael Behe, The Discovery Institute, and (to a lesser extent) the

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3 "The question is whether a text obviously designed to present only the view of Biblical Creationism in a favorable light is constitutionally acceptable in the public schools of Indiana. Two hundred years of constitutional government demand that the answer be No" (Dugan, 1977)

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Biologic Institute—as well as the overall support from the religious right had to go through the paces and fend off the intellectuals that had already taken down the theory of creation science. *Kitzmiller v. Dover Area School District* was the first place that a court had heard arguments for or against ID as well as its new challenges to the theory of evolution.

**The Facts of *Kitzmiller v. Dover Area School District***

The Dover Area School District, located in Dover, Pennsylvania, was sued by the students’ parents for changing the school curriculum and their subsequent use of the *Of Pandas and People* biology textbook that taught Intelligent Design alongside the scientific Theory of Evolution as a viable alternative explanation for the origin of species. When the parents found out that a scientific disclaimer was to be tacked onto any discussion of Darwinian evolution and also followed by a lesson and discussion regarding ID, they marched into the school board meeting in unprecedented numbers. After exhausting all channels within the school district’s official bylaws, the parents took their plight to the middle district court of Pennsylvania. This was the first time the fledgling Intelligent Design movement had been heavily scrutinized by a public audience. This fact became increasingly obvious as the trial proceeded.

Judge John E. Jones III, a Republican-nominated Judge appointed by then President George W. Bush, presided over the court. Arguments for the case began on September 26, 2005, and lasted just over a month, ending on November 4, 2005. This court case became a lightning rod for national attention, as both sides called in their respective heavyweights. The most notable faceoff ensued between Dr. Michael J. Behe from the ID movement and Dr. Kenneth R. Miller from the Darwinian evolution camp. Both men claimed to be Roman Catholic and both were leading experts in their respective fields. These two men were integral to the outcome of the case.

There are two ways in which teaching ID in public schools can be deemed unconstitutional: its similarities to creationism and whether it establishes or advocates a religion. How exactly ID was to be taught in the classroom was under heavy scrutiny. The plaintiffs subpoenaed the publishers of the textbook, and as a result obtained a pre-1987
Aguillard edition of the book. They compared the definitions of
“creation” in the older version to the definition of Intelligent Design in
the latest edition. The definitions are below in order:

“Creation means that the various forms of life began abruptly
through an intelligent creator, with their distinctive features
already intact—fish with fins and scales, birds with feathers,
beaks, and wings, etc.”

“Intelligent Design means that the various forms of life
began abruptly through an intelligent agency, with their
distinctive features already intact—fish with fins and
scales, birds with feathers, beaks, and wings, etc.”

According to the ID movement’s propaganda, the only difference
between Intelligent Design and creationism is roughly three words.
This indeed diminishes ID’s credibility as a scientific theory and
links it closer to the criteria of being simply the reheated leftovers
of creationism. Furthermore, old publications of Of Pandas and
People revealed where the transformation from creationist to design
proponent took place: on numerous pages, a typo had occurred—
“ceesign proponentsists.” What seemed to be an automated search
for “creationists” in the preexisting text resulted in a failed attempt to
change “creationists” into “design proponents.”

Dr. Behe failed to make a case for Intelligent Design.

“Defense expert Professor Fuller agreed that ID aspires to
‘change the ground rules’ of science and lead defense expert
Professor Behe admitted that his broadened definition of science,
which encompasses ID, would also embrace astrology. Moreover,
defense expert Professor Minnich acknowledged that for ID to
be considered science, the ground rules of science have to be
broadened to allow consideration of supernatural forces.”

On cross-examination, Professor Behe admitted that:

“There are no peer reviewed articles by anyone advocating
for intelligent design supported by pertinent experiments or

calculations which provide detailed rigorous accounts of how
intelligent design of any biological system occurred. Additionally,
Professor Behe conceded that there are no peer-reviewed papers
supporting his claims that complex molecular systems, like
the bacterial flagellum, the blood-clotting cascade, and the immune
system, were intelligently designed.”

Furthermore, “Professor Behe remarkably and unmistakably claims
that the plausibility of the argument for ID depends upon the extent to
which one believes in the existence of God.” It is clear that Intelligent
Design operates on a looser definition of what science is, does not have
any empirical data or peer reviewed journals to defend ID claims and
is inherently dependent upon a belief in God. So, it follows that any
promotion of ID in a public school is the State promoting religious
belief.

Justice Jones ruled the school district’s inclusion of Intelligent
Design into the curriculum unconstitutional. He reasoned that

“the proper application of both the endorsement and Lemon
tests to the facts of this case makes it abundantly clear that the
Board’s ID Policy violates the Establishment Clause. In making
this determination, we have addressed the seminal question of
whether ID is science. We have concluded that it is not, and
moreover that ID cannot uncouple itself from its creationist, and
thus religious, antecedents. [Therefore] our conclusion today is
that it is unconstitutional to teach ID as an alternative to evolution
in a public school science classroom.”

Critiquing the Courts

With the initial ruling in the Scopes v. State case, the court ruled
that evolution was described too broadly and that the arguments to ban
this broad term were all theologically motivated and dependent upon
theological belief, thus seen as an attempt to establish a form of state
religion. The court saw these as sufficient grounds to rule the Butler
Act—a Tennessee law from the 1920s forbidding schoolteachers from
deny the Biblical account of man’s origin—as unconstitutional. This
was, however, a state ruling and did not make it to the U.S. Supreme

11 Jones III, 2005, p. 88
12 Ibid., p. 28
13 Ibid., pp. 136-137
14 Scopes v. State (Supreme Court of Tennessee, 1927)
Court. It was not until 1968 when the same basic principle from the Tennessee case was litigated in Arkansas. The benefit of the forty-year wait took shape in the form of *Epperson v. Arkansas*, which the Supreme Court did hear. The court unanimously ruled 9:0 that any ban against teaching evolution in the science classroom clearly violated the First and Fourteenth Amendments. 15 Not only was the vote unanimous, but precedents were clearly referenced and applied as well. The justices put a solid foot forward concerning the future path of the evolution debate.

