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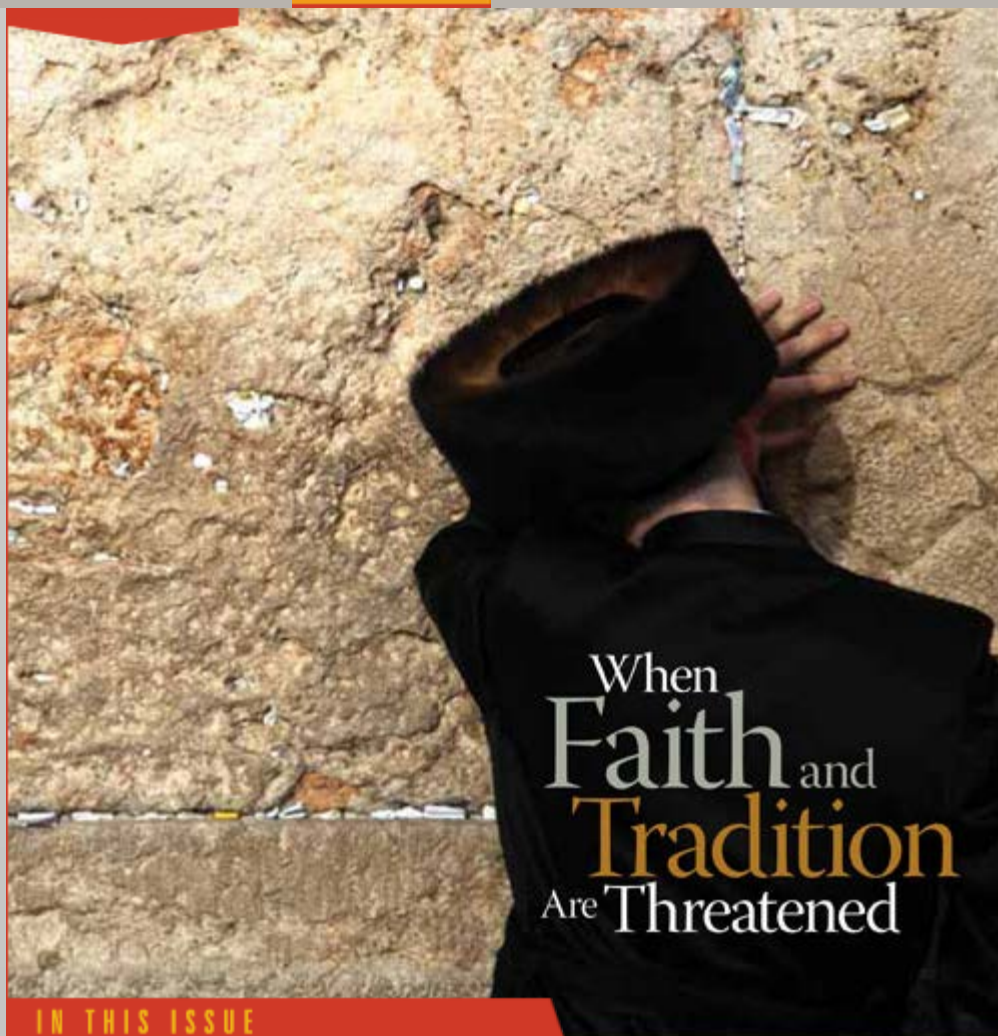
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MARCH / APRIL 2012

# Hands Off!

## Editorial

BY: LINCOLN E. STEED

Since September 11, 2001, I have made it my practice to wait as long as possible before writing the editorial. The dynamic of history, particularly the dynamic of church-state history, has changed. Things happen quickly. So I wait to see what develops as *Liberty* nears press time.

This issue made its way through the various proof stages with quite a number of blank pages: more than just blank editorial pages. We were waiting on the Supreme Court to bring down a decision on the *Hosanna Tabor* case.

At stake was the whole principle of church autonomy, or the "ministerial exception," that allows a church to project its doctrinal views through institutional behavior. From my sense of history, the underlying issue tended to evoke the titanic struggle between church and state that was worked out in twelfth-century England between Henry II and his once-protégé Thomas à Becket. *How would the modern-day dynamic play out?* I wondered. Six of the nine justices are Roman Catholic. The case before the court concerned a teacher in a small Lutheran school. But there was the specter of scandal in their Catholic Church. How would they balance demands of the state for church accountability and cooperation in the ongoing priestly abuse cases with the time-tested and initially Protestant inspired separation of church and state?

The wait was worthwhile. *Liberty* now proceeds with a follow-up article on the decision. In an era of gridlock and split decisions it was unanimous! The ministerial exception stands affirmed. Church-state separation gains a measure of reprieve—although one would not have guessed this from the Christian nation blather that has regularly been heard during the run-up to the presidential election. One candidate even affirmed that there is no such thing as separation of church and state!

I was about to put together an editorial on another topic when something unexpected happened. I first heard about it by listening to a White House press briefing. It seems that under new health-care insurance requirements, church-run hospitals might be required to provide employees with insurance coverage for contraception! Roman Catholic hospitals were objecting that this denied their rights of religious freedom.

The Roman Catholic position on contraception takes a thoroughly biblical worldview and tries to make a mandate that only a minority of Roman Catholics follow. It has not rallied other religionists the way that the church's anti-abortion stance has. The abortion issue has become a powerful political rallying point. Contraception has not, until now, had anywhere near the political resonance.

Like nearly everything public that happens just before an election, this seems to me to be more about politics than religion. I wonder if some of the reaction to the health-care mandate is not more about influencing Catholic voters than it is about church-state separation! And why react now! After all, this comes from the long-since-passed health reform act, which surely was well enough known. And while the mandate was to have originally kicked in this year, an extension took it to August 1, 2013.\* If the presidency changes, one could reasonably presume the demise of what has become known as "Obama Care" before that date.

This magazine has no license to favor one party above another. Our concern is to ensure that any civil leadership respects true religious freedom. This magazine has long held that the best religious freedom model is the one that in the United States gets its mandate from the First Amendment of the Constitution: a separation of church and state. It's worth remembering that, counterintuitively, the First Amendment was not an amendment after the fact, as the designation would imply. Rather its inclusion with the original core draft of the Constitution was the very condition for passage of the whole document.

But what is true separation in this present furor? Is it as is said currently by the bishop of Syracuse, for example, that "the government should not mandate or force any religious entity to do something they believe is morally wrong." A deeply held view, no doubt, but a little more ambiguous in this case than one would think.

From what I hear and read, the question devolves around providing insurance that offers the contraception option to employees who are mostly non-Catholics in operations that serve mostly non-Catholics; often with money provided by the State.

While there is a legitimate reason to react in horror at any suggestion that the State might compel people of faith to act against their conscience, this case might not be so easily categorized.



If the government is intent upon bending people of faith to its will, I would expect all who value religious freedom to object. If the Roman Catholic Church, or any other church, seems inclined to use public service leverage to ensure public policy matches its own, I would hope that our same freedom group would cry No!

The real sleeper issue here, as it is with much of the political warfare of the present day, is money. *Liberty* magazine has consistently warned church organizations against taking state money. We have from the very beginning of the Faith-Based Initiative of the previous administration (an initiative still alive and kicking against the First Amendment establishment prick) warned that it is inimical to church-state separation for public monies to be used to advance any particular faith view. So it would seem a little ungrateful to the public purse for a church to object when the state applies generally applicable regulations to an operation it might tend to see as its pocket money project.

It is a shame that I have to write this editorial on the occasion of complaints from the Roman Catholic Church. They are not the only ones who have taken money, only to cry foul. It is true that Catholic charities, for example, take more government grants than all other denominations combined. But other church groups would take more if they could. In my view there is a parallel between the revelation of undue government control by lobbyists and their money and the corruption of true religious freedom occasioned by the eagerness of most churches to reach into the public treasury.

It may be that the various lawyers will finesse this current imbroglio against the Administration—or rap the knuckles of church/public institutions. I cannot see that far ahead at this point. I know only that the Supreme Court just passed the most resounding affirmation possible for church integrity—if churches keep to the business of the spirit. I know only that love of money remains a root of evil, and even churches are tempted in this regard. I know only that the distinction between the proclamation of the gospel commission Jesus called for and the monolithic religious uniformity of the Middle Ages is in the presence or absence of compulsion. I know only that the difference between state *accommodation* to religious activity and state *compliance* with religious activity goes to the heart of the difference between freedom and persecution.

*Editor's note: A last-compromise has made a mandate for insurers to provide contraceptive services free of charge. The church-state discussion continues. We will look at this in greater depth in our next issue. Of course we do not want the state to run rough-shod over deeply held faith views.*

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**Lincoln E. Steed is the editor of *Liberty*.**

MARCH / APRIL 2012

# Crowd Control

BY: CELESTE PERRINO-  
WALKER

When Chuck and Stephanie Fromm began having people over for Bible studies, the last thing on their minds was the possibility of being cited and fined by the city they lived in, but that's exactly what happened. As residents of San Juan Capistrano, California, they are hardly new in town. They moved into the city 18 years ago because they saw it as a good place to raise their five children. While the town of Capistrano itself is barely older, officially being about 50, it grew around the 235-year-old Mission San Juan Capistrano, the irony of which is not lost on many folk who are aghast that the city has a problem with the Fromms' Bible study groups.



