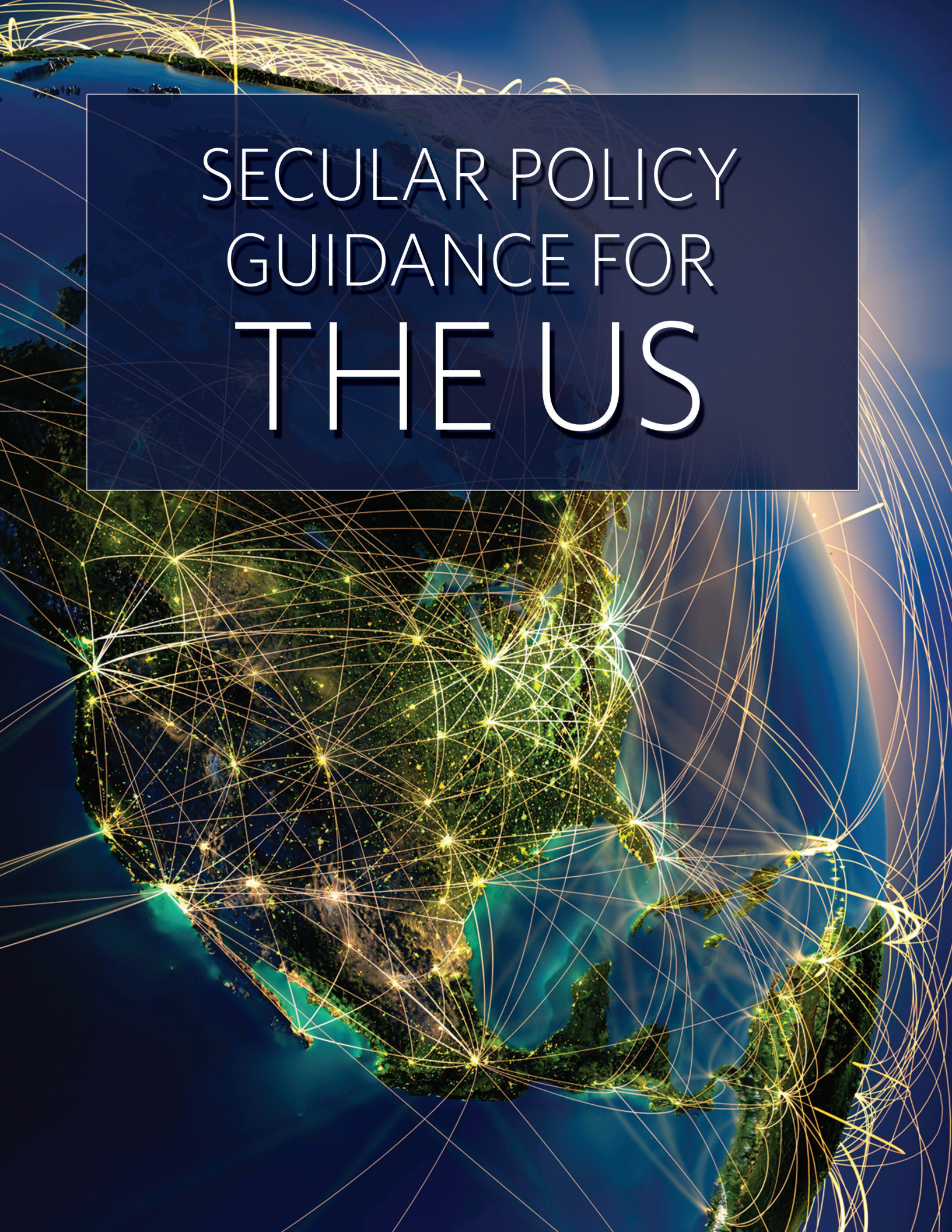


SECULAR POLICY GUIDANCE FOR THE US

MISSION STATEMENT

The Secular Policy Institute is a think tank organization of thought leaders, writers, scholars and speakers with the shared mission to influence public opinion and promote a secular society. We believe governmental decisions and public policies should be based on avaliable sciences and reasons, and free of religion and religious preferences.

A special thanks goes out to the more than thirty-five authors and policy experts who contributed to the making of this non-theist policy guide

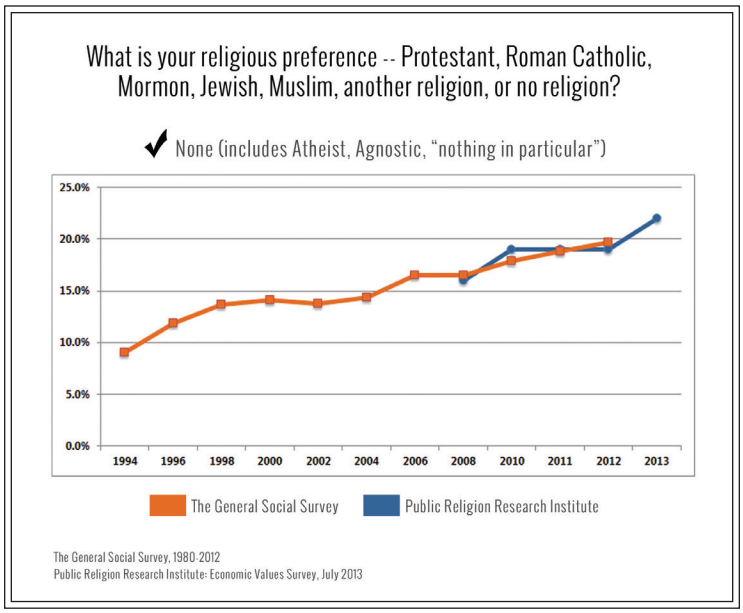
Address 401 Ninth Street, NW, Suite 640, Washington, DC 20004
Office (202) 430-1888
Fax (202) 888-0196
Email edwina@secularpolicyinstitute.net
Website www.SecularPolicyInstitute.net
Mobile (202) 674-7800

CONTENTS

PREAMBLE

The Secular Policy Institute is an advocacy organization representing over 165 organizations and 50 state chapters. The Secular Policy Institute was created to amplify the diverse and growing voice of the American non-theistic community. Our mission is to increase the visibility of and respect for non-theistic viewpoints in the United States, and to protect and strengthen the secular character of our government as the best guarantee of freedom for all.

As of 2013, 22 percent of Americans reported themselves as atheist, agnostic, or otherwise religiously unaffiliated.[1] This makes the nonreligious the fourth largest "religious" tradition in the United States. Thirty-five percent of all adults under age 30 do not affiliate with any particular religion, three times as many as identify as unaffiliated over the age of 70.[2] Young adults today are more likely than previous generations to have no religious affiliation.[3]



The Secular Policy Institute represents nontheists, but does not ask government leaders to promote nontheism. America's strength lies in its robust marketplace of religious and non-religious ideas. Government officials may not and should not promote any articles of faith or faithlessness. Instead, they have a duty to protect the freedom of every American to believe or disbelieve in the God or gods of their choice. By advocating for the rights of the non-theistic minority, the Secular Policy Institute affirms its support for equal rights and freedoms for all Americans.

This guide includes select issues relevant to the separation of religion and government and is designed to assist legislators and policymakers at the local, state, federal and international levels of all branches of government.

CONSTITUTIONAL LAW

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

- The First Amendment to the U.S. Constitution

Introduction and History

The first freedom protected by the Bill of Rights is the right of every American to a secular government that does not subscribe to religious beliefs or prohibit citizen engagement in private religious practices. Thomas Jefferson, in a famous letter to the Danbury Baptist association in 1802, expressed his "sovereign reverence [for] that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' thus building a wall of separation between Church & State."[4] Jefferson's stipulation has long been acknowledged by the U.S. Supreme Court as "an authoritative declaration of the scope and effect" of these two clauses of the First Amendment, known as the Establishment Clause and the Free Exercise Clause, respectively.[5]

The desire of America's founders to establish a secular government leaving religion in a protected, private sphere was rooted in their experiences with the officially "established" Church of England during the colonial period (as well as with other established churches throughout Europe) and the religious violence of the wars triggered by the Reformation and its aftermath.

Many of the earliest settlers in North America were religious nonconformists who immigrated to the New World to escape a society where the head of state was also the head of the national church, and where refusal to belong and conform to that church's teachings was not only heresy, but treason. Having escaped into the relative obscurity of a distant wilderness, many of these settlers proceeded to establish their own theocracies with their particular preferred brand of religion as the established orthodoxy. Roger Williams, for example, was banished from Puritan-governed Massachusetts in the 1630s due to his religious disputes with government officials.

He then founded the colony of Rhode Island, which guaranteed freedom of conscience by separating church and state, thus becoming one of the first true beacons of religious liberty in the colonies.