Following this landmark decision, the Supreme Court was almost able to go two decades without having to address the evolution-creationism debate. Two other lower level courts heard cases concerning the concepts of Biblical creationism—*Daniel v. Waters* in 1975 and *Hendren v. Campbell* in 1977—and one regarding creation science—*McLean v. Arkansas* in 1982. The precedents set by these cases all invoked the First and Fourteenth Amendments to confirm the unconstitutionality of Biblical creation and creation science as scientific theories because of their inherently theological implications. Again, the U.S. Supreme Court acted in accordance with these precedents and declared once and for all that creationism could not be taught in public schools in the context of legitimate scientific theory or in the domain of a science classroom. The vote in the *Edward v. Agulliard* case, however, was not unanimous like the first. The dissenting opinion, written by Justice Scalia and concurred by Justice Rehnquist was quite intriguing. Justice Scalia witnessed the battle that the scientific theory of evolution had to go through, yet wondered why creation science was being written off so eagerly. 16 His argument echoes a freedom of speech type of approach to the marketplace of scientific theories presented in a classroom. Important to note, though, is that just because a person can hypothesize a theory does not give it automatic entry into the classroom. The Supreme Court’s ability to act concisely when issuing its rulings for these cases helped to further build up the integrity of our educational standards by simply reaffirming and correcting the First Amendment. This verdict was successful because of Justice Brennan’s apt application of the Lemon Test to find the Louisiana law unconstitutional. 17

The *Kitzmiller v. Dover* decision and written opinion by Justice

15 *Epperson v. Arkansas* (United States Supreme Court, 1968, p. 393 US 109)
16 *Edward v. Agulliard* (United States Supreme Court, 1987, pp. 482 US 611-615)
17 Ibid., pp. 482 US 583-593)

John E. Jones III are perhaps the most noteworthy rulings in the modern era of the courts. The right decision became obvious when the Intelligent Design camp’s main witness, Dr. Behe, seemed to steer the ship toward the iceberg after making the one concession that had yet seemed to be the difference between Intelligent Design and creationism. I find that Justice Jones' 139-page opinion is more akin to a work of legal precedent artwork than just simply an opinion to justify a ruling. 18 Justice Jones was able to accurately anticipate the gravity of his ruling and made sure his opinion was thorough and that it incorporated the legitimate claims that science has to refute Intelligent Design. He was able to give a succinct and workable definition for what science was and what could qualify as a scientific theory. After this groundwork, he used the expert testimony on evolution in conjunction with the numerous missteps and errors of the Intelligent Design camp’s witnesses and evidence to really crush the idea that ID offers any possible threat of defeat of the theory of evolution. He then proceeded to eviscerate claims made by the Intelligent Design proponents that they had any sort of workable scientific theory at all. Some may see this as legislating from the bench; some may see it as overkill. But I see it as necessary and fair treatment of the absurd notion that theology can be cleverly masqueraded as science.

**Moving Forward**

Among fundamentalists, the lack of education about what the theory of evolution actually teaches is what is perpetuating this ignorance. This enables and purveys not only the perception that the Darwinian Theory of Evolution is a secular conspiracy theory to eliminate religion, but also the fallacious myth that science is out to contend with religion.

Should the teaching of Intelligent Design or even creationism be prohibited? No, as long as it is presented as what it is. For example, it would be acceptable for creationism to be included as part of a religious studies-themed elective course into which a student could freely choose to enroll. But when creationism masquerades as science it becomes disingenuous and fraudulent. No other scientific theory—from the theory of gravity, to the germ theory of disease, to atomic theory, to plate tectonic theory—has been challenged with such vigor.

People, especially of a devout religious nature, believe what
they assert on faith claims to be infallible and inerrant and that theirs is “the only way.” But it is that arrogance that is holding this country back in larger and more global considerations. The American public education system is in shambles and is constantly losing ground to rival nations. There seems to be a drive to promote morality via public policy, but this shortsighted ideologue realism is holding the entire nation back. Other world superpowers are certainly enjoying this lag the U.S. is experiencing. It has always been this nation’s positioning at the forefront of scientific discovery and development that have put it in such an advantageous position in the world concerning innovation. Creationist and Intelligent Design movements are counterproductive to scientific breakthroughs and understanding and create a stagnation concerning the examination of how things operate. For example, “father of the Intelligent Design movement” Phillip Johnson has claimed that HIV does not lead to AIDS, effectively establishing the AIDS-Denialist platform. Obviously, religious belief does not automatically lead to the denial of AIDS. Rational thought must be injected into these pseudo-science subjects so that the negative implications can be examined before they are pointless thrust into American classrooms.

The fervor exuded by the anti-evolutionist camp may appear to be well placed, but the consequences stemming from its actions may be quite regrettable. The fear and ignorance toward science in the fundamentalist communities needs to be eradicated. Quite perplexingly, the denial of scientific theory has somehow become an affirmation of faith. Ironically, with the continued trajectory of the anti-evolutionists, they could land at the front door of a greater moral quandary than eugenics. It is important that the foundational education taught to the children of the future is widely applicable and inclusive to all (reasonable) faith traditions. Enacting these policies would greatly benefit the future generations of American students and promote education beyond the religiously biased bantering of fundamentalists and fanatics. Thanks to the due diligence of Justice Jones, there is now a working precedent for how to treat future state, district or even federal cases concerning Intelligent Design.