The neighborhood is home to 52 large houses (the Fromms' own house is 4,700 square feet on 1.5 acres). Of the 52 neighbors, there was one complaint that triggered Capistrano's reactive—meaning that the officers respond only in the case of a complaint—code-enforcement department. “Can you imagine there being anybody in a neighborhood that one person can call and make it a living hell for someone else? That's wrong . . . and it's just sad,” said Stephanie Fromm.<sup>1</sup> This admittedly is a disturbing thought, but not nearly as disturbing as the fact that one single neighbor complaining about something you are doing in the privacy of your own home can bring the government banging on your front door with a cease-and-desist order.

In this case the complaint revolved around the Fromms' home Bible studies, which have been happening since 1994 in one form or another. In 2006 after a cancer diagnosis Stephanie started a small midweek group study based on the teachings of Beth Moore, a popular Christian women's ministries speaker/writer. This group consists of five or six women. The Fromms also host another midweek Bible study that gathers between 10 and 15 people. A larger group of anywhere from 20 to 50 family and friends meets on Sundays.

The Sunday group originally met at the community center/clubhouse, but had to stop because of “interpretation of some guideline rules stating ‘not intended for regularly scheduled meetings’, which is keeping some homeowners from using their own facility, which was built to accommodate larger gatherings, functioning as an extension to a homeowner's living room,” says Stephanie.<sup>2</sup> “A handful of homeowners in our neighborhood do not want *any* religious activities in our neighborhood and are badgering our volunteer homeowners' board.”

“We moved the Bible study to our home after an impasse. We're trying to be accommodating,” she says, but “we'd like to use the facilities that we pay monthly dues for.”

About three months after the Thursday evening meeting began in January 2011, the Fromms received their first notice of a violation. They were ordered to: “(1) apply for Conditional Use Permit (CUP) to hold meetings for your organization in a residential area or (2) cease use of a residence for regular meetings.”<sup>3</sup> They paid the first fine—under protest and with a request for a hearing to appeal the citation—which was \$100. A month later they were fined \$200, which they paid, again protesting the fine and asking that the fines stop until there was a ruling from the hearing officer.

On August 2, after the Fromms finally received a hearing with the city, the fines were bumped up to \$500 per Bible study. That's when they contacted the Pacific Justice Institute (PJI), a nonprofit legal defense organization comprised of more than 1,000 volunteer attorneys that specializes in defending religious freedom and other concerns without charge.

## Zoning Violation or Freedom of Religion?

To gain some perspective on the situation, PJI president Brad Dacus compares the registration process of a home Bible study or church group in Communist China to the city of San Juan Capistrano. “In Communist China a home can have a Bible study, or a home church, and they do not have to report it at all to anyone so long as it's under 15 people. If it's over 15 people they simply have to register it with the government. In San Juan Capistrano if you have over three people you not only have to register but you have to spend a lot of money and time to apply for a Conditional Use Permit . . . after which you can *still* be denied by the city and be back where you started. Whenever a city's policy is more restrictive in regard to religious freedom than Communist China, you have to take note and call it what it is, which is religious oppression.”<sup>4</sup>

Christian fellowship has been at the heart of Christianity since the days of the apostles. “Every day they continued to meet together in the temple courts. They broke bread in their homes and ate together with glad and sincere hearts, praising God and enjoying the favor of all the people. And the Lord added to their number daily those who were being saved” (Acts 2:46, 47, NIV).<sup>5</sup> Popular forms of Christian fellowship

have always, but particularly in the past century, included small-group studies, friendship evangelism, and home Bible studies. If you take away the right of Christians to get together with other believers, particularly in the privacy of their own home, you are interfering with their right to worship in the way they see fit. You are interfering with their religious freedom.

But that's not to say that this is strictly a Christian issue, because the section of the Capistrano Municipal Code (9-3.301) that the Fromms violated also prohibits regular meetings by "fraternal" or "nonprofit" groups as well as "religious" ones. This means that a next-door neighbor's Monday afternoon women's bridge game would be a no-no. Also the weekly after-school Boy Scouts meeting. And don't even think about having the guys over every week to watch the game. That these gatherings, and countless other Bible study groups, happen there is no doubt. And here is the rub: although they are against the city code, *they will not be restricted unless someone complains*. If a neighbor doesn't like you, then you'd better scratch that annual Christmas party or you'll be paying some hefty fines.

What makes this situation so reprehensible in a country like America is the fact that the sole reason the Fromms are embroiled in this situation with the city council is precisely and only because someone complained. Someone didn't like the fact that they were having a Bible study. Someone used the city code to enact religious persecution.

### **One Bad Apple**

Stephanie says that over the years they have tried to get along with the neighbor who complained, but their attempts have been in vain. "We don't want to be known as the people who cause problems with the neighbors. We tried to be accommodating. We even set out parking cones blocking off areas around her driveway so she wouldn't be inconvenienced, but parking is not the issue; religion is, and there's nothing I can do about that.

"And this is only the beginning. A woman called me the other day. She lives in a neighborhood in my city. She's been having 35 to 40 people over for Bible studies. They've been having trouble with a neighbor's dog that barks incessantly. They've tried numerous ways to handle the barking, and now the neighbor is implying that if they don't put up with his barking dog, he's going to turn them in for having a Bible study in their home. You can see where this is going."

Another woman who contacted Stephanie told her that she is in the process of purchasing a multimillion-dollar home in the city but put the escrow on hold until she hears the outcome of the Fromms' case because she intends to have Bible studies in her home.

### **It's All in Code**

If you are tempted to shrug off the Fromms' predicament by thinking that they are merely the isolated victims of a primitive, backward-thinking city code, guess again, because the same code might be lurking in your own city's municipal ordinances; it just hasn't been activated yet. When cities are planning their ordinances, they choose from "clusters" that may or may not serve them well down the road. In this case the San Juan Capistrano city code was adopted, and life went on its merry way until someone complained, which activated a code that hadn't been challenged before. Although the experience has been tough, Stephanie says they are glad that their situation exposed the misuse of the city codes. "Now, hopefully, they can correct it."

Dacus says, "We're not declaring that everyone on the city council has an agenda against Christians; we know for a fact that such is not the case. That said, we are hoping that this city council will move expeditiously to revise their policy to ensure this will never happen again. And we also expect them to refund the money for the fines that have been paid so far."

"We have some really good city council people who want to do the right thing, and we have a very strong hope that they'll do it," Stephanie echoes.

### **The Legal Two-Step**

A hearing was set for October 7 to contest the fines, but had to be rescheduled to November 18. At this writing it is not clear what the outcome will be. However, the city council meets every other week, and if they decide to reverse the fines there won't be any need for a court date.

In order to change the city codes, though, the city council must request the planning commission to rewrite them, and if that doesn't happen, the next step is federal court.

"We're really hoping that the city of SJC and cities across the country will reassess and amend their policy to focus on legitimate concerns of the city," says Dacus. "Such a policy would be one that addresses health and safety concerns as well as immitigable nuisances. But dictating specifically how many people and how often they may meet at a home when there are no nuisances, health, or safety concerns is simply an overreaching action of government that has no place in the United States of America."

One witty poster who added a comment to an article about the Fromms' situation summed it up well. "City of San Juan Capistrano," wrote D. Gonzalez, "have you heard of a document called the Constitution? Your city code is violating it."<sup>6</sup> Hopefully San Juan Capistrano will rewrite their city codes and provide a beacon of religious freedom to other cities that will undoubtedly face this issue down the road.

*Update: Late last year the city dropped the action against the Fromms and refunded the fines. However this and similar laws remain.*

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**Céleste Perrino-Walker writes from Rutland, Vermont.**

1 [www.thecapistranodispatch.com/view/full\\_story/15491252/article-Capistrano-Couple-in-Legal-Battle-for-Hosting-Bible-Study-in-Home?instance=eye\\_on\\_sjc](http://www.thecapistranodispatch.com/view/full_story/15491252/article-Capistrano-Couple-in-Legal-Battle-for-Hosting-Bible-Study-in-Home?instance=eye_on_sjc).

2 Quotes attributed to Stephanie Fromm are from an October 27, 2011, telephone interview with the author unless otherwise noted.

3 [www.chuckfromm.net/wordpress/wp-content/uploads/2011/09/Right2Gather\\_Timeline.pdf](http://www.chuckfromm.net/wordpress/wp-content/uploads/2011/09/Right2Gather_Timeline.pdf).

4 Brad Dacus, president, Pacific Justice Institute, phone interview, Oct. 25, 2011.

5 Scripture quotations credited to NIV are from the *Holy Bible, New International Version*. Copyright © 1973, 1978, 1984, 2011 by Biblica, Inc. Used by permission. All rights reserved worldwide.