In the period leading up to the Revolutionary War, more Americans began to embrace Williams' legacy and resisted state religion. Virginia's Statute for Religious Freedom, drafted by Thomas Jefferson and passed in 1786, provided that "no man shall be compelled to frequent or support any religious worship, place, or ministry."

Virginia's Statute also proclaimed that "our civil rights have no dependence on our opinions" regarding religious questions, and that the government has no right to "intrude . . . into th[is] field of opinion" except when such "principles break out into overt acts against peace and good order."

Political support for the passage of the Virginia bill had been marshaled by James Madison's famous *Memorial and Remonstrance Against Religious Assessments*, a tract written to oppose a bill that would have re-imposed the former colonial tax funding the teaching of Christianity. Madison wrote, "it is proper to take alarm at the first experiment on our liberties," calling this vigilance, "the first duty of Citizens, and one of the noblest characteristics of the late Revolution**.**" He then called upon citizens to defend the separation of church and state, asking, "[w]ho does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?"

This strong desire for secular governance is evidenced by the Constitution, a completely secular document, which includes no references to Christianity (or other religions) in particular, or to religious concepts, such as God, in general. The only two references to religion are exclusionary: the No Religious Test Clause, found in Article VI, which forbids the imposition of any religious test as a condition for holding a public office or governmental position, and the First Amendment, which separates church and state.

The Constitution, although generally setting up a government according to the will of a democratic majority, protects the civil rights and liberties of all from abuse by that majority. Any law that violates the Bill of Rights, which includes the Establishment Clause, is unconstitutional.[6] Therefore, it is irrelevant whether any particular governmental measure promoting religion is popular; if it violates the separation of church and state, the court must strike it down.

The Establishment Clause

In 1947, the first modern Establishment Clause case made its way to the Supreme Court, and the Court ruled that the Fourteenth Amendment applies the clause to all levels of government.[7]

The Supreme Court has since interpreted the Establishment Clause in dozens of cases. Certain general principles have emerged from the Court's jurisprudence. Separation of church and state means "that government may not promote or affiliate itself with any religious doctrine or organization, may not discriminate among persons on the basis of their religious beliefs and practices, may not delegate a governmental power to a religious institution, and may not involve itself too deeply in such an institution's affairs."[8]

The government cannot "set up a church[,] . . . pass laws which aid one religion, aid all religions, or prefer one religion over another[,] . . . force [or] influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion[,] . . . punish [any person] for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance[,] . . . [impose a] tax in any amount, large or small, . . . to support any religious activities or institutions."[9]

In short, the government cannot promote, advance, fund, endorse, affiliate itself with or participate in religion.[10]

Furthermore, the First Amendment "mandates governmental neutrality" both among religions and "between religion and nonreligion."[11] The Supreme Court has clarified that the Constitution does not merely proscribe the preference of one Christian sect over another. . . [It] require[s] equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as Islam or Judaism.[12]

The Supreme Court has distilled these principles into a test to be applied by courts in cases in which an Establishment Clause challenge is brought. All governmental actions must: 1) have a secular purpose, 2) not have the effect of advancing or inhibiting religion, and 3) not result in excessive entanglement between church and state. The court has named this analysis the "Lemon test" after the case in which it was first stated.[13]

Religious Displays on Government Property

The Establishment Clause prohibits government sponsorship of religious messages. Therefore, it is inappropriate for government entities to erect or sponsor religious symbols or displays on government property.

POLICY RECOMMENDATION

Restricting any religious symbols or displays on government property allows government entities to remain completely religiously neutral and conform to the court's interpretation of the Establishment Clause.

Ten Commandments

No Ten Commandments display in a public school has ever survived constitutional scrutiny by a court of last resort.[14]

Other displays of the Ten Commandments on public property have also been struck down as unconstitutional.[15]

Religious Holiday Displays

It is impermissible for a government entity to place a nativity scene or menorah as the sole focus of a display on government property.[16]

In contrast, temporary holiday displays which are secular in nature but include a religious element that is not the predominant element of the display have sometimes been permitted.[17]

Cross Memorials

No use of Christian crosses as a form of war memorial has been upheld by a federal court as constitutional.[18] These courts have found that the displays amount to a governmental promotion of, and affiliation with, Christianity and give the impression that only Christian soldiers are being honored.

Government Funding of Religious Institutions

The Establishment Clause prohibits government funding of religious institutions. Madison's *Memorial* opposed even a three pence tax that would support "teachers of the Christian religion" as a "dangerous abuse of power." Despite this principle, billions of taxpayer dollars have gone to religious groups to provide "secular services." The law prohibits the use of the money for any "specifically religious" activities.[19] For example, the government may not fund construction or repair of "buildings in which religious activities will take place."[20]

POLICY RECOMMENDATION

Taxpayer dollars should not fund religious activities or institutions, as proselytizing and religiously motivated discrimination are inherent and oversight is functionally nonexistent.

Legislative Prayer

Prayer at government meetings is unnecessary. When government bodies lend their power and prestige to religion, it amounts to an endorsement that excludes the 22% of the population that is nonreligious.[21] Including prayer at legislative meetings turns minorities, including atheists, Jews, Muslims, Hindus and Wiccans, into second-class citizens. Even when prayers are "nondenominational," any form of prayer will inevitably exclude various taxpayers and constituents.

In *Marsh v. Chambers,*[22] the U.S. Supreme Court carved out a narrow exception to the Establishment Clause for legislative prayer as a nod to history and custom. The *Marsh* exception was confined to a situation involving a non-sectarian, non-denominational prayer, led by an officiant who had not been selected based upon any impermissible religious motive, and which was addressed to the body of legislators present, and to no one else. Additionally, under this standard, legislators must have the option not to participate, and the prayer must not be "exploited to proselytize or advance any one, or to disparage any other, faith, or belief."[23] Some federal appellate courts have ruled that frequent sectarian prayers to "Jesus" affiliate the government with Christianity and are unconstitutional.[24] The Supreme Court revisited its *Marsh* decision in the fall of 2013 (decision expected in 2014) when it took up *Town of Greece v. Galloway*.[25]

POLICY RECOMMENDATION

Because of the legal uncertainty and the exclusionary effect such prayers have on nontheists and others who do not share the faith of the officiant, the best practice is to exclude prayer at legislative meetings.

The Free Exercise Clause

The wall of separation of church and state protects both freedom from government-sponsored religion and a private individual's freedom of conscience. This reflects the Madisonian concern that secular and religious authorities must not interfere with each other's respective spheres of choice and influence. The Free Exercise Clause forbids the government from interfering with religious belief, opinion and some, but not all, actions taken with religious motives. While the freedom to believe is absolute, the freedom to act may be circumscribed by law, so long as those laws are not meant to discriminate against a particular religion.

The Free Exercise Clause does not give a religious actor a special right to ignore a law by claiming that complying with it conflicts with its religion. Neutral laws of general applicability that incidentally burden religion are not unconstitutional.[26]

A claim of a right to "religious accommodation" under the Free Exercise Clause may be rejected if it would result an impermissible preference of religion prohibited by the Establishment Clause.[27] The Supreme Court has indicated that accommodation is permitted only when it "alleviates exceptional government-created burdens on private religious exercise."[28] An accommodation which "conveys a message of endorsement" of the religious practice being accommodated, however, advances religion in violation of *Lemon*.[29]

HEALTH AND SAFETY

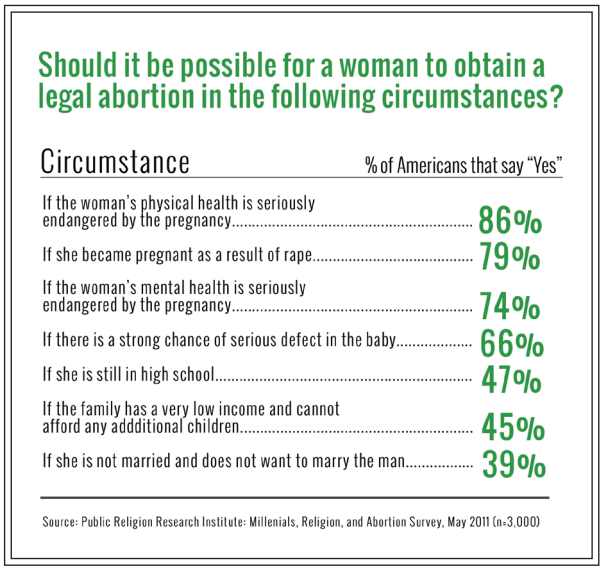
In a pluralistic society valuing religious and moral freedom, health care should not be dictated or compromised by personal, sectarian religious beliefs.