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**Bibliography**


Religions have consistently, over time, been plagued with religious people. These persons may exist within a wide spectrum of religiosity, from the universalist to the evangelical. Within this orbit lies a never-ending range of opportunities and ideas for salvation. Looking in particular at Christianity within the globalized world of the twenty-first century, we may find the salvific views of classical pluralist, inclusivist, and particularist/exclusivist¹ able to better enlighten us on how to more peacefully live alongside the “Other” in our current pluralistic coexistence. The most logical and well-developed schema for looking at salvation within a pluralistic world is none other than that of religious pluralism.²

¹ These are all broad terms defining the conceptual connections between religions. To define each term could take up the entirety of another paper. Each of the terms here, though, have been defined in accordance with its use by the this paper’s sources: pluralism seeks to find connections between religions and looks at their inherent cultural value (Hick); inclusivism sees its own religion as inherently true but does not denounce the possibility of truth in other religions (Pinnock); particularism is seen here as a vantage point from which one’s own religion is absolutely true but respect for other religions is acknowledged as healthy (McGrath); and exclusivism disavows all other religions, besides its own infallible religion (Goorv and Phillips).

² Religious pluralism is a methodology in which religions and their social and salvific properties are examined in comparison to one another. This is a simplified definition of a very intense and multifaceted topic.
Pluralism, however, lacks a firm view of salvation, and, as pluralism itself requires the recognition of the principle that no religion may claim to be superior to another, it must be looked at alongside the inclusivist and particularist views. This is not to say that pluralism is not the most favorable view for looking at salvation, but perhaps a more thorough investigation of pluralism is required to fully understand any single claim that it concerns. To develop this theory, I will be analyzing the essays found in *Four Views on Salvation in a Pluralistic World*, while drawing on other articles and authors to defend and describe various elements of religious pluralism as an accepted view of salvation within the “varieties of religious experience.”

Professor and philosopher of religion John Hick, the distinctive and definitive voice of classical religious pluralism, upholds a strong and provoking view of salvation through the lens of pluralism. First, it is important to distinguish Hick’s brand of pluralism. In *An Interpretation of Religion*, he proposes “the great post-axial faiths constitute different ways of experiencing, conceiving and living in relation to an ultimate divine Reality which transcends all our varied versions of it.” Hick, following a basic pluralist assumption that no religion is completely true but that all are correctly aimed toward the single Divine Presence, continues his claims concerning pluralism by saying that none of these ‘great’ traditions have maintained their strict instructions for living; “...human behavior all too often [slides] back into a loveless and selfish treatment of others.” The overall structure and virtues existing within these traditions are found by Hick to be very similar, and one of the key dangers that pluralism poses to Christianity is its reckoning that Christianity cannot stand unmatched in terms of its ‘Truth’ compared with all of the world religions.

Hick makes his case by insisting that the principle of biblical inerrancy be struck down and institutes here the actuality of the Historical Jesus within Christianity. He references the unclear language used within the synoptic gospels on the matter of Jesus of Nazareth being considered Jesus the Christ, as well as the appearance of such language in church doctrines occurring long after Jesus’ death.6

Indeed, one of his first questions within *Four Views* is why he would choose to maintain an outlook of religions that seeks a pluralistic answer versus one claiming Christian superiority among religions. Hick states that he has “not found that the people of the other world religions are, in general, on a different moral and spiritual level from Christians.”

His view on salvation from a pluralist perspective is multifaceted: if Christians limit their idea of salvation “as being forgiven and accepted by God because of Jesus’ death on the cross,” then Christianity in essence produces and maximizes the profits of their own salvation story. However, if salvation is maintained as “an actual human change, a gradual transformation from natural self-centeredness ... to a radically new orientation centered in God (the Real), then it seems clear that salvation is taking place within all of the world religions.” Hick points out the importance of recognizing that this idea of salvation begins before death, and occurs throughout one’s life as a transformative process into what we might call ‘Other-centeredness.’ He uses the term “salvation/liberation” to give a more pluralist connotation to this process, as salvation is a very Christian-based term.12

The use of the term “lenses” in describing the differing aspects of “human responses to the Ultimate” accurately explains the pluralist viewpoint of religions.13 The question of discerning perceptions of this “Real” in a pluralist hypothesis requires that we suggest there is “an ultimate transcendent reality, the source and ground of everything,” existing beyond humanity but simultaneously perceived and encountered by humanity.14 For a Christian Pluralist, these changes in discipline require that the doctrine of the Incarnation of Jesus, who “did not claim deity for himself,” is not describing Jesus as being God-incarnate, in that he was “so open to divine inspiration ... that God was able to act on earth in and through him.” 15 Theologian Paul Knitter emphasizes the Gospel of Luke’s account, in which Jesus is said to have “grown into wisdom and grace” through the “Spirit” of the Divine, which “led ... filled ... and empowered [Jesus].”16 This stance,

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6 Okholm, 1996, p. 39
7 Ibid., p. 43
8 Ibid.
9 Ibid., p. 43-44.
10 Ibid., p. 44-45.
11 Ibid., p. 50.
12 Ibid., p. 53-58.
while offering slightly evolved academic viewpoints of Christianity, gives us religious pluralism—and therefore, a salvation—meant to last, and meant to create a framework (from Hick’s hypotheses) that is informational and respective in nature of viewing and comprehending a religion.