6 [www.thecapistranodispatch.com/view/full\\_story/15491252/article-Capistrano-Couple-in-Legal-Battle-for-Hosting-Bible-Study-in-Home?instance=eye\\_on\\_sjc](http://www.thecapistranodispatch.com/view/full_story/15491252/article-Capistrano-Couple-in-Legal-Battle-for-Hosting-Bible-Study-in-Home?instance=eye_on_sjc).

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# When Faith And Tradition Are Threatened: Muslims, Jews, And Christians Unite To Object

BY: ALLEN MALLER

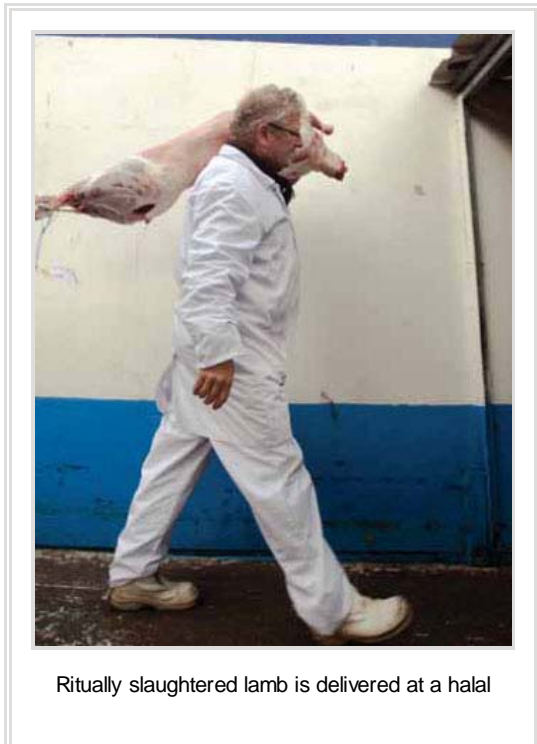


**M**uslims and Jews in Holland and in California united in 2011 in opposing political attacks on their joint religious traditions of circumcision, and their religious ways of killing animals for use as food. Several Christian groups, concerned that secular and humanistic political values were being used to coerce religious expression, also joined the protest.

In San Francisco anticircumcision forces were seeking to make it illegal to “circumcise, excise, cut, or mutilate the whole or any part of the foreskin, testicles, or penis of another person who has not attained the age of 18 years.” Under that law any person who performed circumcisions would face a misdemeanor charge and have to pay a fine of up to \$1,000, or serve a maximum of one year in jail.

The ban on circumcisions was opposed by a coalition of Jewish and Muslim organizations, as well as many Christian groups with a concern for religious rights and toleration. They were victorious when a superior court judge ruled in July that the measure to criminalize circumcision must be withdrawn from the November ballot because it would violate a California law that makes regulating medical procedures a state—not a city—matter. The judge then ordered San Francisco’s election director to remove the measure from city ballots.

In Holland a bill that will effectively ban the traditional religious way that both Muslims and Jews slaughter animals—a bill sponsored by the Party for the Animals—was approved in the Dutch lower house, where it was backed by the anti-Islamic Freedom Party, and opposed only by Christian parties that took a stand in defense of religious freedom. In January 2012 it was to go to the upper house of the Dutch parliament, where most observers expected it to become law.



Ritually slaughtered lamb is delivered at a halal

Positions on religious slaughter vary around the world—in the United States, for instance, it is specifically defined as a humane method in the Humane Slaughter Act (1958)—but elsewhere several countries have already restricted or banned slaughtering unstunned animals.

The stunning of livestock was introduced in England in 1929 with the introduction of mechanically operated humane stunner devices. Stunning has been mandatory in the European Union since 1979, but member states can grant exemptions for religious slaughter. Stunning enables abattoirs to process animals more quickly at a lower cost. However, mis-stuns involving captive bolt occur “relatively frequently,” according to a 2004 European Food Safety Authority (Efsa) report; a mis-stun leaves the animal conscious and in pain. Animals can also regain consciousness after being stunned.

Animal rights groups see the Dutch bill as a stepping-stone toward further bans on religious slaughter. “The Netherlands is a very important example, but for us it’s just a battle, not the war,” says Dr. Michel Courat of Eurogroup for Animals, a federation of animal protection groups. “We need to win lots of other battles after this one to make sure more countries stop this practice.”

If the Dutch bill becomes law, Jewish and Muslim leaders say they will fight it in the European Court of Human Rights, arguing that it is a violation of the right to freedom of religion. “If the Party for Animals proposed a law that said there shouldn’t be any slaughtering of animals anymore, and everyone should be vegetarian, I could



butcher shop in The Hague, Netherlands,

understand it better," says Rabbi Benjamin Jacobs. "But it's a vote against religion."

A Dutch Muslim umbrella group, the Contact Body for Muslims and the Government (CMO), accused the Party for Animals of leading an "emotional" campaign based on misleading information that "wrongly created the impression that Muslim and Jewish methods of slaughter are barbaric and outdated."

"We're afraid that other countries in Western Europe will follow the Dutch example," says CMO chair Yusuf Altuntas. Jewish and Muslim leaders see a worrying global trend, with the Netherlands a critical test case. They are fighting a battle on two fronts—to dispel the idea that there is anything inhumane about their traditional methods of slaughter, and to defend their right to live according to their religious beliefs.

Both faiths put great emphasis on animal welfare, and adhere to a one-cut method of slaughter intended to ensure the animal's rapid death. Under Jewish and Islamic law, animals for slaughter must be healthy and uninjured at the time of death, which rules out driving a bolt into the brain—though some Muslim authorities accept forms of stunning that can be guaranteed not to kill the animal. Under Orthodox Jewish law, or *shechita*, the animal's neck is cut with a surgically sharp knife, severing its major arteries, causing a massive drop in blood pressure, followed by death from loss of blood. Supporters say unconsciousness comes instantaneously—the cut itself stunning the animal. A similar procedure is used in Islamic slaughter, or *dhabiha*. Both Islam and Judaism stress that diet should not just be about calories. A religious diet is an exercise in spiritual discipline and in God consciousness. We do not eat only to "fuel up" like a machine. Nor should we eat only to enjoy ourselves.

From the Jewish point of view, God has given us a diet that is good for us physically and spiritually. That diet is found in the Bible, in the later Jewish writings, and in the Koran. Non-Jews can also gain many benefits from following most or all of this diet. Like all diets, a kosher holy diet must be followed daily to be effective. Like all diets, you should not become a fanatic in following this diet. Moral issues are more important than any one particular part of the diet. Thus, as a Reform rabbi, I would say that honoring a parent while visiting at home is more important than strict observance of a kosher diet. Nevertheless, like all diets, and all forms of spiritual exercise and meditation, the more frequently you fail to keep your kosher holy diet, the less you will benefit from it.

Food is the most important single element of animal life. But unlike all other animals, humans do not live by bread alone. The act of eating is invested with psychological and spiritual meanings. The Torah asserts that we should "Eat; become satiated/satisfied; and bless the Lord" (see Deuteronomy 8:10). This is how I, as a Reform rabbi, interpret these words:

**Eat!** Humans, like all animals, need to eat in order to live, but unlike all other animals, some humans will not eat certain foods that other humans will gladly eat. This universal human trait proves that "humans do not live by bread alone, but humans may live on anything that God decrees" (see Deuteronomy 8:3). Thus by periodically not eating at all (fasting), Jews, Muslims, and Christians live by God's words. But some people reject the enjoyment of eating and add extra days of fasting to their diet. Other people carry vegetarianism further, and stop eating all egg and milk products. The Torah commands a moderate path between simply killing and eating anything you want and excessive fasting and/or rejecting broad categories of food, such as vegetarians and vegans do.

**Become Satiated/Satisfied!** If we eat only foods that we enjoy, we end up with a physically unhealthy diet. Obesity accounted for almost 26,000 deaths in the year 2000, and it has gotten worse each year. Our natural tastes do not lead us to good health. Maximizing enjoyment in the short run leads to disaster in the long run. Self-discipline leads to longer life. Religious self-discipline leads to a higher spiritual life. If you eat your fill, you will become satiated. If you eat according to God's decrees, you will become satisfied.

**Bless:** The Sages rule that we should say a blessing even if we eat only a small piece of bread the size of an olive. If that is all you have, be grateful you have that. One person can be satiated and not be satisfied, while another can be satisfied yet not satiated. "Who is wealthy? Those who are satisfied with what they have" (Avot 4:1). The blessing after the meal is a mitzvah from the Torah. The Sages also ruled that we should say a blessing—the *motzi*—before we eat. The *motzi* ends with "who brings forth bread from the earth." This phrase from Psalm 104:14 is preceded by "who makes the grass spring up for cattle," to remind us every time we eat that we are part of the animal world and need to be considerate of their needs too. Thus it is a mitzvah not to eat until one's animals have been fed (see Deuteronomy 11:15).

**The Lord:** We should also thank the cook, the baker, the miller, the farmer, and everyone else involved in producing our food. But the four fundamental elements for producing food are sun, rain, earth, and seed, none of which we create. Usually we are so caught up in using the end products that we forget our dependence on the fundamentals. That is why we so blithely harm our environment. We must remember what life is really based on, and why we should be both grateful and reverent to God.