Women's Health Issues

There are complicated moral and ethical questions involved in women's health issues and access to health care for theists and nontheists alike. However, the particular influence of sectarian religious belief on government policy regarding women suggests a government endorsement of particular religious beliefs to the exclusion of minority and non-theist views.

Abortion Bans

In the landmark case *Roe v. Wade*, the U.S. Supreme Court recognized that the U.S. Constitution protects a woman's right to make her own medical decisions, including her decision to have an abortion. Therefore, a state may not ban abortion prior to viability. In the 40 years following that landmark ruling, in decisions including *Casey v. Planned Parenthood of Southeastern Pennsylvania*, the Supreme Court has never wavered from this principle.



Yet the nation's most extreme bans on abortion were passed by various state legislatures in 2013. The Arkansas legislature overrode Governor Mike Beebe's veto of a bill banning abortion at 12 weeks, and North Dakota banned abortion at 6 weeks. Abortion bans are not only bad policy because they prevent a woman from making her own personal, private decision about her health and medical care, but because they violate women's constitutional rights.

Non-Surgical Abortion

Women in the United States have been safely and legally using non-surgical abortion for years, but anti-women's health activists have devoted significant attention to creating barriers and restrictions to block access.

Bills restricting non-surgical abortion are being considered in states ranging from North Carolina to Arkansas to Missouri and Mississippi. In states where these restrictions have been passed, some women have been forced to have a surgical procedure when they would have chosen non-surgical abortion instead.

Non-surgical abortion gives a woman the option of a more private, less invasive method of ending a pregnancy, in a setting in which she feels more comfortable. With a medical professional, she decides when the abortion starts, where it should happen, and who should be with her while it is happening. She has access to medical professionals 24 hours a day, seven days a week if she has any questions or concerns. One in four women uses this method, and if a woman follows the instructions provided, there are no risks to her future fertility.[30]

POLICY RECOMMENDATION

Laws and regulations of women's healthcare must be based on scientifically sound medical research and driven by a compelling government interest, not sectarian religious beliefs.

Biased Counseling

A woman should have accurate information about all her pregnancy options. Information should support a woman, help her make a decision for herself, and enable her to take care of her health and well-being. It should not be provided with the intent of shaming or coercing her toward any particular decision.

Recent bills propose mandatory waiting periods, mandatory ultrasounds, and could force doctors to provide state-mandated, ideological scripts to their patients. A recent evaluation of Texas' 2011 biased counseling law found the law does not enhance health information, but rather places unnecessary hurdles before a woman can make a private medical decision. The law has the compound effect of making a woman feel ashamed and adds additional costs to a safe and legal procedure.

POLICY RECOMMENDATION

Access to scientifically accurate, un-biased, timely information about reproductive health and pregnancy options should not be obstructed by religiously motivated legislation or regulations.

Health Care Provider Refusal Laws

Following the U.S. Supreme Court's 1973 decision in *Roe v. Wade*, several states and the federal government enacted health care provider refusal laws ("Refusal Laws"). These laws allowed medical professionals to decline participation in abortion-related services. Congress passed the Church Amendment,[31] which permitted any health care facility or provider receiving federal funds to refuse to provide abortion services and sterilization services if doing so violated the provider's religious or moral beliefs. The District of Columbia and 46 states have statutes allowing medical professionals to refuse to provide abortion services.[32]

Religious refusal exemptions, also known as "conscience clauses" allowing health care providers to decline to provide lawful services that conflict with their religious or moral beliefs, must balance the provider's conscience claims with the patient's right to care, privacy, and self-determination.

Conscience clauses should apply only to individual providers and not their places of employment: all secular health care institutions and business entities serving the public should guarantee the presence of medical professionals willing and able to provide all lawful health care services requested or required by patients. If an organization chooses to establish itself as a secular business, operating in the secular marketplace, it should abide by secular law.

More recently, Refusal Laws have expanded into the area of prescriptions and to pharmacists themselves. At least 12 states[33] have laws allowing a pharmacist to refuse to fill lawful prescriptions for drugs that the individual considers "abortifacient", including emergency contraception prescriptions.

However, when some states tried to impose an affirmative duty on pharmacists to dispense emergency contraception, federal courts held that these mandates violated the pharmacists' rights under the Free Exercise Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment.[34]

Refusal Laws can be challenged on the basis of their conflict with the right to privacy of the individual.[35] A female is denied the right to decide whether to use contraception when a pharmacist denies her right to have it. These laws also raise issues of Equal Protection. When the law allows pharmacists to refuse to fill contraceptive prescriptions, it sanctions unequal treatment of men and women. More practically, issues of access are raised, especially for women in low-income or rural areas, for whom a refusal to dispense may cut off access to contraceptives entirely.

POLICY RECOMMENDATION

Patients should not be denied medical care through laws that allow medical professionals to deny patients abortion and sterilization procedures (or other services), and enable pharmacists to refuse to fulfill lawful prescriptions for contraception including emergency contraception.

Religious Exemption for Contraceptive Care

The contraceptive coverage requirement of the Affordable Care Act is intended to serve the compelling public health and gender equity goals and is in no way targeted at religion or religious practices, keeping in line with First Amendment jurisprudence. However, the Department of Health and Human Services announced a broad religious employer exemption to include all non-profit organizations that claim a tax exemption as a "religious employer." This criterion is ripe for abuse because any organization can claim it, without any requirement of proof.

This exemption sets the precedent that the religious interests of a few employers come ahead of immense health and social benefits of all Americans. Specifically, the exemption will have a significant impact on American women across a wide spectrum of the workforce. Millions of American women are employed by non-profit organizations, particularly with non-profits that are commonly religiously affiliated such as schools or hospitals.

These women are entitled to earn a living without sacrificing their health and their own religious liberty.

Although the current exemption is vague and overly broad, cases are working their way through the courts from for-profit employers claiming the religion of the boss dictates the health care choices of the employees. Claimed religious objections to federal law by founders of for-profit businesses do not entitle those businesses to violate laws that protect their employees.[36]

POLICY RECOMMENDATION

Religious exemptions from a neutral law of general applicability such as the contraceptive coverage in healthcare plans should be limited only to houses of worship in regards to employees with ministerial duties.

Research Issues

Stem Cells and Fetal Tissue

The use of stem cell and fetal tissue for contemporary medical research is a complicated moral issue. The decision as to whether or not to allocate federal funds to stem cell research should not be dictated by religious beliefs.

Human pluripotent stem cells, more commonly known as "stem cells," are derived through two different methods. One method uses early stage embryos in excess of clinical need and donated by women undergoing in vitro fertilization. The other method isolates stem cells from aborted fetuses.

Stem cells have the ability to divide for an indefinite period in culture and can develop into most of the specialized cells and tissues of the body such as muscle cells, nerve cells, liver cells and blood cells. The use of stem cells has far-reaching possibilities including "cell therapies." Stem cells stimulated to develop into specialized cells could be used to treat diseases such as Parkinson's, Alzheimer's, spinal cord injuries, stroke, burns, heart disease and diabetes. Using stem cells could reduce the dependency on organ donation and transplantation.

The moral issues raised by stem cell research differ, depending on whether the cells come from aborted fetuses or embryos resulting from in vitro fertilization that are no longer needed for infertility treatment.

The ethical acceptability of deriving stem cells from the tissue of aborted fetuses is closely connected to the morality of abortion. Research using stem cells obtained from human embryos poses moral difficulties that do not exist in the case of fetal tissue.

POLICY RECOMMENDATION

Government policy on the use of stem cells for medical research should be based on scientific and medical research, with discussions of shared values free of sectarian influence.

Right to Die

The Right to Die movement, launched in 1976, has its foundation in two court decisions. In *re Quinlan,* the New Jersey Supreme Court ruled unanimously to appoint Karen Ann Quinlan's father her legal guardian with the authority to make medical decisions on her behalf, including the removal of life-sustaining treatment. With this decision, competent persons or their legal guardians obtained the legal right to refuse medical treatment. Ten years later, in *Cruzan v. Director, Missouri Dept. of Health*, the U.S. Supreme Court clarified that a legal guardian could request removal of life support by providing "clear and convincing evidence" of its necessity. The Terri Schiavo case, involving multiple court cases, motions, and appeals between 1990 and 2005, set no new legal standards for the Right to Die movement and affirmed decisions set out in *Quinlan* and *Cruzan*.

A contemporary offshoot of the legally established *Right to Die* movement is the *Death with Dignity* movement, calling for state policies allowing a terminally ill, medically competent adult to request and receive prescription medication to hasten death. Three states have such policies (Oregon, 1994

and 1997), Washington (2008), and Vermont (2013). The Montana Supreme Court determined there was no state law banning the prescribing of medications to hasten death for terminally ill individuals, effectively validating the practice in 2009. Montana state law also bars prosecution of doctors who help terminally ill patients end their lives. *The Oregon Death with Dignity Act* is considered model legislation by the movement, and a careful reading of 15 years of data published by the Oregon Health Authority[37] demonstrates its legitimacy as a state policy.