Evangelical author Harold Netland, while cautious of praising Hick, complements him on having the “most rigorous and philosophically sophisticated attempt to provide a model of religious pluralism that does not privilege any particular tradition.” Hick’s view of pluralism is comparative to that of author Huston Smith, who argued in The World’s Religions that “[i]t is as though salvation is claimed by all religions like claiming that God can be found in this room but not the next, in this attire but not another.” Smith’s claims recognize that religion seems often to arise out of a given culture. Hick himself claims that “cultural variables function as conceptual lenses through which different peoples understand and respond to the religious ultimate.” Given Hick’s framework for religious pluralism, this remains as a helpful perspective of the phenomena of religions.

Hick comes under attack from the other dogmas of inclusivism and particularism/exclusivism. First, Hick responds to the inclusivist claims of evangelical theologian and professor of religion Clark Pinnock, by commending his work in evangelical Christianity, quickly noting he appreciates that inclusivists could understand non-Christians being given access to salvation. However, Hick very astutely comments that this inclusivism is “unstable” and is wrong in claiming that Christianity is “central to the salvific process and thus uniquely superior to all others.” Hick remains steadfast in his argument that if Christianity were the true religion, why would it not have the most growth and true followers when compared among all religions? Secondly, Hick responds to “particularist/evangelical” professor Alister McGrath, who criticizes Hick’s handling of the Incarnation doctrine. For Hick, the other three viewpoints are in different stages: those of R. Douglas Geivett, professor of philosophy of religion and ethics, and author W. Gary Phillips, a view basically opposite of Hick; those of McGrath, who upholds that religious pluralism should be dismissed while retaining unsure answers on the process of salvation; and those of Pinnock, whom he sees as simply stopping short of the higher truth of pluralism.

To ensure that Hick’s view is well defended, it is necessary in particular to discuss the weaknesses within the other three viewpoints found within Four Views on Salvation in a Pluralistic World. Each view maintains its own strong meaning, but for the purposes of offering the best view of salvation in a pluralistic world, these three viewpoints miss the mark. Clark Pinnock, representing the inclusivist view, seems to appear as the “golden compromise” that has arisen between pluralism and exclusivism, offering a pleasant enough message of salvation for all—but uniquely through Jesus the Christ. Pinnock often speaks in contradictions, making him difficult to follow and sometimes impossible to understand. He begins his chapter by praising the efforts of religious pluralism to once again bring important theological questions to a turning point. He soon defines inclusivism helping to see religion as a “role preparatory to the gospel of Christ, in whom alone fullness of salvation is found.” While saying in one instance that “God is present in the whole world, God’s grace is also at work in some way among all people, possibly even in the sphere of religious life,” he soon criticizes pluralism for “posing an unknown Reality everywhere present in religion.” Pinnock also favors the Second Vatican Council, which he labeled as having a “spirit” of “openness to the world and a seeking after the unity of humanity.” Vatican II, though, was not as bold at seeking the unification of religions in what almost sounds like a call to universalism.

Further, Pinnock limits the “Holy Spirit” by saying it is “in everything but not as everything.” Claims such as this are confusing, because Pinnock considerably minimizes the power of the “Spirit.” He criticizes pluralists for “believing something unique about God” but convoluting it into a form that strays from Pinnock’s path. He fails to mention any concrete support of fostering strong inter-religious dialogues, an issue with which Professor Mary C. Boys would very much disagree. Dr. Boys’ work has led to her motivations that, at the

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18 Smith, 1991
20 Okholm, 1996, p. 82.
21 Ibid., p. 83.
very least, an inclusivist must be willing to participate in interfaith dialogue, for the less that occurs, the more dangerous we all become. Without observance and understanding of other religions, we become completely convinced that only we can be correct, without the evidence to hold fast to our convictions; we settle for what we believe "just because." Hick criticizes Pinnock heavily for putting a precursor on salvation, and re-emphasizes the pluralist view of salvation as one of transcendence from the self to the 'Ultimate Real.'

Comparatively, particularist Alister McGrath begins his chapter surprisingly ill-tempered by stating how upset he is at the "liberal political agenda" with respect to religions. He discusses the "arrogance" of religious pluralism in assuming that they have all the answers about how religions work. McGrath, however, fails to mention that Hick only discusses religious pluralism as a working hypothesis and never even makes a bold truth claim about his own model, something that Pinnock, McGrath, and Geivett and Phillips feel they have the authority to proclaim due to their belief of Christian superiority and the infallibility of Scripture. McGrath seemingly acknowledges this after discussing the translation of the word "salvation" and how its many meanings and "divergences are masked by the process of translation, which often suggests a degree of convergence that is absent in reality." McGrath comes under Hick's fire for asserting that all religions are the same under religious pluralism. Hick's own view is that "the pluralistic hypothesis has the merit that it does not lead us to play down the differences between the various forms of religious experience and thought." Hick also points out that while his normative pluralist view does not seek an overarching truth claim, McGrath "does claim a privileged position from which it is able to locate all non-Christian traditions as either errors or potential preparations for itself." For his conclusion, McGrath concludes that religious pluralism forces traditional beliefs out of Christianity, then irrationally compares this "prescriptive pluralism" to "Nazism and Stalinism." There is no point or worth that McGrath could accurately give to this metaphor, because there is no possible explanation for comparing a pluralist to one of Hitler's National Socialists unless it is to demonize his enemy.