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Allen Maller retired in 2006 after 39 years as rabbi of Temple Akiba in Culver City, California.

MARCH / APRIL 2012

# Full Court Win In Tabor

BY: THOMAS S. KIDD

On January 11, 2012, the Supreme Court delivered a historic reaffirmation of the First Amendment guarantee of “free exercise” of religion and ban on religious establishments. The Court’s clarity in *Hosanna-Tabor v. EEOC* is signaled by the clear and unanimous decision. The decision shields churches and other religious organizations from discrimination lawsuits by ministerial employees, and, more important, protects churches from government whims regarding the hiring and firing of ministers. But we should not rest easy: *Hosanna-Tabor* bolsters, but hardly secures, America’s commitment to religious liberty.



This case began when Cheryl Perich, a teacher at Hosanna-Tabor Lutheran Church’s grade school, threatened to sue the school for purportedly refusing to accommodate her long-term illness, even though the financially strapped Michigan school had already given her full-time pay and benefits for seven months. Perich knew that it violated church teachings for a member to sue the church. She had an appeal process available to her through denominational channels, independent of local congregational officials. When she persisted in her threats to sue, the congregation voted to rescind her “calling” as a religious teacher.

Under traditional understandings of church employment practices, the courts have allowed a “ministerial exception” from antidiscrimination statutes, so that a religious group’s convictions trump political sensibilities of fairness. The Obama Department of Justice (DOJ) recommended a sharp departure from this precedent, arguing that the Court should either abandon the ministerial exception altogether, or apply it in the narrowest way possible, to those ministers whose duties are “exclusively religious.” This standard, the DOJ argued, would mean that Perich was not a “ministerial” employee, even though her position was subject to congregational vote, she taught religion and prayed with students daily, and she coordinated and led students’ devotions in chapel. Indeed, one wonders how the DOJ’s standard could even apply to most clergy, who often are required to perform such mundane duties as mowing the grass.

The DOJ’s recommendation was utterly rejected in the Court’s decision, and the church’s position, argued by the nonprofit Becket Fund for Religious Liberty, was utterly vindicated. This is one of those rare moments when the system worked as intended. Even President Obama’s appointed justices repudiated the DOJ’s attack on the ministerial exception. Justices Sotomayor and Kagan are to be commended by all defenders of church-state separation.

The outcome represented a victory for both sides of the First Amendment’s principles of religious liberty. As the decision read: “By imposing an unwanted minister, the state infringes the free exercise clause, which protects a religious group’s right to shape its own faith and mission through its appointments.” It would also violate “the establishment clause, which prohibits government involvement in such ecclesiastical decisions.” One cannot imagine a more full-throated affirmation of the need to protect the internal affairs of religious organizations from government meddling.

This decision is good news, but it stands in stark contrast to the narrowly split decision by the court in *Christian Legal Society v. Martinez* only a year and a half earlier. In that case the court decided to uphold a policy of the University of California’s Hastings College of the Law that requires official campus groups to employ an “all-comers” policy with regard to membership. The Christian Legal Society required members to sign a pledge not to engage in premarital sex or homosexual sex. Because of this, the college denied the society campus benefits, including access to meeting facilities and the campus organization fair.

Building upon *Christian Legal Society*, the Ninth Circuit Court of Appeals asserted in the 2011 case of *Alpha Delta Chi-Delta v. Reed* that organizations at San Diego State could be denied official status for restricting membership to Christians. (The state of California seems to be leading the charge to penalize Christian groups that wish to remain Christian.) These cases are suggesting that Christian organizations can be deprived of benefits if they maintain exclusive or ideologically unpopular membership policies, even if those policies touch upon the fundamental ability of a group to maintain its Christian identity. Even the Ninth Circuit noted that the Christian associations in question might have been singled out for special disadvantages: would groups based on common ethnicity, political convictions, or shared interests also be forced to admit “all comers,” regardless of whether they supported the organization’s mission? Unsurprisingly, that does not seem to be the case at San Diego State.

So what’s the difference between *Hosanna-Tabor* and *Christian Legal Society* that produced such contradictory results for religious liberty?

Although the court did not explicitly address the difference between the two cases, it seems that while *Hosanna-Tabor* affirmed the freedom of a church from government meddling in ministerial employment decisions, *Christian Legal Society* raised the prospect that the government may punish religiously based college groups for maintaining unfashionable policies, such as forbidding members from engaging in premarital sex or homosexual acts. The court may be implying, then, that there is a higher threshold for justifying the regulation of churches than there is for regulating parachurch organizations.

In one sense, this is a favorable compromise: both the Christian Legal Society and Hosanna-Tabor Lutheran Church have been allowed to maintain the controversial policies in question, and the fundamental integrity of the group or the church are not threatened by the respective decisions. In a way, *Hosanna-Tabor* is the more significant case for the fundamental right to religious freedom, because had the court sided with the DOJ, the right of churches to select ministerial employees without government interference would have come into serious question. And while *Christian Legal Society* raises troubling free exercise questions, the Christian Legal Society has at least been allowed to exist at the law school while maintaining their Christian membership standards, albeit without the benefits of official recognition.

Furthermore, the unanimous decision in *Hosanna-Tabor* reflects the strong conviction across the Court's ideological divide that real religious liberty must afford faith organizations freedom from government tampering with internal spiritual affairs. The narrow split decision in *Christian Legal Society* suggests that the Court has not come to a clear consensus about whether the state can both maintain a robust standard of free exercise of religion, and place external disadvantages on parachurch campus groups that do not comply fully with contemporary mores of equity. In previous cases, however, such as *Employment Division v. Smith* (1990) and *Bob Jones University v. U.S.* (1983), the Court has indicated a willingness to permit disadvantages against religious groups or individuals who engage in illegal or racially discriminatory practices, especially when the law violated was widely applicable, and not crafted specifically to inhibit the free exercise of religion.

In coming years courts, college administrators, and federal agencies may put increasing pressure on religious organizations to revise the traditional Christian view of sexual behavior, or to face legal penalties. One could easily imagine a case, for example, that would seek to deprive a religious college of federal funding because of its policy on sexual behavior, or to deprive a church of tax-exempt status for preaching against homosexual acts. But *Hosanna-Tabor* at least offers hope that the Supreme Court will not allow such efforts to intrude upon the inner workings of faith organizations themselves. For that renewed protection of religious liberty, we should be grateful.

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MARCH / APRIL 2012

# A Battle Of Church And State

Thomas Becket, the son of a wealthy Norman merchant living in London, was born in 1118. After being educated in England, France and Italy, he joined the staff of Theobald, the archbishop of Canterbury.

When Henry II became king in 1154, he asked Archbishop Theobald for advice on choosing his government ministers. On the suggestion of Theobald, Henry appointed Thomas Becket as his chancellor. Becket had once been on the staff of the archbishop. The king and Becket soon became close friends.

When Theobald died in 1162, Henry chose Becket as his next archbishop of Canterbury. The decision angered many leading churchmen. They pointed out that Becket had never been a priest, had a reputation as a cruel military commander, and was very materialistic (Becket loved expensive food, wine, and clothes). They also feared that as Becket was a close friend of Henry II, he would not be an independent leader of the church.

After being appointed, Thomas Becket began to show a concern for the poor. Every morning 13 poor people were brought to his home. After washing their feet, Becket served them a meal. He also gave each one of them four silver pennies.

In 1163, after a long spell in France, Henry arrived back in England. Henry was told that, while he had been away, there had been a dramatic increase in serious crime. The king's officials claimed that more than 100 murderers had escaped their proper punishment because they had claimed their right to be tried in church courts. Any man who had been trained by the church could choose to be tried by a church court. There were several examples of clergy found guilty of murder or robbery who received only "spiritual" punishments, such as suspension from office or banishment from the altar.

The king decided that clergymen found guilty of serious crimes should be handed over to his courts. At first the archbishop agreed with Henry on this issue, but after talking to other church leaders, Becket changed his mind. Henry was furious when Becket began to assert that the church should retain control of punishing its own clergy. The king believed that Becket had betrayed him.

In 1164 the archbishop of Canterbury was involved in a dispute over land. Henry ordered Becket to appear before his courts. When Henry mentioned other charges, including treason, Becket decided to run away to France.

Becket eventually agreed to return to England. However, as soon as he arrived on English soil, he excommunicated (expelled from the Christian church) the archbishop of York and other leading churchmen who had supported Henry while he had been away. Henry, who was in Normandy at the time, was furious when he heard the news and supposedly shouted out: "Will no one rid me of this turbulent priest?" Four of Henry's knights who had heard Henry's angry outburst decided to travel to England to see Becket. When the knights arrived at Canterbury Cathedral on December 29, 1170, they demanded that Becket pardon the men he had excommunicated. When Becket refused, they hacked him to death with their swords.



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Excerpted from [www.spartacus.schoolnet.co.uk](http://www.spartacus.schoolnet.co.uk).