Proponents of the *Right to Die* and the *Death with Dignity* movements argue for the principles of self-determination and autonomy. They believe an individual, acting alone or through a legal guardian, has a right to choose what happens to his or her body.

Supporters argue one hallmark of an ethical society is the option of a compassionate and dignified end to suffering.

Much of the opposition to the *Right to Die* and *Death with Dignity* movements arises out of religious beliefs, particularly those rooted in the tenet of the sanctity of life. Such arguments assert the practice is akin to suicide, positing an ethical society should not condone suicide in any situation. Secularly based arguments question the legitimacy of the policy, arguing risks of coercion on vulnerable populations. Some physician opponents, including organized medicine, suggest it is antithetical to a physician's role as healer to end life.

DID YOU KNOW?

Public opinion about hastened dying has been tracked by both the Harris and Gallup polling firms. A 2011 Harris Poll[1] reported strong national support for *Death with Dignity*, with 70% of respondents[2] indicating agreement with the following statement: "Individuals who are terminally ill, in great pain, and who have no chance for recovery, have the right to choose to end their own life." A minority (17%) opposed the statement, 8% were not sure, and 4% declined to answer the question. More recently, Gallup explored the issue in relationship to the use of the word "suicide" in polling questions. This poll found majority support, concluding, "Americans generally favor allowing doctors to assist terminally ill patients in ending their lives, but the degree of support ranges from 51% to 70%, depending on how the process is described."[3]

1 Harris Interactive. January 25, 2011. *Large majorities support doctor assisted suicide for terminally ill patients in great pain*. Retrieved from http://www.harrisinteractive.com/NewsRoom/HarrisPolls/tabid/447/mid/1508/articleId/677/ctl/ReadCustom%20Default/Default.aspx

2 (n = 2,340).

3 Saad, L. (2013, May 29) U.S. support for euthanasia hinges on how it's described. *Gallup*. Retrieved from http://www.gallup.com/poll/162815/support-euthanasia-hinges-described.aspx

The Supreme Court has ceded policy decisions about the right to die to the states. While declining to recognize a constitutional right to assisted dying, the Court has held that state laws allowing physician-assisted dying trump the U.S. Attorney General's power to regulate controlled substances.[38] In 2012, a slim majority of Massachusetts voters rejected a ballot question that would have legalized physician assisted dying after an aggressive campaign by the Roman Catholic Church.

POLICY RECOMMENDATION

Religious arguments made against the Right to Die and Death with Dignity are personal beliefs and should not set public policy for all Americans.

Children's Health Issues

Religiously Based Child Abuse and Neglect

The U.S. Supreme Court has made it clear that the right to practice one's faith does not extend to the point where children's health and safety are jeopardized. The Court ruled in *Prince v. Massachusetts*[39] that parents' religious beliefs do not give them a constitutional right to engage in practices that compromise a child's health or safety.

In his article, "*The Children We Abandon*," William & Mary Law School Professor James G. Dwyer states that child abuse laws providing exceptions for perpetrators who deny children needed medical care for religious reasons "discriminate among groups of children, in the conferral of important state benefits, on an arbitrary and improper basis – namely, the religious beliefs of other persons."[40]

Yet in 1996 Congress approved religious exemptions from the federal Child Abuse Prevention and Treatment Act (CAPTA). CAPTA now unconstitutionally discriminates against children whose parents belong to particular religious sects. CAPTA contradicts itself in that it requires parents to provide medical care for their children, but it also permits parents who believe in faith healing to withhold medical care.[41] Thirty-seven states, the District of Columbia, and Guam have laws exempting parents or caretakers who fail to provide medical assistance to a child because of their religious beliefs from criminally liability.[42]

POLICY RECOMMENDATION

The government has a parens patriae duty to protect our country's children. States relinquish that duty and leave millions of children vulnerable to mistreatment when they include religious exemptions in child abuse and neglect laws.

Exceptions to Vaccination Requirements

Vaccine mandates in the United States are generally confined to children enrolling in schools and daycares – children mingling with large numbers of other children. These mandates have been effective in reducing mortality and morbidity. Instead of directly coercing parents to vaccinate their children, these mandates make enrollment conditional on vaccination.

Forty-eight states have religious exemptions and nineteen states have "philosophical" or "personal belief" exemptions from vaccines.[43] Unvaccinated carriers lower the level of protection for everyone.

They especially place at risk babies too young to be vaccinated and those who, for medical reasons, are not vaccinated. But they also pose a risk to properly vaccinated persons whose immunity is compromised without their awareness of it. This was illustrated by a 2008 outbreak of five cases of HIB[44] disease in Minnesota.[45]

Proponents of such exemptions say unvaccinated persons pose no risk to vaccinated persons and argue U.S. vaccination rates are high enough to achieve herd immunity, a state when unvaccinated persons are protected from infection by the vaccinated individuals in a community. These arguments are false.[46] Herd immunity is a misleading term; "herd effect" would be more precise. Vaccinating the majority of group members does confer some protection on unvaccinated members, but many persons move from one "herd" to another. Unimmunized children are not randomly distributed throughout a state nor are they always surrounded by vaccinated persons.

The number and percentage of parents claiming belief exemptions for their children has risen rapidly in the past decade,[47] largely because of fears about vaccine safety, despite research which has shown vaccines to be safe.[48] As vaccination rates have fallen, the number of measles and pertussis (whooping cough) cases has risen.[49] In the U.S., children with personal belief exemptions are 35 times more likely to contract measles than properly vaccinated children.[50] Public health officials have called upon legislators to make belief exemptions harder to obtain. Four states have passed laws requiring parents to listen to or watch medically accurate information about vaccines before being granted a belief exemption from immunizations for their children.[51]

POLICY RECOMMENDATIONS

States should not endanger the public, especially children, through exceptions to state vaccination laws.

Health and Safety Standard Exemptions for Religious Child Care Centers

When parents place their children in a child care center, they expect the facilities to meet minimum health, safety, and caregiver-training standards set by law. But if that child care center is religiously affiliated, they may unknowingly be putting their children at risk.

Under the current federal funding system, if a child care center fails to meet the state's health and safety standards for licensing, they can simply affiliate with a

church, religious institution or parochial school endorsed by a private religious accrediting agency, and be exempted from meeting those standards. Depending on the state, this can mean some of these child care centers are not regulated in relation to the following criteria:

Minimum staff-to-child ratios;

Minimum staff training requirement; and

Various health, safety, and sanitation standards.

POLICY RECOMMENDATION

State standards for child care centers that are designed to ensure children's health and safety and to provide parents with the assurance their children will be well cared for are important public policy. Exempting religiously affiliated child care centers from these requirements puts children at risk. Federal and state taxpayer dollars should benefit only those child care centers meeting all such health and safety standards.

Child Abuse Reporting Exemptions for Clergy

The confidentiality of pastoral communications is fundamental, but not absolute and confidentiality must be balanced with children's essential rights to be free from abuse. Every state and the District of Columbia have statutes identifying those who are required to report child maltreatment under specific circumstances. However, in as many as 23 states and the District of Columbia, the law is unclear or absent in relation to whether clergy are mandated to report

DID YOU KNOW?

Religiously affiliated child care centers are not subject to the health and safety standards of state licensing laws, even though many are supported by taxpayer funds.

Source: Applied Research Center (now Race Forward, The Center for Racial Justice Innovation), (2009) Categorizing the 14 states with exemptions for centers. Table 1. *The Applied Research Center Childcare Report.*

A 2012 investigative report by Tampa Bay Times found that the Florida Department of Children and Families has investigated over 165 allegations of abuse and neglect at unlicensed religious childcare homes in the past ten years, finding evidence to support allegations in 63 incidents with a list of offenses that include physical injury, medical neglect, asphyxiation and sexual abuse.