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28 Okholm, 1996, p. 127
29 Ibid., p. 151
30 Ibid., p. 166. Another way of how we describe life through the human perspective.
31 Ibid., p. 181
32 Ibid., p. 183
33 Ibid., p. 206

The interesting points sometimes acknowledged by McGrath are intermingled with his blatant dislike for religious pluralism. Professor and author Miroslav Volf of Yale University, an "exclusive" Christian along somewhat similar lines as McGrath, is more open to discussing moving toward an inclusivist-type ideology. In his novel *Allah: A Christian Response*, Volf recognizes the importance of fighting extremism on both sides of current conflicts between Islam and Christianity and opening the self up to a greater acknowledgement of the "Other" that is based in love. "Justice, although essential, is an aspect of divine love—of God's care for human beings and intention to establish the real relationships among them." Had McGrath offered an open response, rather than concern himself with the "liberal ideology" that seemed to engage some wrong aspect, several of his suggestions would have raised the level of discourse within his own chapter.

Exclusivists Geivett and Phillips, who stand firmly opposed to John Hick's religious pluralism, state that Christian religious pluralists begin all conversations at odds with Christian exclusivists or inclusivists because pluralists have such a distinctly different outlook on the Bible and normative Christian beliefs. This appears counterproductive. In order to make that statement, one would have to presuppose the thoughts and actions behind pluralist thought and naturally dislike them through one's own presuppositions. Geivett and Phillips disagree strongly with Hick's notion of a "religiously ambiguous" universe and hold steadfastly to their beliefs of superiority and salvation in Christ alone. Hick counters them on this point, stating "it is capable of being consistently and comprehensively interpreted, from our present position within it, in both religious and naturalistic ways." Hick states here that we can interpret the universe in various ways at different points throughout human existence.

Most disturbing to Hick is the strange fate of what exclusivists Geivett and Phillips refer to as the "unsaved non-Christians." After concluding, for what is probably the fourth time within *Four Views*, that New Testament scholarship has confirmed (including conservative theologians) that Jesus never directly claimed to be God incarnate, Hick strongly questions the idea that wherever you happen to be born will determine the eternal judgment of your soul. Such hardline exclusive
views make it difficult to follow the suggestions of David Campbell, author of *American Grace*, who speaks of the need to build stronger religious communities and bridges across those communities, while posing the question: “Is religion a double-edged sword?” The answer depends on whose swords are in use. If exclusivist Christians are not willing to engage in dialogue with anyone else, then the exclusivists are hurting themselves by limiting their interaction with the rest of their religious community.

Although Hick’s view of salvation through pluralism is well-argued, it seems that there are several key factors that Hick did not address regarding his schema for salvation. In the chapter by Alister McGrath, several points are made but never honestly examined by Hick. McGrath states clearly that the early Christian Church “did not denounce other faiths. They simply proclaimed Jesus with all the power and persuasiveness at their disposal.” This, coupled with the notion that “[L]anguages, like religions, are living entities and cannot be forced to behave in such an artificial way,” invigorates the possibility that the Incarnation doctrine and religious pluralism are not mutually exclusive. Retaining Hick’s theory of an unknown and ultimate reality, is it actually so far-fetched that Christian pluralists could save the doctrine of Incarnation if they felt that it actually fit into their own worlds and views? It opens up the possibility that Jesus the Christ did indeed exist through a revealed and inspired scripture, but it still does not ensure that Christianity is the religion above all others; rather, it has an even more divine and mysterious narrative that requires the continuance and exploration of faith.

Another critique of pluralist thinking also comes from McGrath’s chapter when he describes the idea of forced salvation. While a pluralistic world ensures the manifestation of the Real to each person individually, the proposed doctrine of universal salvation should, at the least, mention such a possible complication. This question remains unanswered.

What has presented itself as a strong critique of pluralist ideology is the notion that condemning every religion to be wrong should not be a necessary part of the religious pluralism framework. Evangelical scholar Harold Netland warns that this is the great “irony” of pluralism—that it says “large numbers of morally good, sincere, intelligent people are simply wrong in their basic religious beliefs.” There is a notion that pluralism could function in such a way that each person would simply believe the truth that they find in their own tradition, while believing in a completed but mysterious structure of religious pluralism. This promotes coherent understanding, interfaith dialogue, and greater awareness of the Other.

**Pluralism: Does It Work?**

John Hick’s view, while a self-described working hypothesis, is certainly the closest view of salvation in a pluralistic world. Many have methods and paths that bring them toward a spiritual transcendence of the self. Religions can help lead some people to the unknown wonder, the “Ultimate Real.” But when no religion claims superiority, there is a respectful recognition of the Other. Most importantly, pluralism seeks to understand the world of the Other, and not simply dismiss it for being Other. The problem of pluralism is that two major categories of pluralism exist: “social pluralism,” in which we live with the Other and know them, and “theological pluralism,” pluralism that reaches for the deeper questions within the self.

Whilst pluralism wrestles with the ever-lingering question of truth, in particular Absolute Truth, and its relationship to an individual and their beliefs in a pluralistic world, perhaps the words of logotherapist Victor E. Frankl, concerning the “meaning of life” may help discern a final thought about pluralism: “For the meaning of life differs from man to man, from day to day and from hour to hour. What matters, therefore, is not the meaning of life in general but rather the specific meaning of a person’s life at a given moment.” Thus, we may conclude that the mysteries of pluralism only grow daily, and asking about and seeking those mysteries (and the effects of their salvific properties), regardless of our beliefs or non-beliefs, help us grow into more enlightened and transcendent individuals living within a pluralistic society. Our salvation, as Hick concluded, must begin before we reach death. Who are our “saviors,” then, in the end? They are the Real, the Christ, the nothing, our teachers, our parents, our friends. The most appropriate statement we can give them is: They are. We’ll discover the rest along the way.