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# Grace Notes: American Grace: How Religion Divides And Unites Us

## Book Review

BY: DAVID A. PENDLETON



Americans are increasingly concentrated at opposite ends of the religious spectrum—the highly religious at one pole, and the avowedly secular at the other. The moderate religious middle is shrinking.” So say professors Robert D. Putnam and David E. Campbell in *American Grace: How Religion Divides and Unites Us*, a comprehensive and evenhanded account of American faith and how it has changed over time.

Consider recent history. In 1960 John F. Kennedy had to break through a “stained-glass ceiling” to secure his party’s nomination and become president. By 2004 Catholic senator John F. Kerry drew as much support from Protestants as Catholics to clinch the Democratic nomination for president. In 2008 Catholic senator Joe Biden’s vice presidential nomination yielded nary a negative comment as to his religious affiliation. And it is possible that Mormon Mitt Romney may be the Republican presidential nominee in 2012. No doubt “the nation’s religious landscape has been reshaped.” And however much religion has changed, it is alive and well.

Drawing from both comprehensive longitudinal social science surveys and extensive anecdotal appraisals, the authors critically report on things religious in the United States, yielding both quantitative and qualitative findings. One need not be versed in Bayes’ theorem, Simpson’s paradox, or regression equations to follow the narrative, but the solid statistical underpinnings of *American Grace*<sup>1</sup> provide for a firm foundation. The various individual surveys chimed their own distinctive notes, perhaps striking some as cacophonous, but to the authors a harmonious whole, a religious *E pluribus unum*, if you will.

Those less mathematically inclined will especially appreciate the book’s dozen in-depth profiles of varied faith communities. The vignettes of religious life add rich texture to the work. Whether with numbers or narrative, the authors provide an insightful, penetrating, and ably expressed story.

Described are an American people who over time have behaved with increasing courtesy toward and acceptance of the mounting multiplicity of religious communities—a situation both derived from and supportive of the religious freedom sustained by an open and diverse culture and secured by law.<sup>2</sup> America has been the leading destination of both entrepreneurs seeking to make their fortunes and erstwhile persecuted worshippers seeking the good fortune of simply being left alone.

This country has been home to indigenous Native Americans, settled by Puritans, and successively the adoptive home to waves of Anglicans, other Protestants, dissenters, freethinkers, and then Catholics from Ireland and more recently Mexico. It is, as Putnam and Campbell say, “deeply religious, religiously diverse, and remarkably tolerant.” No surprise here, but as with Oscar Wilde’s *Picture of Dorian Gray*, there is more than meets the eye; like a scholar examining a palimpsest, a different text awaits discovery beneath the surface.

Digging deeper, the authors detail widespread personal interfaith relationships softening institutional loyalties and prejudices, interfaith marriages increasingly the norm, and religious boundaries ever more permeable. The resulting pluralism may worry fundamentalists (Christian, Jewish, and Muslim) but for the authors “personal pluralism means that America is graced with religious harmony.” The sheer variety of options precludes any single religious community’s hegemony. As one might surmise from James Madison’s *Federalist* No. 10, factions are natural, but their very multiplicity is the key to their mitigation.

Pluralism is a “puzzle” for some, a bad word to others. Sociologist Peter Berger’s *Heretical Imperative* opined that pluralism constituted modernity’s “crisis.” But not so for these authors: pluralism need not entail paralysis between the opposing polarities of “theological rigor and theological vacuity.” Religious heterogeneity can enhance a community and need not impede reasoned and coherent articulations of faith. Modernity’s pluralism doesn’t terminate but only expands humankind’s quest for transcendent meaning.

Some grieve the changed and changing American “varieties of religious experience,” to borrow a phrase from William James. But not

Putnam and Campbell, who neither revel in nor regret their findings. They simply report; we decide—and however much institutional faiths might wish to turn back the religious clock, the upside has been demonstrable increases in interfaith dialogue, acceptance, and cooperation.

“In 1960,” recall Putnam and Campbell, “religion’s role in politics was mostly a matter of something akin to tribal loyalty—Catholics and Protestants each supported their own.” But far from “cocooning into isolated religious communities, Americans have become increasingly likely to work with, live alongside, and marry people of other religions—or people with no religion at all.”

In 1741 Jonathan Edwards preached impassioned jeremiads to ecstatic crowds of “Sinners in the Hands of an Angry God.” Today “God is more avuncular than angry, and it turns out . . . that this sort of everyday theology has real implications for the ways in which Americans get along with one another.”

Americans increasingly identify themselves as having no religious affiliation at all. The shorthand for such folk is “none,” after the survey box so many check. These “nones” cause those desperately seeking certainty to worry over a society increasingly indifferent to cherished beliefs of its Founders. George Washington, after all, is reported to have said, “Religion and morality are the essential pillars of civil society.”

The authors fret not at all about doubt, because for “some deeply religious people, the absence of doubt is not the best measure of religious commitment.” Even Augustine held that doubt is but “another element of faith.” Absolute certainty is not the norm of faith; increasingly subtlety, ambiguity, and paradox are seen as core to, not contradictory of, faith.

*American Grace* tells its story in four sections. The first describes the old and the new in American religion. From visits to traditional Protestant parishes to tours of trendy southern California’s Saddleback “megachurch,” American faith manifests itself in both antiquated and avant-garde formats. The second section explores the underlying social currents which have swept every corner of American society, influencing conceptions of women’s rights, social justice, and racial equality. The third section dissects politics and the church, examining the complex interaction between priests and politicians, political campaigns and places of worship. The fourth and final section queries how the United States continues to “combine religious diversity, religious commitment, and religious tolerance, especially in a period of religious polarization.”

Will Herberg’s classic book *Protestant, Catholic, Jew: An Essay on American Religious Sociology* proposed that religion was as much about identity as about faith, with denominations indebted to identifiable patterns of immigration. There was no single national melting pot but three (Protestant/Catholic/Jew). Putnam and Campbell add twenty-first-century nuances to Herberg’s 1955 thesis, finding that while “no faith” has become yet another melting pot, Americans who chose to believe are increasingly open to nonchristian faiths (Buddhism, Islam, and Hinduism).

“Switching, Matching, and Mixing” is the title of a chapter that captures the current situation. Here the authors unpack the statistics indicating increasing conversions and interfaith marriages. Now more than ever before, faith is a journey, not a fixed destination. Those who have never read Blaise Pascal corroborate his claim that those seeking God have already found God. While denominational or religious inertia never dictated the inheritance of faith, it exerted a stabilizing influence on families. Many young people held fast to the faiths of their fathers and eternal verities of their mothers.

Today roughly one third of Americans have switched religions at some point in their lives. “Women,” for example, “are no likelier to remain faithful to the religion of their parents than men, college grads no more than high school dropouts, and so forth.” And if “we count marriages between two different mainline Protestant denominations (say, Methodists and Lutherans) or two different evangelical denominations as mixed, then the intermarriage rates are . . . 40 percent currently mixed and 60 percent originally mixed.” As the authors stated in an interview promoting *American Grace*: “Most new marriages now are interfaith marriages.”

For the authors, change and diversity are not just slogans. Putnam, former dean of the Kennedy School of Government at Harvard, was raised Methodist and converted to Judaism. Campbell, a practicing Mormon, is a professor at the University of Notre Dame. Both have friends and family who practice various religions. Living and working in religiously diverse environments is not merely theoretical; it is their world.

As the American population spreads itself ever thinner over the expanse of faith options, how a faith is lived within any particular tradition is increasingly variable. American Muslim women are seen in public without head scarfs; their male counterparts have been known to eat and drink water during daylight hours of Ramadan. American Hindus patronize McDonald’s. Reform Jews such as Rabbi Peter Knobel emphasize “the autonomy of the individual” as core to Judaism and ethics as “imposed by one’s own reasoning rather than by tradition.” Orthodox Jews would beg to differ. Similarly, Christians even within the same denominations increasingly find themselves avowing contradictory doctrines. Conservative Protestants and liberal Protestants invest markedly different meaning in the identical creeds they recite in church—and their stands on social issues may be ever further apart.

Traditional doctrinal formulations or conformist mores are not mandatory with the next generation. “There has been a liberalizing trend on same-sex marriage, with younger Americans far more accepting of homosexuality generally, and same-sex unions specifically, than their elders. On abortion, though, we see evidence of a conservative tilt among young people, even though they are also the most secular age

group in the population.” Their admiration for the ethical imperatives of the Sermon on the Mount is unencumbered by institutional obligations.

Discussing church and state relations, the authors offer a clichéd prediction: “Religion and politics [will] align in new ways, as political entrepreneurs work to construct new coalitions. The change will be in *how* religion affects our politics, not *whether* it does.” This is the reverse of the man-bites-dog story. But sometimes sophisticated studies confirm common sense.

Not all conclusions are as banal, and one may actually anger readers: “Religious liberals more often experience a loving god, and they are among the most socially trusting of Americans, whereas religious conservatives more often experience a judgmental God, and they are among the least trusting of Americans, especially if they are not observant.”

Their finding that as “people build more religious bridges they become warmer toward people of many different religions, not just those religions represented within their social network” may be more aspirational than descriptive, yet it does shed light on how behavioral changes are the cause and consequence of theological change over time.