Source: Zayas, A. (2012, Oct 26). Religious exemption at some Florida children's homes shields prying eyes. *Tampa Bay Times.* Retrieved from http://www.tampabay.com/news/publicsafety/religious-exemption-at-some-florida-childrens-homes-shields-prying-eyes/1258390

In 2007 a number of deaths at teen residential programs prompted a nationwide investigation by the Government Accountability Office of residential treatment programs for troubled youths, many of which set themselves up as licensing-exempt religious child care facilities. The report found the use of extended stress positions, days of seclusion, strenuous labor, denial of bathroom access, and death.[1] Following the report's release, the House passed legislation to give students access to child-abuse hotlines and to keep track of abusive staff members and reports of abuse, but with intervention from the religious right, the bill died in the Senate.[2]

1 U.S. Government Accountability Office. (2007, Oct 10). Residential treatment programs: concerns regarding abuse and death in certain programs for troubled youth, testimony before the Committee on Education and Labor, House of Representatives. GAO-08-146T. Retrieved from http://www.gao.gov/new.items/d08146t.pdf

2 Jones, K. (2011 Jul/Aug) Horror stories from tough-love teen homes. *MotherJones*. Retrieved from http://www.motherjones.com/politics/2011/08/new-bethany-ifb-teen-homes-abuse

child abuse and maltreatment.[52] In approximately 18 states, any person who suspects child abuse or neglect is required to report it.[53]

About 27 states currently include members of the clergy among those professionals specifically mandated by law to report known or suspected instances of child abuse or neglect.[54] Eight states and the District of Columbia do not require that clergy report known or suspected instances of child abuse or harm. Only nine states explicitly include Christian Science practitioners among classes of clergy required to report. This is an important fact because of the role faith healing can play in the medical neglect of children.

POLICY RECOMMENDATION

While the confidentiality of pastoral communications is well recognized, due to the unique and vulnerable position of children and the recent history of abuse of this pastoral privilege, religious communication must not be exempted from mandatory child abuse reporting statutes**.**

Recovery Programs

Alcoholics Anonymous (AA) has been providing alcohol recovery services for eighty-plus years and has long been the recommended solution for individuals with an alcohol-dependency problem.

AA originally sprang from a Christian religious movement called "The Oxford Group," and AA (and programs based on its model) use "higher power" imagery in its 12-step program model that can be alienating for nontheists and negatively impact their recovery. In fact, court-ordered AA is a violation of the Establishment Principle.[55]

AA has benefitted many individuals, providing recovery programs vital to achieving individual behavior change. However, offering choice in recovery is important not only from a legal standpoint, but because research has shown that allowing choice in recovery programs results in enhanced outcomes – especially when the program is selected based on the individual's needs and beliefs.

All 12-step programs have been judged "pervasively religious" in every federal appeals court and state supreme court that has reviewed pertinent cases. Recovery programs offered or permitted by the

federal government such as drug court, prison, probation department, etc. which requires mandated attendance, such as that required in 12-step programs, must have a secular offering or are considered unconstitutional.[56]

A growing number of mutual support recovery organizations do not require religious or higher power beliefs. Offering one or more of these programs in addition to the AA programs increases the probability for participant success. A list of these programs includes:

SMART Recovery participants learn tools for recovery based on the latest scientific research and participate in a worldwide community which includes free self-empowering, science-based mutual support groups.

WWW.SMARTRECOVERY.ORG

Women for Sobriety is a program for women with problems of addiction. It is the first and only self-help program for women only. WFS' purpose is to help all women recover from problem drinking through the discovery of self, gained by sharing experiences, hope and encouragement with other women in similar circumstances.

WWW.WOMENFORSOBRIETY.ORG

LifeRing offers secular self-help to abstain from alcohol and non-medically indicated drugs by relying on a person's power and the support of others. LifeRing welcomes people from all faiths or none, and respects the fact that spiritual beliefs, if any, are personal.

WWW.LIFERING.ORG

SOS - Secular Organizations for Sobriety and Save Our Selves takes a self-empowerment approach to recovery. SOS addresses sobriety as "Priority One, no matter what!" Guidelines for sobriety include: to break the cycle of denial and achieve sobriety, we first acknowledge that we are alcoholics or addicts.

WWW.SOSSOBRIETY.ORG.

POLICY RECOMMENDATION

Wherever recovery programs are offered or permitted by the government, a secular option must be available.

EDUCATION

Students are **constitutionally** protected from religious coercion in **public** schools.

Public school endorsement of any religion is unconstitutional and violates the rights of non-theistic students, as well as religious students whose faiths are not privileged by school officials. Individual students have the right to express their religious beliefs, in non-disruptive ways. Out of respect for these rights, public school teachers and administrators must remain neutral toward all forms of religion when acting in their official capacities.

School Vouchers

Public funds should not support parochial schools, either directly or indirectly through voucher programs. Vouchers provide citizens with direct funding to apply to private school tuitions. Scholarship funds and other tax deduction programs fund private religious institutions indirectly by allowing taxpayers to claim tax credits on their personal income taxes, reducing the amount paid to the state and shifting the money to the private school of the taxpayer's choice. Both programs allow for the public funding of religious educations. Seventy-six percent of private schools in America have a religious affiliation, serving 80 percent of private school students;[57] thus, vouchers are primarily subsidies for religious schools. In 2001, in *Zelman v Harris*, a closely divided Supreme Court rejected an Establishment Clause challenge to vouchers. The Secular Policy Institute believes *Zelman* was wrongly decided and stresses that the Court ruled only on the constitutionality of voucher programs, rather than their wisdom or unintended consequences in a pluralistic nation.

Private schools receiving public funds through voucher programs are not subject to all federal civil rights laws and do not face the same public accountability standards public schools must meet, including those in Title IX, Individuals with Disabilities Education Act, and Americans with Disabilities Act. Although a portion of publicly funded vouchers pay for staffing costs, private school employment practices are not subject to anti-discrimination laws.

POLICY RECOMMENDATION

Taxpayer money for education should never fund a religious education or religious education institution.

Secular Student Groups

Non-theist, secular student groups are entitled to the same rights and protections as other extra-curricular student groups.

At the college level, non-theist groups occasionally face harassment, discrimination, and limitations on available funding and other resources.[58] Public colleges and universities are obliged to protect the first and fourteenth amendment rights of students.

In secondary schools, secular student groups are protected by the Equal Access Act, which ensures that all student groups are treated equally and enjoy equal access to resources. Public institutions of higher education must also remain viewpoint-neutral toward religion and other ideologies, in providing resources for student groups.[59,60] Non-theist student groups deserve equal access and protection.

POLICY RECOMMENDATION

All students and student groups, regardless of their religious or non-religious beliefs, should be treated equally, enjoy equal access to institutional resources, and protections on campuses.

Sex Education

Students deserve sex education programs that provide the information and skills necessary to make informed, responsible, and healthy decisions to reduce unintended pregnancy, partner-on-partner violence, STIs and HIV. Sex education in publicly funded schools must be medically accurate and free from religious influence.

Abstinence-only sex education is religiously motivated and ineffective. Eighty-eight percent of students break their abstinence pledges.[61] Two-thirds of high school students have had sex.[62]

Comprehensive sex education leads to a measurable reduction in early sex, unprotected sex, and number of sexual partners.[63]

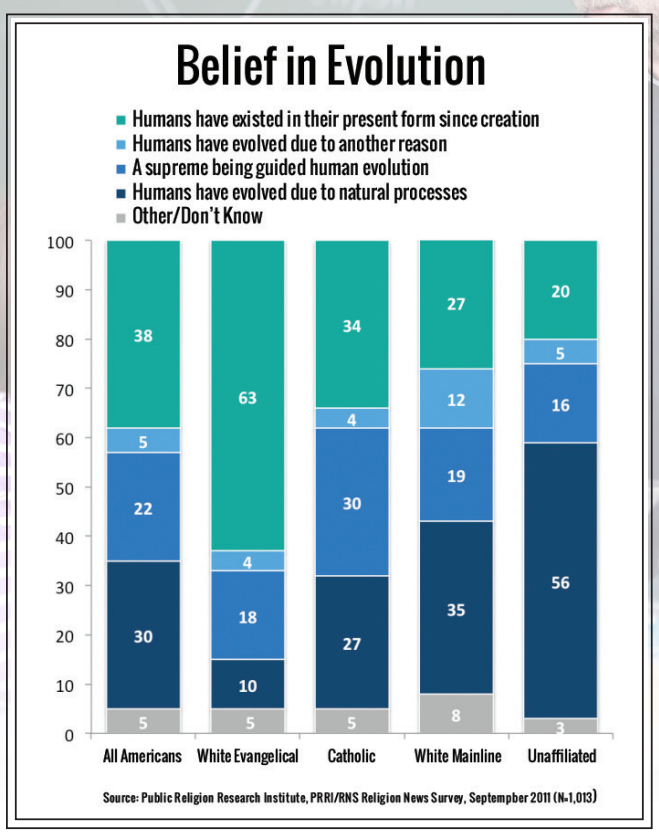
Abstinence-only programs lead to no measurable reductions in early sex or number of sex partners, and lead to a measurable increase in unprotected sex.[64] American youth deserve medically sound sex education programs that address their needs.