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38 Campbell, 2012
39 Ibid., 1996, p. 173
40 Ibid., p. 173
41 Ibid., 1996, p. 177
42 Netland, 2001, p. 246
44 Frankl, 1984, p. 108
Bibliography


Religion and religious practice are ingrained into the culture of Native American life. A ceremony that has held particularly strong importance amongst many different tribes (and for a long time) is the use of peyote. The ceremony that involves peyote use focuses on healing, celebration, and gaining insight into the self and the Divine. One of the first documented tribes to practice the Peyote Ceremony is the Huichol Indians of Mexico. This practice has spread north into the United States, and in doing so has adopted interesting transformations during its evolution. These have led to the forming of the Native American Church (NAC) as well as other developments — some of which have presented difficulties for the ceremony, such as the struggle to continue the use of peyote under government laws. The opposition Native Americans have faced in regard to their sacramental use of peyote has contaminated many other aspects of their lives, including political and personal. As Peyotism is part of a religious tradition, there has been an ongoing debate concerning the context of religious freedom in America. The use of peyote among Native Americans is a controversial issue that still raises many questions about the scope of religious freedom. The controversy has brought to light the divide between continuing traditional religious practices and following
government regulations, which leaves the question of whether a person or tribe must give up these practices to become a respected, law-abiding member of society.

The Huichol Indians of the Sierra Madre Occidental Proper, a mountain range spanning from Southeastern Arizona to Central Mexico, possess a rich cultural background in which peyote use plays an integral role. It is fundamental to the Huichol spiritual tradition and way of life because of the role it plays in the holistic connection between personal spirit, land, deities, ceremony, and community. The Huichol maintain such high regard for this plant that they consider it necessary to their spiritual well-being. This respect for peyote has led to the development of a Peyote pilgrimage. The pilgrimage takes the Huichols from their homeland in the Sierra Madre Occidental to the sacred desert of Wirikuta in San Luis Potosí, three hundred miles of brutal heat, hunger, thirst, and harassment from landowners and police.¹

Peyote is a plant “native to the arid north-central region of Mexico and the lower Rio Grande Valley.”² The name peyote comes from the “Aztec word peyotl, which refers to a caterpillar’s cocoon, as the plant has a fuzzy tuft of white silky hair protruding from the center of white-pinkish flower petals, which appear in the spring.”³ It contains psychoactive alkaloids. One mescaline has a hallucinogenic effect on those who consume a large enough quantity of the plant.⁴ The effects of peyote change with each person, but common side effects are “excitement and exhilaration… followed by alterations in the sense of time and by optical visions such as brilliance of colors, and auditory hallucinations.”⁵ There are three different types of peyote that the Huichol recognize but only one is considered sacred. Only the peyote known as Yáwei hikuri is considered true peyote by the Native American tribe. On the other hand, both Aikusí and Tsuwiri are both viewed as “false Peyote,” said to be even capable of causing madness and death.⁶

There are also many different ways to ingest peyote. It can be eaten raw when the “Peyote button,” or top of the plant, is cut from the rest. However, the most common forms of ingestion involve drying the peyote in the sun, which has the added benefit of increasing the storage life of the drug and making its distribution easier. Often, peyote is ground into a powder, which when combined with water makes it possible to be eaten with a spoon as paste. However, the most common form of consumption is to make a tea that can be sipped by participants.⁷

When on pilgrimage, the Huichol say that they are hunting for deer, which refers to the origin story of the Peyote ceremony. According to this myth, a man named Majakiaug, which means Deer Tail, was sent to earth from the heavens by the supreme sky god and creator, Tahuëhuikame, with instructions that he teach the people improved ways and a more humane code of laws.⁸ Deer Tail decided to guide his followers to a new home, but on the way the followers were attacked and their enemies broke the gourds in which Deer Tail’s people were carrying their water for the long journey. The gods saw this and, offering help, gave Deer Tail’s people the plant of peyote, which was said to ward off hunger and thirst so they could continue on their journey. Today, when the Huichol embark on pilgrimage, “the most prized [peyote] manifest itself… in the shape of a deer,” which reminds the Huichol of the plant’s connection with Deer Tail.⁹ After the Huichol collect peyote, rituals are performed for the sacred ceremony.

The Peyote ceremony is carried out for different reasons, including pilgrimage, illness, celebrations, hunger and thirst, and connecting with the Divine. After finding the peyote, a ceremony is performed before the journey back to the Huichol’s homeland and once again when they return. Before the pilgrimage the participants “publicly confess their sexual transgressions and abstain from sex and salt.”¹⁰ They also make a statement that the Creator takes the form of the deer and of peyote. This may be paralleled to Christian beliefs in “that the Creator, out of compassion for his people, subjects himself to the limitations of this world.”¹¹

In the Peyote ceremony, there are two people of great importance: “one is the leading shaman, known as Saulitisik, the other is the ‘Keeper of the Peyote,’ called Nauja.”¹² During five different intervals

¹ Schaefer, 1996, p. 27
² Ibid., p. 55
³ Maroukis, 2010, p. 5
⁴ Schwarz, 2008, p. 58
⁵ Weis, 1978, p. 37
⁶ Schaefer, 1996, p. 142-143
⁷ Ibid., p. 33-36, 146.
⁸ Fikes, 1996
⁹ Ibid.
¹⁰ Schaefer, 1996, p. 152
advocating the ritual after he claimed to have experienced its restorative capabilities first-hand, avowing it had cured him after being gored in the stomach by a bull.\textsuperscript{19}

The Half Moon ceremony focuses on the Chief Peyote button, which is placed in the center of a half moon shaped mound in a tepee. There is a fire to the east of the mound along with special objects, such as “a three legged kettle drum with a deerskin drumhead, a gourd rattle, the leader’s staff, an eagle-bone whistle, sage, and Peyote.” The Roadman leads the participants down the Peyote Road, which is believed to help facilitate an interaction with the Divine.\textsuperscript{20} According to Parker, “[w]hite people go into their church houses and talk about Jesus; we go into our church and talk to Jesus,”\textsuperscript{21} hence emphasizing the intimacy and personal relationship that the use of peyote is believed to provide during ceremonies dedicated to the divine.