“A leading, perhaps even the primary, reason that America manages to be both highly religious and highly religiously diverse is that most Americans do not believe that those with a different religious faith are damned,” conclude Putnam and Campbell. The takeaway message of *American Grace* might be succinctly summarized in a social harmony calculus: “Devotion plus diversity, minus damnation, equals comity.”

Whether social harmony is inevitable is uncertain. That it is desirable is obvious. We pray with Putnam and Campbell that peace and religious freedom will prevail.

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**David A. Pendleton, a lawyer, writes from Honolulu, Hawaii.**

1 General Social Survey, the National Election Studies, the Pew Religion and Public Life surveys, and other sources of data were relied upon by Putnam and Campbell.  
2 The First Amendment of the Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof .”

MARCH / APRIL 2012

# Merely Tolerable: Interfaith Tolerance And The Reshaping Of U.S. Foreign Policy

BY: GREGORY W. HAMILTON



Thomas Jefferson, in an unsent letter from Monticello, dated September 27, 1809, to a James Fishback that addressed his own views on the proper roles of church and state, provided a rather extraordinary response line. He passionately observed that “among the Mahometans we are told that thousands fell victims to the dispute whether the first or second toe of Mahomet was longest; and what blood, how many human lives have the words ‘this do in remembrance of me’ cost the Christian world!” When it came to disputing over metaphysics and theology, Jefferson emphatically reminded Mr. Fishback that on such questions “oceans of human blood have been spilt, and whole regions of the earth have been desolated by wars and persecutions, in which human ingenuity has been exhausted in inventing new tortures for their brethren.”<sup>1</sup>

Thomas Jefferson had to confront Islamist realities during and after the Barbary Pirates War in North Africa.<sup>2</sup> As in Jefferson’s time, the proper role of religion and religious powers always seems to make for a potentially explosive conversation in America. We sometimes forget, however, that it is a growing conversation on an international scale.<sup>3</sup> The longing for some kind of democratic reform is shaking up the world, and particularly the Arab-Muslim world as they deal with their own internal “clash of civilizations” between the younger and older autocratic generations, and between those who want to modernize and secularize, and those who do not.<sup>4</sup>

But the question that continues to emerge from this revolutionary fervor is whose version, whose values will emerge, and more important whose values are we promoting when encouraging these countries toward freedom and democratic forms of government? When President Barack Obama speaks of championing “universal values,” what exactly is he saying, and what does that translate into in terms of policy in the Arab-Muslim Middle East? Are we intent on only going halfway in the mode of a real politic that risks the hijacking of these movements by radical Islamists? Or do we insist on going all the way in an idealistic manner and guiding them to America’s—to a universal ideal? Is there room for both approaches? This continues to be the pressing question. One has just to listen to the language being used and look at the methods adopted to try to reform the world in order to make sense of what is going on.



Prior to the start of their working dinner during the Middle East negotiations, President Hosni Mubarak of Egypt and Prime Minister Benjamin Netanyahu of Israel check their watches to see if it is officially sunset. During Ramadan fasting continues throughout the day until after sunset.

Many observers of U.S. policy pronouncements of late have noted that the phrases “freedom of worship” and “religious tolerance” seem to have replaced “freedom of religion” in public speeches and formal pronouncements made by President Barack Obama and his administration. To some this may seem like an unnecessary exercise in semantics, but it is a subject that represents a subtle but significant shift toward religious “tolerance,” away from the ideal of “freedom”—or somewhere in between—as the national and international norm for religious freedom policy. In a broader sense this exercise reveals the president’s emerging foreign policy.

This shift in language was highlighted by the U.S. Commission on International Religious Freedom (USCIRF) in its 2010 Annual Report to Congress, the White House, and the State Department. The USCIRF observed that “this change in phraseology could well be viewed by human rights defenders and officials in other countries as having concrete policy implications.”<sup>5</sup>

One could legitimately argue that tolerance is, for international purposes, one step closer to the ideal of freedom and the only realistic approach toward achieving world peace in spite of an increasing clash of civilizations-like environment. So to argue that this is a sudden shift in language, and thus a shift in international religious freedom policy may be to miss the point; which is there never was a shift to begin with—that the president was set on this path all along, as evidenced early in his

presidency with his “New Beginning” speech in Cairo, Egypt. The use of interchangeable language is meaningful if policy is affected in a significant way. And it appears that it is.



Carl Esbeck, professor of law at the University of Missouri and Faith-based Initiatives expert in the Bush administration, argues that this interchangeable use of language signals a possible shift in foreign policy and is perhaps meant to diplomatically appease the sensibilities of Muslims, both at home and internationally. He says it is an effort to repair relations fractured by September 11—and perhaps a mistaken approach that signals Islamic countries that the United States is not looking to interfere with their internal matters,<sup>6</sup> and in particular their record of upholding or not upholding the U.N. Charter on human rights and its covenants in which they are signatories.

Parallel concerns have been raised in regard to Obama's and the State Department's policy toward China, where human rights has apparently been soft-pedaled in a calculated exchange for cooperation on a wide range of shared national and international security interests, and in particular Iran's and North Korea's projected development of nuclear weapons.

Nevertheless, as Nina Shea, director of the Center for Religious Freedom and a member of USCIRF, lucidly observes, “freedom of worship” connotes “tolerance,” not “religious freedom,” thus falling short of the U.S. constitutional and international human rights standards. She points out that what is not commonly understood by the American public is that “freedom of worship,” as a basis for interpreting policy, specifically “excludes the right to raise your children in your faith; the right to have religious literature; the right to meet with coreligionists; the right to raise funds; the right to appoint or elect your religious leaders, and to carry out charitable activities, to evangelize, [and] to have religious education or seminary training.”<sup>7</sup>

### **An Interfaith Approach to Global Democratic Reform**

Ms. Shea's insight corresponds with the most remarkable section of President Obama's “New Beginning” speech in Cairo, in which he appeared to equate religious freedom with tolerance when glowingly commenting about his experience as a boy in Indonesia. He said: “The fifth issue that we must address together is religious freedom. Islam has a proud tradition of tolerance. We see it in the history of Andalusia and Cordoba during the Inquisition. I saw it firsthand as a child in Indonesia, where devout Christians worshipped freely in an overwhelmingly Muslim country. That is the spirit we need today. People in every country should be free to choose and live their faith based upon the persuasion of the mind and the heart and the soul. This tolerance is essential for religion to thrive, but it's being challenged in many different ways.”

Mr. Obama's speech in Cairo was aimed at the worldwide Muslim community in an attempt to provide an olive branch to them, and to make clear the distinction between violent Islamist extremists that exploited fellow Muslims and the West, and the vast majority of peaceful Muslims around the world. Yet it revived long-running arguments between foreign policy experts regarding exactly how the U.S. government and its Foreign Service apparatus should define and apply “religious freedom” terminology to countries that are in continual gross violation of the United Nations Charter on human rights.

Some may question that this shift in language is also an indicator of at least a subtle, if not major, foreign policy shift by the Obama administration and the State Department. But Obama repeated this theme during his speech in Jakarta in November 2010,<sup>8</sup> referring to his stepfather's Muslim identity as one that taught him as a child to recognize that “all religions were worthy of respect.” Obama said that “in this way” his stepfather “reflected the spirit of religious tolerance that is enshrined in Indonesia's Constitution,” and “symbolized in mosques and churches and temples.” He said that this “remains one of this country's defining and inspiring characteristics.” In diplomatic speak, Obama said that the concept of “*Bhinneka Tunggal Ika*—unity in diversity,” where Indonesia “is steeped in spirituality—a place where people worship God in many different ways”—“is the foundation of Indonesia's example to the world.” Addressing the leaders of the world's largest Muslim nation, Obama emphatically declared that “America is not, and never will be, at war with Islam.”<sup>9</sup>

President Obama then emphasized the term *Pancasila*, which references Indonesia's five national principles and the philosophical basis of its constitution. These philosophical principles are: (1) “belief in the one and only God,” (2) “a just and civilized humanity,” (3) “the unity of Indonesia,” (4) “democracy guided by the inner wisdom in the unanimity arising out of deliberations among representatives,” and (5) “social justice for all of the people of Indonesia.”<sup>10</sup> These five principles are summarized by the one word principle of “inclusivity,” as opposed to “exclusivity.” Another way to describe this is the spirit of dynamic and functional pluralism.

Ahmad Syafi'i Maarif, a prominent Indonesian intellectual and the leader of Muhammadiyah, a moderate but politically influential Islamic sect, points out that *Pancasila* is important to the people of Indonesia because it “eliminated” “the threat of an Islamic state” “once and forever.” He says, “Under the umbrella of *Pancasila*, all the religious minorities—Catholics, Protestants, Hindus, Buddhists, and Confucianists (together around 12 percent out of a population of 235 million)—have felt secure in their religion as an inseparable part of the Indonesian people.” The key ingredient for making *Pancasila* such a success is “peaceful coexistence” through “waging peace through interfaith dialogue and cooperation”<sup>11</sup> among all the religions, including unbelievers and atheists, and among the various factions of Muslims who interpret the Koran differently.