POLICY RECOMMENDATION

All students should receive non-biased, medically accurate sex education through programs that give them the tools to make informed decisions concerning their sexual and reproductive health irrespective of their religious affiliation.

Science Education

Public schools must teach science, not religion, in science classes. Laws banning teaching evolution are unconstitutional.[65] "Balanced Treatment" laws that require teachers to give "creation science" or "Intelligent Design" equal classroom time to evolution are equally unconstitutional.[66,67]



Because of consistent federal court defeats, creationists no longer approach policymakers using "creation science" terminology, but Biblical teaching must stay out of our public school science classrooms however it may be rebranded. If government-funded schools teach creationism, the government appears to endorse Bible-based religion, trampling on the principles of separation of religion and government.

The controversy of the teaching of evolution is a political one, not a scientific one. Evolution is a sound and basic scientific principle that belongs in every state's science curriculum and textbooks.

POLICY RECOMMENDATION

Public schools and schools funded with taxpayer money should teach the scientifically undisputed principle of evolution.

School Prayer

The Supreme Court has repeatedly struck down as unconstitutional attempts to inject prayer or other forms of devotional practices into public schools. The Establishment Clause forbids school-sponsored prayer.[68] Classroom prayers and Bible readings are unconstitutional, even if students are excused from participating.[69] Inclusion of prayer as part of the official school program gives government power over religion. Even supposedly neutral prayers privilege religion over non-religion and are unacceptable.

Public school teachers and administrators must remain neutral concerning religion while carrying out their duties. It is unconstitutional for teachers or school employees to pray with or out loud in the presence of students or to encourage religious activities in school. Teachers and other school officials have no individual First Amendment right to use their official positions to proselytize in school.[70]

Public schools cannot include invocations or benedictions at graduation ceremonies, regardless of who delivers the prayer.[71] It does not matter whether or not attendance at the graduation ceremony is voluntary, since the pressure for students to attend this milestone event is effectively coercive. School-sponsored prayers at other school events, including athletic events, are likewise unconstitutional, even if the prayers are student-led.[72]

POLICY RECOMMENDATION

As representatives of the government, teachers and administrators may not lead students in prayer; however, the right of a student to voluntarily engage in a non-disruptive private prayer has never been infringed.

Pledge of Allegiance

The current language of the Pledge of Allegiance as written in our federal laws states, "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."[73]

Forty-four states have laws that require public school classes recite the Pledge of Allegiance or mandates to school districts to set aside time for its recitation.[74] Three of the six states without these laws have bills in their legislature to add required recitation.[75] Children who attend public school from Kindergarten through 12th grade hear that we are a nation, "under God" over 2,000 times.[76] Although the Supreme Court said students cannot be required to recite the Pledge of Allegiance in violation of a sincerely held religious belief,[77] a daily recitation declaring the nation is, "under God" sends the

message to students that the government endorses theistic religion and non-theistic students are outsiders to patriotism.

History and tradition, often cited as support for religious references in government action, support a Pledge of Allegiance without the words, "under God." Neither the original version of the Pledge of Allegiance, written in 1892 by Francis Bellamy,[78] nor the version Congress recognized in 1942 as the official national pledge of the United States, contained any reference to God."[79] "Under God" was added to the Pledge of Allegiance in 1954[80] after the Knights of Columbus, the world's largest Roman Catholic fraternal organization,[81] persuaded members of both houses of Congress that the suggested religious reference would combat the threat of communism.

POLICY RECOMMENDATION

The Pledge of Allegiance should be returned to its original form, as the inclusion of "under God" in the daily patriotic school exercise isolates non-theistic students, or unfairly and unnecessarily compels them to comply.

DISCRIMINATION

Discrimination takes many forms. The targets of discrimination are as diverse as the motivations behind it. A secular approach to discrimination reflects the duality of the religious clauses of the First Amendment. Discrimination is improper when it targets an individual for his or her religion or belief, or lack thereof, similar to the Free Exercise clause. It is also improper to exempt religiously motivated actions from an otherwise valid anti-discrimination statute by using government protection to endorse particular a religious belief.

History shows at times only force of law can outweigh popular prejudices. American society has made vast improvements in the past 50 years concerning discrimination. More and more Americans are choosing not to hide identities that may target them for abuse and ridicule. As we conquer new grounds of acceptance, different conflicts emerge when rights conflict. Namely, that operating in the public square requires compliance with all public laws and religion is only a valid justification for discrimination in the most limited of contexts.

Same-Sex Marriage

The distinction between civil and religious marriage contracts solve many of the problems raised by opponents of same-sex marriage concerned for their religious freedom rights. To receive federal and state benefits assigned to married couples, a civil marriage must be obtained. It is a contract entered into by two parties which is legally recognized by the government. The government employees who issue and certify these licenses are representatives of the state and must comply with all public laws, including anti-discrimination laws.

Marriage also carries religious significance for many Americans, and they enter into a religious marriage as well, regulated and officiated by their own faith leaders and not legally recognizable by the government. The requirements to obtain a religious marriage are set by each religious community.

The distinction between civil and religious marriage resolves the debate on same-sex marriage because the government cannot endorse a particular religious belief, such as marriage should be between a man and a woman; and the government cannot force a house of worship to grant or perform a religious marriage, as a violation of their Free Exercise rights.

POLICY RECOMMENDATION

Same-sex couples are entitled to the same rights to civil marriage as opposite sex couples. Laws prohibiting this are religiously motivated discrimination which is improper and should be overturned.

Employment Discrimination

Our government has a long history of subsidizing the efforts of organizations providing social services.[82] Historically the same laws and regulations applied to both secular and religious groups regarding how government funds were utilized and the hiring and firing practices for such programs. Unfortunately, changes in federal policy under President George W. Bush allowed federally funded organizations to discriminate on the basis of religion in their hiring practices. Title VII of the Civil Rights Acts makes it unlawful for an employer to refuse to hire or fire any individual because of such individual's religion. Yet we do not hold salaries paid from government coffers to the same standard.

Religious and secular organizations providing social services to needy Americans should not be relieved of the same non-discrimination policies required of every other federal contractor. Religious organizations have a right to promote their beliefs, and to ask their followers to live lives based on these beliefs. However, when religious organizations request money from the federal or state governments to provide publically accessible social services, they must agree to abide by certain regulations prohibiting discrimination against the very taxpayers who fund such activities. They are not required to apply for or accept these funds if they believe their religious rights will be compromised.

These principles extend to employment protections for LGBT Americans. In 29 states it is currently legal for an employee to be fired solely for their sexual orientation.[83] Every single one of the 21 states with laws protecting employees contains an exemption for religiously affiliated nonprofits. Houses of worship are protected by the Constitution and do not require a legislative carve out, while hospitals and schools should be held to the same equality standards as other employers. No other class of citizens protected by anti-discrimination legislation is subject to such an exemption. Discrimination in hiring and firing on the basis of gender identity or sexual orientation is wrong no matter the motivation and laws that put in place exemptions set a dangerous precedent that suggest religion is a valid justification for discrimination.

POLICY RECOMMENDATION

Non-discriminatory hiring practices should be required of any federal or state contractor accepting government funds and laws protecting employees from discrimination should not contain any religious exemptions.

State-Supported Discriminatory Youth Groups

Youth groups are valued institutions providing opportunities for American children to be exposed to other children and adult role models who have differing backgrounds and beliefs. As such, federal and state governments have encouraged the existence and expansion of youth groups through grants and tax privileges that have allowed these organizations to flourish with the taxpayers' support.

Unfortunately, some of these youth groups have discriminatory policies that prohibit certain children or adults from participating in or leading youth group activities because of their sexual orientation, gender identity, or religious views. The Boy Scouts of America in particular, prohibit participation by children or adults, who are nonreligious. Previously, the organization also banned LGBT children from participating in the Boy Scouts, but this policy was changed following public upheaval and threats from several state legislatures to end the tax-exempt status enjoyed by the organization. The California State Senate has already passed such a bill,[84] and similar bills may be introduced and passed in other states.

Under certain criteria, and despite state anti-discrimination laws, a private organization has a right to exclude a person from membership through their First Amendment right to freedom of association.[85] However, private organizations that receive public funds or enjoy a special tax status should not be able to uniformly ban the membership of certain sexual or religious minorities.

Taxpayers should not be forced to support private organizations that explicitly discriminate because of their religious views, gender identity, or sexual orientation. Congress and state legislatures should create laws that exclude these discriminatory private groups from receiving government grants and from enjoying beneficial tax statuses. Private organizations wishing to enforce certain requirements on their membership can continue to do so without government interference while ensuring that taxpayers are not supporting groups that are discriminatory.

POLICY RECOMMENDATION

Youth groups receiving government grants and/or preferential tax status must be prepared to represent all citizens and not discriminate on the basis of participants' religious affiliation or sexual orientation.