The most influential Peyotist after Parker, John Wilson, also had a profound experience when taking the sacrament. According to Wilson’s followers, it is claimed that, “he went into seclusion for two weeks, during which he used Peyote and experienced a series of revelations concerning a new style [of] Peyote ceremony.”\textsuperscript{22} This new way is now referred to as the Big Moon Way or Cross Fire Way. There is a north-south line and an east-west line drawn on the floor where the ceremony is held. The two lines intersect, making a cross at the center of the fire, demonstrating a Christian influence. During the development of the Cross Fire way, “Wilson not only introduced the use of the crucifix but also made biblical references to Jesus,”\textsuperscript{23} forming a bridge between the two traditions—notably marking the integration of Anglo-Saxon and Native American cultures.

The Half Moon style of Peyotism has less of a Christian influence than the Big Moon branch. However, Parker’s and Wilson’s ways are similar in that they both look to God and hold the belief that peyote is a healing medicine when taken with the right intentions and the right heart.\textsuperscript{24} Both of these styles are very prominent in the NAC, inside and outside Oklahoma. The rituals of the NAC vary from place to place. However, the ceremony must have a central altar and fire. Other aspects

\textsuperscript{13} Schaefer, 1996, p. 152-153
\textsuperscript{14} Ibid., p. 1
\textsuperscript{15} Epps, 2009, p. 54
\textsuperscript{16} Wax, 1978, p. 31
\textsuperscript{17} Ibid., p. 37
\textsuperscript{18} Schwaiz, 2008, p. 58
\textsuperscript{19} Marokski, 2010, p. 25
\textsuperscript{20} Ibid., p. 25
\textsuperscript{21} Smith, 2006, p. 99
\textsuperscript{22} Marokski, 2010, p. 30
\textsuperscript{23} Ibid.
\textsuperscript{24} Schwaiz, 2008, p. 59
of the ceremony are specific in nature:

"At midnight and dawn there are ceremonies involving water; and, in the morning, there is a ritual breakfast, which will include corn (maize), fruit, and boneless meat. During the service, peyote is passed among the communicants and ... each usually consumes at least four buttons. Likewise a water-drum and other ritual paraphernalia are passed about the circle, and in turn each person sings four peyote songs, while accompanied on the drum by the person on his right."25

Services can also be held for specific healing ceremonies or special occasions, such as birth and marriage.

The NAC has rapidly grown and there are now eighty chapters spread amongst seventy Native American Nations, which makes the Church the nation’s largest religious organization. The NAC has continued to thrive regardless of fervent opposition “to maintain spiritual and cultural autonomy against federal, state, and private interests that would deny them their autonomy.”27 Indeed, the 1960s brought awareness to the use of peyote, but in a more taboo way. In fact, due to the vast drug use in the Sixties Counter Culture, peyote became classified as a Schedule I drug. While Native Americans could still practice this sacred ceremony, there remained a fear that it could be outlawed because of the derogatory name peyote had gained from its abuse by people outside the NAC. In 1978 the American Indian Religious Freedom Act was passed, which gave Native Americans “their inherent right of freedom to believe, express, and exercise” and gave them “access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.”28 Even with the American Indian Religious Freedom Act, Native Americans continue to face discrimination regarding the use of peyote within the NAC.29

One of the most important cases surrounding the Native Americans’ religious freedom regarding the sacramental use of peyote is Employment Division v. Smith and Black. Al Smith faced repeated hardships because of his status as a Klamath Indian. He faced “years of

forced Christianity and indoctrination about ‘appropriate’ behavior in a white world, [which] would separate him from his cultural traditions and sense of self.”30 Smith grew up on a reservation and was made to enroll in a Catholic school, where he faced discrimination and forced repression of his religious tradition, which he claims led him to turn to drinking.31 After overcoming his drinking problem, Smith helped found a drug and alcohol rehabilitation center and, “after much soul searching,” joined the NAC where he claims to have discovered happiness.32

In 1982, Smith became an employee at ADAPT, a drug and alcohol rehabilitation center, which “was committed to hiring a mix of recovering and non-recovering staff to offer a range of counseling treatments, including counseling from staff who had personally struggled with substance or alcohol abuse.”33 Smith met co-worker Galen Black, a non-Indian. Black was interested in the NAC after hearing about it from Smith and later attended a meeting where he ingested peyote. When ADAPT discovered that Black had ingested peyote, he was fired on the charge that he had relapsed and was then refused unemployment insurance.34 Thus, the long battle of Employment Division v. Smith and Black began.