But this is where interfaith dialogue and cooperation (i.e., “peaceful coexistence”) has severe limitations, because it stops at the door of religious tolerance where the marketplace of religious ideas is anything but competitive or freely available to those who would wish to convert. According to Professor Maarif, “the only condition required for this peaceful coexistence is that each party must have mutual respect and no hidden agenda to eliminate each other,” particularly through the act of proselytization or evangelization.<sup>12</sup>

If Mr. Obama is indeed carefully attempting to avoid imposing upon the world—and in particular the Islamic world—the American ideals of

religious freedom and human rights, he is missing the point of the essential purpose of the International Religious Freedom Act (IRFA). Allen Hertzke, presidential professor of political science at the University of Oklahoma, points out that “because virtually all of the globe’s nations are signatories to the Universal Declaration and subsequent covenants, U.S. officials legitimately can claim that they are not attempting to impose ‘our values’ on the rest of the world. Rather, in implementing IRFA the United States is merely calling upon other nations to live up to covenants they have approved.”<sup>13</sup>

### Interfaith Limitations

So the question begging to be asked regarding Mr. Obama’s speeches is if religious freedom is to be equated with tolerance, and the terms used interchangeably to mean the same thing (as many of us sometimes do); what message is being sent, *if any*, in regard to his vision and leadership when it comes to international religious-freedom policy? In light of the revolutionary demand for democracy in the Arab-Muslim world, which direction is he going—toward the international consensus of religious tolerance, or the American democratic experience and ideal of religious freedom that is central to the U.S. Constitution and the Universal Declaration of Human Rights? Also, is there a sense beyond the stereotypical Islam versus Christianity scenario in which the proverbial “clash of civilizations” is at play here?

### Religious Freedom in Reverse: Zero Evangelism

In the Islamic world, as the president made obvious in his Cairo and Jakarta speeches, Indonesia is now the oft-touted model of religious tolerance and democratic advancement—and in a nation that has, by far, the largest Muslim population in the world, combining secular government, *Pancasila*, and Shari’ah law. It is cited as the example of how democratization, modernization, and peaceful coexistence of nations with troubled human rights records can safely rejoin the world community. More specifically, this first-step emergence is wrapped up in the international consensus of religious tolerance as the realistic policy ideal: the right to be tolerated, which means that one has the right to believe and worship but not the right to evangelize a person of another faith, and in particular those of the Muslim faith located in many of the global cultural regions described by Samuel Huntington. In a cultural sense, then, the words “coexist” (as in “peaceful coexistence”) and “tolerance” are synonymous when used in the context of precluding the practice of active proselytization of another person of faith.

Yet here is exactly an example of the “clash” that Huntington identified. Indonesia’s “model” does not square up with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), which recognizes the right to switch one’s religion and to convince others, without compulsion, to change theirs. Article 18 of the ICCPR reads: “Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.” In Indonesia there are severe laws regarding proselytization and restrictions on non-Muslim activity.

In October 2009 the Organization of the Islamic Conference, a group of 56 Islamic nations, tried but failed to get the United Nations Human Rights Council to adopt resolutions that would have barred the defamation of religions and removed free -speech protections regarding religious questions affecting Article 18. In 2009 and 2010 Secretary of State Hillary Clinton used the State Department’s annual report on international religious freedom to state U.S. objections to this approach of interpreting and applying human rights standards, particularly in the area of supreme concern, that of religious freedom. She stated, “Some claim that the best way to protect the freedom of religion is to implement so-called anti-defamation policies that would [actually] restrict freedom of expression and the freedom of religion.” In the clearest language possible, she lambasted this regional “anti-defamation” trend by retorting, “I strongly disagree.” She went on to say that “the United States will always . . . stand against discrimination and persecution,” and emphasized that “an individual’s ability to practice his or her religion has no bearing on others’ freedom of speech.”<sup>14</sup>

President Obama’s goals are popular and realistic. But they also seem misguided. This is because there is a very fine line affecting all interfaith dialogue these days. It seems hardly coincidental that the unspoken rule of thumb most commonly associated with interfaith groups in the United States, and elsewhere in democratic countries throughout the world, is centered on this commonly understood “freedom of worship” axiom: “Let’s live in peace and harmony, but do not dare, in the sharing of your deeply held faith—which we welcome and value—make appeals to convert to your faith.” Even among Protestants it harkens back to the old seventeenth- and eighteenth-century Anglican taboo in the American colonies against “sheep stealing,” or proselytizing people of other faith expressions. Is this the international religious freedom policy being signaled, and if so, what is driving it? Adherence to either model for dialogue and peaceful coexistence is, in fact, a major step backward and is just as subversive of religious freedom as are strong-arm tactics of a religious right to coerce the state into doing its every demand.

Thomas Farr, who served as the U.S. State Department’s first director of the Office of International Freedom, and now serves as visiting associate professor of religion and international affairs at Georgetown University’s School of Foreign Service, points out in *World of Faith and Freedom: Why International Religious Liberty Is Vital to American National Security* that there is a clear difference between the evangelical approach to questions involving religious freedom and policy, and the secularist approach—what he refers to as “the heart of liberal internationalists’ secularist views on religious freedom.”<sup>15</sup> The evangelical approach is one that values religion “as a human good to be nourished” by the international community and the U.S. in its international religious freedom policy. The secularist approach—which holds that religion “is more often a source of conflict to be managed via tolerance”—values U.S. constitutional standards for “separation,” as in “separation of church and state.”<sup>16</sup>

Farr is right in one sense. One needs to factor that the United States—dating back to its constitutional founding era—has historically made a

concrete distinction between mere “tolerance” and “religious freedom.” Put another way, the constitutional guarantee of religious freedom found in the establishment and free exercise clauses of the First Amendment *is not* “tolerance,” or the right of mere toleration, as if to be tolerated or endured were a minimal benefit or favor rendered by government and thereby society. Rather, it is a state of religious equality under the law, with all the rights and benefits accorded to American citizens.

It appears that the Obama administration is scrambling, having no concrete plan to advocate and influence religious freedom on a level that includes in that definition the ability of other religions to proselytize freely in newly minted democratic outcomes in Arab-Muslim nations once the so-called democracy movements play themselves out in northern Africa and the Middle East.

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**Gregory W. Hamilton is president of the Northwest Religious Liberty Association (NRLA). NRLA is a nonpartisan government relations and legal mediation services program that champions religious freedom and human rights for all people and institutions of faith in the legislative, civic, judicial, academic, interfaith, and corporate arenas in the states of Alaska, Idaho, Montana, Oregon, and Washington.**

1 Thomas Jefferson, “Letter to James Fishback, Monticello,” September 27, 1809, in Dickinson W. Adams, ed., *Jefferson's Extracts From the Gospels: “The Philosophy of Jesus” and “The Life and Morals of Jesus,”* The Papers of Thomas Jefferson (Princeton, N.J.: Princeton University Press, 1983), pp. 343-345.

2 See Michael B. Oren, *Power, Faith, and Fantasy: America in the Middle East, 1776 to Present* (New York: W. W. Norton and Co., 2008). Even before James Madison, it was Alexander Hamilton who first called for a federal convention in Annapolis, Maryland, and then Philadelphia, to write a more comprehensive Constitution. This was to establish a strong central government far more efficient than the Continental Congress with its Articles of Federation. However, one of his primary motivators was to develop a strong Navy fleet in order to protect its merchant shipping interests, and the interests of European nations in the Mediterranean against the rampant pirating of its ships by Muslim pirates in Tunisia and Algiers. The constitutional Founders had every reason to believe that their merchant ships were being reequipped for naval war purposes by these radical Muslim communities, and possibly to attack the newly formed United States. U.S. foreign policy had this “clash of civilizations” beginning at the very outset of our country’s history.

3 See Scott M. Thomas, “A Globalized God: Religion’s Growing Influence in International Politics,” *Foreign Affairs*, November/December 2010.

4 For a rich discussion on the competitive nature of political power in the Middle East, with its mostly Muslim citizens, I highly recommend Lee Smith’s *The Strong Horse: Power, Politics, and the Clash of Arab Civilizations* (New York: Doubleday, 2010).

5 Retrieve the 382-page report at [www.uscirf.gov](http://www.uscirf.gov). It was released on April 29, 2010.

6 Quoted in Sarah Eekhoff Zylstra, “Freedom of Worship’ Worries,” *Christianity Today*, July 2010.

7 *Ibid.*

8 See Norimitsu Onishi, “In Jakarta Speech, Some Hear Cairo Redux,” *The New York Times*, Nov. 10, 2010.

9 The White House, Office of the Press Secretary (speech transcript), “Remarks by the President at the University of Indonesia in Jakarta, Indonesia,” Nov. 10, 2010.

10 See Ahmad Syafi’i Maarif, “Pancasila: The Coexistence of Religions in Indonesia,” in *Religious Pluralism: Modern Concepts for Interfaith Dialogue*, Studies and Comments 12, edited by Richard Asbeck (Munich: Hanns-Seidel-Stiftung, e.V., 2010), p. 31.

11 *Ibid.*, p. 32.