TAX POLICY

The same tax rules should apply to all non-profit organizations, whether religious or secular.

Tax Loopholes for Religious Organizations

Total charitable contributions by individuals, foundations, bequests, and corporations reached $298.42 billion in 2011, with religious organizations receiving the largest share – thirty-two percent – of total estimated contributions.[86] Holding religious organizations to the same filing standards as other charitable and educational institutions ensures that the almost $100 billion being donated to religious organizations is actually going to help those who need it.

Yet churches are currently automatically tax-exempt and entitled to the benefits of 501(c)(3) status without applying for advance recognition from the IRS.[87] All other organizations must fill out the 31-page Form 1023 to apply to receive recognition. Once the IRS grants a secular organization tax-exempt status pursuant to §501(c)(3), the organization must file a Form 990 annual return with the IRS. The IRS uses the information provided in the Form 990 to ensure that an organization granted tax-exempt status remains so qualified. But churches and their integrated auxiliaries are exempt from filing 990 returns.[88]

Churches also receive practical immunity from IRS auditing based on procedures set forth in the Church Audit Procedures Act.[89] CAPA requires that before the IRS may begin an inquiry into the tax status of any organization claiming to be a church, the IRS must satisfy certain prerequisites, including articulating a reasonable belief in the need for an investigation, providing special notice to

The Catholic Church and entities owned by the Church spent approximately $170 billion in 2010. Included in this amount is a percentage of the $3.3 billion spent on settlements over the past 15 years of cases where priests have been accused of child-molestation and rape.[1] And in July 2012 the former chief financial officer of the archdiocese of Philadelphia was convicted for embezzling more than $900,000 between 2005 and 2011.[2]

1 99 The Catholic church is as big as any company in America. Bankruptcy cases have shed some light on its finances and their mismanagement. (2012 Apr 18). *The Economist*. Retrieved from http://www.economist.com/node/21560536

2 Winter, M. (2012, Jul 2). Ex-CFO of Philadelphia archdiocese admits embezzling $900K. *USA Today*. Retrieved from http://content.usatoday.com/communities/ondeadline/post/2012/07/ex-cfo-of-philadelphia-archdiocese-admits-embezzling-900k/1#.Uoqq0eV00ZQ

The Church of Jesus Christ of Latter-day Saints donated $1.4 billion between 1985 and 2011,[1] but that figure only accounts for .9% of the LDS Church's annual revenue during that time, estimated around $156 billion.[2] In comparison, the American Red Cross spends 92.1% of its revenue directly addressing the needs of those it intends to help.[3] Although its annual revenue is approximately half of the LDS Church, the American Red Cross spent twice as much money on charity in one year than the LDS Church did in 26 years.[4] Not only is the LDS Church not subject to the same regulations as other billion-dollar corporations, but the Church is also exempted from non-profits regulation and enforcement as a religious organization.

1 The Church of Jesus Christ of Latter Day Saints. (2012). *Welfare services fact sheet, 2011*. Salt Lake City, UT. Retrieved from http://www.lds.org/bc/content/shared/content/english/pdf/welfare/2011-welfare-services-fact-sheet.pdf?lang=eng

2 Johnson, E. *Mormon America: the power and the promise*. Mormon Research Ministry. Retrieved from http://www.mrm.org/mormon-america

3 Charity Navigator. (2012). *American Red Cross*. Retrieved from http://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=3277

4 IRS Form 990, Return of Organization, Exempt from Income Tax. American Red Cross. Retrieved from http://www.redcross.org/images/MEDIA_CustomProductCatalog/m3140123_ARC_990_2009.pdf

the church, and having a high-level Treasury officialconduct the inquiry.

The combination of §508(c)(1)(A), §6033(a)(3)(A)(i), and §7611 ensures that churches receive substantial tax benefits while remaining insulated from public or government review. When select organizations are shielded from any investigation, it is impossible to know whether these organizations are using their funds for benevolent action.

Religious privileges nonessential for accommodating free exercise should be removed from the tax code, including the initial 501(c)(3) application exemption for churches, the annual Form 990 filing exemption for churches, and the restrictions on IRS investigations of churches known as the Church Audit Procedures Act (CAPA).

Closing the three tax loopholes would not only establish necessary accountability, it would also create significant revenue for the federal government. If only a quarter of the $100 billion donated to religious organizations per year were ineligible for deduction, that money could be subject to a gift tax of up to 35%, or as much as $8.75 billion in revenue. Property tax revenues regained from previously exempt churches that violate 501(c)(3) rules could be considerable. Revenues lost to the non-profit property tax exemption in 2009 were an estimated $17-$32 billion nationally.[90]

POLICY RECOMMENDATION

A simpler and fairer tax code can be achieved by removing the following three provisions:

1. **§508(c)(1)(A) which awards churches 501(c)(3) status without application;**
2. **§6033(a)(3)(A)(i), which removes the requirement to file annual IRS reports; and**
3. **§7611, which shields churches from IRS investigation.**

Political Endorsement from the Pulpit

Congress has recently seen proposals that would permit religious organizations to endorse political candidates while receiving 501(c)(3) benefits. IRS rules prohibit partisan politicking by any organization – religious or secular – that receives tax exemptions under 501(c)(3). Churches, like secular non-profit organizations, have the option of forgoing tax-exempt status if they wish to endorse politicians, but taxpayer money in the form of tax exemptions for 501(c)(3) organizations cannot be used for partisan political activity. Even under current law, Alliance Defending Freedom has asked religious leaders to defy the prohibition on political endorsements on what it calls "Pulpit Freedom Sunday."[91]

Fundamental fairness requires the U.S. tax code apply the same rules to all 501(c)(3) organizations, including registration and auditing requirements. Requiring compliance with regulations in order to show entitlement to tax-exempt status is a minimal and necessary burden on religious organizations – a burden all other 501(c)(3) organizations already face. The courts must constantly balance the right to free exercise with the substantial secular interest in preventing illegal activity, and the national interest in the separation of church and state.

POLICY RECOMMENDATION

Religious organizations, including houses of worship, which voluntary opt-in to a tax-exempt status must follow the 501(c)(3) regulations in place strictly banning partisan politicking.

MILITARY

The military presents a unique situation where the government is intricately involved in daily life for over a million active duty personnel. While providing service members with access to fulfill their own personal beliefs, the government must ensure it displays neutrality toward religion and belief in the military. Nontheists in the armed forces deserve equal access to support and equal respect for their service.

More self-identified atheists serve in the military than any other non-Christian denomination.[92] The military shows its appreciation for Buddhists, Hindus, Muslims, and Jews through special dietary and uniform accommodations and special chaplain accession policies. Yet even though nontheists serve in larger numbers than any of these groups, they have no recognition or accommodation.

Support for nontheists puts all service members on equal terms and legitimizes the religious facilities, events, and support programs provided for those who prefer religious affiliation.

Religion and Christianity in particular are afforded special privileges within the U.S. military. This is obvious in the 98% Christian chaplaincy, the special accessions for Catholic chaplains, the use of ceremonial prayer, and the inculcation of God (and Christianity) into all aspects of military care programs. Our military should be neutral toward religion and avoid religious preferencing or proselytizing of any kind.

Recognize Humanist Identity

One of the very first in-processing activities for all military personnel is to receive their ID tags. Young troops are asked, "What is your religious preference?" There are over 100 different specific, general, and administrative answers to that question, and military personnel enjoy the right to put their beliefs on their ID tags and official records. Humanists are denied even that basic right. They must choose "atheist" or "no religious preference" which are both terms that state what they don't believe, not what they do believe. Adding an option would be neither administratively cumbersome nor intrusive on other beliefs, but that one additional option would add affirmation that all beliefs are accommodated equally.

The Army chaplains have, for over a year, blocked an open request for a humanist option.[93] It would also allow for collection of proper demographics by accommodating humanists in the military as separate from "no religious preference" or "atheist."

POLICY RECOMMENDATION

"Humanist" must be added to the list of religious preferences in all branches of service and the Defense Manpower Data Agency.

Provide for Humanist Chaplains

While our military is making substantial progress integrating gay, lesbian and female Americans into its ranks, it continues to discriminate against nontheists. The chaplaincy has never had any formal training in non-theistic beliefs and practices. They are thus unqualified to extend their services to nontheists.