According to ADAPT, the worry stemmed from “the impact on ADAPT’s clients, who would learn of the counselors’ use of peyote and conclude that they, too, could use alcohol or drugs on an occasional basis.”35 However, Black felt that he was only trying to do his job in a creative way, through learning other healing ways, and did not view the sacramental use of peyote as relapsing.36 What ADAPT overlooked, or perhaps failed to acknowledge, is the fact that Smith’s and Black’s use of peyote was in a religious setting and can be likened to the Christian sacrament of the Eucharist, in which the consumption of alcohol serves a spiritual and religious purpose.37 This turns the case into one of religious freedom rather than a disgruntled ex-employee trying to collect unemployment benefits because of a drug addiction.

In 1989, after an eight-year struggle, the Oregon Supreme

25 Wax, 1978, p. 38
26 Fikes, 1996
27 Maroulis, 2010, p. 5
29 Ibid., p. 12
30 Long, 2000, p. 22
31 Ibid., p. 28
32 Ibid., pp. 31-34
33 Ibid., p. 37
34 Ibid., pp. 39-40
35 Epps, 2009, p. 119
36 Ibid., p. 125
37 Maroulis, 2010, p. 3
Court sided with Smith and Black. The court ruled "that the state of Oregon could not, consistent with the free exercise clause of the First Amendment, deny the respondents' unemployment benefits." The battle did not end there, as there still remains legal tension over the sacramental usage of peyote. However,

"the Smith case created a massive loophole in American law for worship, not only for native worship but for all worship. It created a human rights crisis. It led to unrest and fear of prosecution for native people across the land."[40]

In order to practice a crucial sacrament that connected Native Americans to their spiritualism, to the land, their ancestors, and their culture, they would have to risk their livelihood and freedom since the American justice system labeled Peyote as a Schedule I drug. The Oregon Supreme Court recognized this crisis and took a step towards a more inclusive sense of religious freedom—an enforcement of religious freedom that does not deny the rights to practice a ceremony that is looked upon as a sacred way to connect to the Divine by those who practice the Peyote Ceremony.

It is understandable that a government would want to protect the citizens from harmful substances, but when does protection become control? Protecting citizens from a harmful drug, such as heroin, is one thing. There have been numerous people who have fallen into deep addictions from the use of heroin, yet some doctors prescribe a synthetic form of heroin, Oxycontin, as a heavy pain reliever. On the other hand, it has been documented that people who use peyote do not seem to have any type of tolerance and also do not suffer any withdrawal symptoms as one might experience with substances like heroin or alcohol use. For instance, "in 2005 a medical study from McLean Hospital, affiliated with the Harvard Medical School, indicated that there were no psychological or cognitive problems associated with the use of Peyote."[41] This raises questions about why such strong measures were taken to try to eliminate the peyote ceremony from the NAC, in both direct and indirect ways, especially in a country that boasts of religious freedom and tolerance yet discriminates against the ceremonies of Native people.

[38] Smith, 2006, p. 102
[40] Smith, 2006, p. 32
[41] Maroukis, 2010, p. 6

The use of peyote among certain Native American tribes is vast. It is a practice that has countless layers of meaning to those who participate in, and understand, the ceremony. The peyote ceremony has been deeply influenced by cultural dynamics within the United States. The tension between religious freedom and illegal consumption has certainly manifested itself in the political barriers that Native Americans have had to overcome to use peyote as part of a sacred rite. But its role in the advancement of religious freedom illuminates the importance of the peyote ceremony. Its legitimacy has been denied by people and tried in courts, and in the end it has paved the way for other movements to take strides toward greater religious freedom. The price of religious freedom has been shown through the trials of Native Americans. These difficult yet important trials have gone a long way to give respect to the individuals practicing in a variety of different religious ceremonies and traditions.
Bibliography


AUTHOR BIOGRAPHIES

Brooke Myers is a senior pursuing majors in Religious Studies, International and Area Studies, and Journalism: Professional Writing. She is this year’s Student Editor of the *Religious Studies Journal* and also has experience as a senior staff editor for the *Journal of Global Affairs*. Brooke has received the Make a Difference Scholarship for a demonstrated desire to make a difference with her Religious Studies degree twice, in 2011 and 2012. She has studied abroad in Pretoria, South Africa for a semester, studying international relations, and in Israel, where she studied religion and politics. She has been accepted to be a Teach For America corps member in 2013 and will teach secondary English in Tulsa, Oklahoma. She will continue to pursue a career in the education sector with a mission of ensuring that every child in the U.S. gets an equal education.

Lena Tenney is a Religious Studies and History senior with a minor in Political Science. She currently serves on the Board of Directors for the Southwest Affiliate of College and University Residence Halls and is a member of PE-ET, the historic honors society for the top ten seniors at the University of Oklahoma. After graduation Lena intends to pursue a Masters of Education degree with an emphasis in Adult
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Nolan Kraszkiewicz is a senior at the University of Oklahoma, double
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John M. Morrow is a junior at the University of Oklahoma and plans
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Jordan Woodward is a fourth year student at the University of Oklahoma. She is majoring in Religious Studies and pursuing minors in English-writing and Psychology. Jordan is a member of the Religious Studies Student Advisory Committee and the Dean's Student Advisory Committee of Arts and Sciences. Jordan is also a Gilman Scholar, receiving her scholarship for a study abroad program in Varanasi, India. Other important activities in her life include volunteering with the Big Brothers and Big Sisters Organization, of which she has been an active participant for the past two years. Jordan intends to continue her studies in Psychology, using her Religious Studies background to explore the connection between psychology and religion. Her long-term aspirations include volunteering with NGOs that promote empowerment and equality for underprivileged youth and women to create more opportunities for future generations, obtaining a Ph.D., and continuing to travel in order to gain further insight into an assortment of cultures, as well as her own life. Jordan hopes to utilize her experiences to help others understand the similarities amongst diversity.