12 *Ibid.*

13 Allen D. Hertzke, “International Religious Freedom Policy: Taking Stock,” *The Review of Faith and International Affairs*, Summer 2008, p. 18.

14 “Clinton Lambastes Global ‘Anti-Defamation’ Trend,” *Agence France-Presse* (AFP), Oct. 29, 2009. In her only other public policy speech fully touching on religious freedom, given before a packed audience in Washington, D.C., at the invitation of the International Religious Liberty Association, then-Senator Hillary Clinton, of New York, demonstrated that she is committed to upholding religious freedom as not only America’s first freedom, but also the international community’s first freedom. This speech can be found by searching [Adventist News Network](http://www.adventistnewsnetwork.org) online.

15 Thomas F. Farr, *World of Faith and Freedom: Why International Religious Liberty Is Vital to American National Security* (New York: Oxford University Press, 2008), p. 129.

16 *Ibid.*

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# Christians And Civil Disobedience: The Higher Law

BY: HAVEN BRADFORD GOW

Houston Baptist University scholar/educator Louis Markos, writing in *From Achilles to Christ* (InterVarsity Press), gives the example of Sophocles' play *Antigone* as an affirmation there is a higher, universal, immortal law written in humanity's heart, mind, and conscience.



In *Antigone* Creon, the governor of the state, has commanded that no one may bury his nephew, Polyneices, brother of Antigone. Antigone, though, defies her uncle Creon's command and proceeds to spread burial dirt on Polyneices' body.

Eventually Creon encounters his niece Antigone and accuses her of breaking the law; Antigone responds that she was obeying a higher law written in our hearts, minds, and consciences: "For me it was not Zeus who made that order. Nor did that Justice who lives with the gods below mark out such laws to hold among mankind. Nor did I think your orders were so strong that you, a mortal man, could overrun the gods' unwritten and unfailing laws. Not now, nor yesterday's they always live, and no one knows their origin in time."

As Protestant scholar/clergyman William Watley observes in *Root of Resistance: The Nonviolent Ethic of Martin Luther King Jr.* (Judson Press), Martin Luther King was affirming the reality of this higher law recognized by Sophocles when he urged others to support Rosa Parks, who had been arrested for defying a local law requiring Black people to walk to the back of the bus to be seated. Rosa Parks said that she had been tired after work and had decided to sit in the front, instead of walking all the way to the back. King said Christians should disobey unjust laws and follow a higher law, a universal and immortal moral law.

According to Terrence Rynne, founder of the Marquette University Center for Peacemaking and author of *Gandhi & Jesus* (Orbis), Martin Luther King's espousal of non-violent civil disobedience echoes sentiments expressed by Gandhi: "Civil disobedience, for Gandhi," wrote Rynne, "was the direct disobeying of particular laws with the willingness to accept punishment that came with the contravention of the laws. When a government itself became lawless and unjust, Gandhi understood that civil disobedience became not only the recourse of the populace but a duty. . . . For civil disobedience to be 'civil,' it required that the resistance be carried out nonviolently."

The philosophy of nonviolent civil disobedience also has roots in the New Testament. For example, the apostles were warned that if they continued preaching and practicing the teachings of Christ, they would be imprisoned and perhaps executed; despite the warnings, the apostles continued preaching and living the teachings of Christ, and they were unjustly imprisoned. The New Testament tells us they suffered imprisonment joyfully, for they were suffering for the sake of Christ. One might say the earliest Christians taught and practiced nonviolent civil disobedience.

Indeed, as the New Testament teaches, Christians "ought to obey God rather than men" (Acts 5:29).

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# A Changing World

The IRLA's Seventh World Congress In Punta Cana, Dominican Republic, Promises To Be An "Exciting And Historic" Event.

BY: JOHN GRAZ

In an unusually candid speech early last year, a former president of the World Bank made a startling prediction. James Wolfensohn told Stanford Graduate School of Business students that the world is poised on the edge of a major global power shift. He told them that the next few decades will see today's leading economic countries go from controlling 80 percent of the world's income to a mere 35 percent. According to his reckoning, we're living in the waning days of dominance for the euro, the British pound, and the U.S. dollar. And where currency leads, political influence follows.

So what does this have to do with religious freedom?

Simply this: as the economic and political plates of our world continue to shift, the foundations of our current human rights discourse will also be shaken. And already the ideological ground is beginning to move beneath our feet. In tomorrow's world the model of religious freedom we now take for granted—religious freedom as an overarching, inviolable, universal human right—will have a less inevitable feel.

## Toss out The Rulebook?

Today's global environment is radically different to the war-shocked, nationalism-weary world of 1948 that gave birth to the Universal Declaration of Human Rights—a set of ideals that Eleanor Roosevelt, who chaired the drafting committee, said may well become “the international Magna Carta of all men everywhere.” She, and the other framers, saw religious freedom as a cornerstone human right that helped prop up the entire framework of these newly minted international rights.

Could it be that this robust conception of religious freedom is now passing into the realm of nostalgia? Have we passed the high-water mark of international recognition and protection of the rights of religious minorities? Are we now heading into uncharted social, legal, and political territory?

Consider these trends of the past decade:

The ongoing struggle in many countries—especially in the former Soviet bloc states—to assert a national identity, often focusing on a particular religious tradition as a unifying cultural force. Hence, this year we've seen both Hungary and Kazakhstan move to recognize a handful of “historic religions” and limit the activities or legal status of minority or “new” faiths, which are often perceived as carrying foreign cultural baggage.

Growing calls from many countries—from China to Saudi Arabia to some African nations—to recalibrate the language of international rights to acknowledge “cultural relativism,” and to move beyond merely a Western model of individual rights.

An ever-increasing global sensitivity to religious extremism and religiously-motivated terrorism that, since September 11, 2001, has been cast as perhaps the most significant destabilizing force in today's geopolitical struggles.

There is a changing role of “secularism” within the religious freedom discourse. The secular state, which is characterized by an attitude of neutrality between different religions, has long been seen as an essential precondition for protecting religious minorities. But secularism as a worldview is now at times taking on a less benign and more proactive guise, perhaps seen most vividly in the 2011 French law that banned the wearing of the Islamic burka in public—a move some government officials claimed was necessary to preserve the “secular nature of the French state.”

The growing social influence of postmodernism, which doesn't see religion as something deserving “special protection,” but rather as just another “special interest group” within a milieu of competing moral and social voices.

## Learning a New Language

Now, more than ever, we need to explore the forces that are gradually but relentlessly changing the way the international community understands, articulates, and protects religious freedom.



This conviction—that we need to become fluent in the evolving language of religious freedom rights—is driving plans for what we hope will be the largest-ever international religious freedom congress.

The seventh world congress of the International Religious Liberty Association will be held April 24 to 26, 2012, in Punta Cana, Dominican Republic, and will bring together some of the world's leading experts to examine the changing face of the religious freedom discourse.

Like our previous world congresses, this event will attract a diverse, international group of thought leaders, academics, government officials, religious leaders, NGO representatives, lawyers, and others. A series of plenary sessions and breakout groups will feature more than 50 internationally renowned experts, scholars, and speakers, including such dignitaries as Robert Seiple, former U.S. ambassador at large for international religious freedom, and Neville Callam, Baptist World Alliance general secretary and leader of nearly 50 million Baptists worldwide.

Are we ready for a changing world? The days when we dreamed of a universal, consensus-driven “Magna Carta” of human rights may be behind us. But as we meet together next year in Punta Cana for the Seventh world congress, I hope we'll learn new, more effective ways to speak the language of freedom in today's complex, rapidly changing global environment.

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*The IRLA's seventh world congress, to be held April 24-26, 2012, in Punta Cana, Dominican Republic, is open to everyone who wishes to deepen his or her understanding of current issues and challenges in the world of religious freedom advocacy.*

*The International Religious Liberty Association invites you to be a part of this historic event. More than just an academic conference, this three-day congress will offer practical resources, stimulating presentations, and the opportunity to interact with a truly global group of experts, government officials, religious leaders, and advocates. The venue itself is unique—the Barceló Bávaro Beach Resort and Convention Center is one of the Dominican Republic's most beautiful, all-inclusive, beachside resorts.*

*The seventh world congress website, [www.irla.org](http://www.irla.org), has all the information and links you need to register for this event and plan your visit to beautiful Punta Cana. Or send your questions to us at [info@irla.org](mailto:info@irla.org).*

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# Advance And Defend

**BY: EUGENE J. MCCARTHY**

**T**he Christian in politics should be judged by the standard of whether through his decisions and actions he has advanced the cause of justice. The Christian in politics should be distinguished by his alertness to protect and defend the rights of individuals, or religious institutions and other institutions, from violation by the state or by other institutions or persons. He has a very special obligation to keep the things of God separate from those of Caesar. The Christian in politics should shun the devices of the demagogue at all times, but especially in a time when anxiety is great, when tension is high, when uncertainty prevails, and emotion tends to be in the ascendency.

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**"The Christian in Politics,"** *Commonweal*, Oct. 1, 1954. Eugene J. McCarthy served in the United States Congress as a representative and senator from Minnesota from 1949 to 1971. He was a candidate for president in 1968 and 1976.