The chaplaincy is of benefit to military personnel and is one of many ways to serve. The chaplaincy is not solely about theistic religion. They have a varied and complex list of duties, including responsibility for morale support, advice on ethical decisions, and a variety of training. None of these duties requires a certain type of belief, either theistic or nontheistic. Humanists are capable of performing these duties and should not be excluded because of their beliefs. Humanists constitute 3.6% of the general population[94] yet have no chaplains. Military chaplains are 98% Christian even though less than 70% of the military identifies as Christian.[95] Humanists should be properly identified as a critical shortage in the chaplaincy. There are special accession programs for Jewish and Catholic chaplains, and Humanists should be added to the list for these programs until the shortage is resolved.

POLICY RECOMMENDATION

A qualified Humanist chaplain candidate should be appointed without delay.

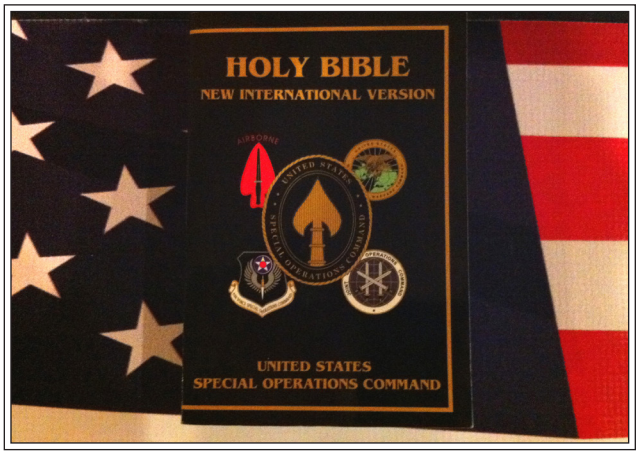
Chaplain Training on the Non-Theist Perspective

Chaplains currently have training about the diversity of belief systems they will encounter in the military as well as their requirement to serve the wide diversity, from Wiccan to Muslim to Christian Science to Sikh. Chaplains have no such training for the non-theist perspective so they are ill-equipped to provide referrals, provide appropriate resources, or even to be effective in basic counseling services.

POLICY RECOMMENDATION

Non-theist-developed training on the non-theist perspective (e.g., atheist philosophy, humanist values, beliefs, history, and practices, and non-theistic grief counseling) must be added to the Chaplain Corps College program of instruction in each branch of the military.

Prohibit Command Endorsement of Religion



Command endorsement of religion is common throughout the military.[96] Unit logos are printed on Bibles, Bibles are placed in government hotels as a matter of policy, unit mottos commonly have religious themes, and prayer is said at most official command activities and every evening on naval vessels. Eliminating command endorsement of religion provides unimpeded opportunity for personal expression of religion and even facilitation and funding opportunities for religious activities, facilities, and events so long as they are not mixed with official command functions.

POLICY RECOMMENDATION

Non-social, non-chaplain, command-sponsored events and activities constitute official government expression of religion rather than personal expression of religion. The Secular Policy Institute recommends these activities be eliminated.

Define and Restrict Proselytism

Military culture problematically promotes religious belief. A Department of Defense public affairs officer recently stated that it is acceptable to talk about faith but not to push it on others.[97] However, specific case studies, regulatory requirements, and even basic definition of terms are not publicly available. Congress and military leaders should oppose efforts under the guise of 'religious freedom' or 'conscience' to discriminate or gain special privilege for religion. Proselytism and ubiquitous prayer create a military culture that oppresses nontheists, especially in the absence of any outreach or services.

POLICY RECOMMENDATION

Provisions for religion and belief should be optional. Services should be available for those who feel they would benefit but should not be mandatory or induce repercussions for those who do not participate.

INTERNATIONAL

Freedom of religion, belief, and expression are fundamental American values. They are enshrined in the Constitution and echoed in international human rights law. As a leader in the international community, the U.S. should actively participate in global efforts to protect these vital freedoms.

The Right to Freedom of Religion, Belief, and Expression in International Law

Several key international agreements approved by the United Nations (UN) enshrine freedom of religion, belief, and expression as basic international human rights. The Universal Declaration of Human Rights (UNDHR), adopted by the UN General Assembly in 1948, states:

> *"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance." (Article 18)*
>
> *"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." (Article 19)*[98]

The UNDHR gained the force of international law in 1966

under the International Covenant on Civil and Political Rights (ICCPR), which states:

> *"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." (Article 18)*
>
> *"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." (Article 19)*[99]

As an international treaty, the ICCPR is legally binding on its signatories.

The ICCPR not only protects the right to believe, it also protects the right to reject belief, the right to identify as humanist or atheist, and the right to express or practice nontheism. As the United Nations Human Rights Committee has explained:

1. *The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18.1 is far-reaching and profound; it encompasses freedom of thought on all matters ….*

2. *Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms 'belief' and 'religion' are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.*

There are, however, limits to these international agreements' support for free expression. Article 20 of the ICCPR has the potential to conflict with U.S. law where it states:

> *"Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."* [100]

The United States has always opposed Article 20 of the ICCPR and was one of eighteen countries to issue a reservation to it. The U.S. reservation to Article 20 clarifies that the U.S. does not adhere to Article 20 in instances where compliance would restrict freedom of speech and association as defined by the U.S. Constitution.

Many countries that ratified Article 20 have used it as a pretext to quash criticism of religious orthodoxies. In response, the UN Office of the High Commissioner on Human Rights in 2011 and 2012 sponsored a series of workshops with human rights experts around the world to clarify Article 20 and the term "incitement."

CURRENT CASES AND CHALLENGES

The following cases exemplify the brutal discrimination faced by nontheists worldwide and demonstrate the need for enforced international protections for nontheists and religious dissidents:

ALEXANDER AAN

In January 2012, 30-year-old Indonesian civil servant Alexander Aan posted a series of Facebook status updates about his questioning the existence of God. He also started a Facebook group for non-believers. The Indonesian police arrested Aan charging him with a range of offenses, including lying on a government document (Indonesia requires citizens to claim one of six religions; Aan declared Islam)[1] and disseminating information aimed at inciting religious hatred or hostility.[2] In June 2012, a district court found Aan guilty of incitement and sentenced him to two years and six months in prison and assessed a fine of 100 million rupiah (US $10,600).[3] Aan remains in prison during his appeal.

Indonesia clearly violates the ICCPR, which it signed, by jailing Aan. Many other Indonesians have faced similar punishments.

---

1 Asian Human Rights Commission. (2010 Feb). Indonesia: freedom of religion not protected. *Ethics in Action*. 4(1). Retrieved from http://www.humanrights.asia/resources/journals-magazines/eia/eiav4a1/7-indonesia-freedom-of-religion-not-protected

2 United States Commission on International Religious Freedom. (2009, May). *Annual report of the United States commission on international religious freedom, 2009*. Washington DC. Retrieved from http://www.uscirf.gov/images/AR2009/indonesia.pdf

3 Sijunjung, M. (2012, Jun 14). Indonesian jailed for inciting religious hatred." *The Express Tribune*, with the *International New York Times*. Retrieved from http://tribune.com.pk/story/393711/indonesian-jailed-for-prophet-mohammed-cartoons/

In early 2013, these experts released the Rabat Plan of Action, which noted in part:

> *"…national legal systems should make it clear, either explicitly or through authoritative interpretation, that the terms hatred and hostility refer to 'intense and irrational emotions of opprobrium, enmity and detestation towards the target group', that the term advocacy is to be understood as 'requiring an intention to promote hatred publicly towards the target group' and that the term incitement refers to 'statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups'."* [101]

The UN Human Rights Council, which considers non-binding resolutions in the area of freedom of belief and religion, and the UN General Assembly have recently made progress in this area. Anti-defamation resolutions rejecting robust protection for free speech have fallen out of favor at the UN, and a significant number of member states have now recognized that blasphemy laws violate basic human rights. The UNDHR and the ICCPR expressly promise the right to freedom of religion, belief, and expression. Only a small minority of countries have refused to sign and ratify these treaties, though some signatories persist in persecuting people based on their religious practices and beliefs or lack thereof.

ASIF MOHIUDDIN

Asif Mohiuddin is a 29-year-old engineer. He is one of Bangladesh's most prominent atheists and runs one of the country's most popular blogs.

On January 14, 2013, Mohiuddin was on his way to work in the capital area of Dhaka when a group of three men brutally attacked and stabbed him.[1] Mohiuddin partially recovered, but on April 3, 2013 was arrested for "posting derogatory comments about Islam and the Prophet Muhammad."[2] Under the country's criminal code, any person with a "deliberate or malicious" intention of "hurting religious sentiments" can receive up to ten years in prison.[3] On June 27, 2013, Mohiuddin was finally released on bail, but one month later, permanent bail was denied, and he was sent back to prison.[4]

Like Indonesia, Bangladesh signed the ICCPR and other central UN agreements that protect the right to freedom of religion, belief, and expression. By jailing Mohiuddin – and several other atheist bloggers arrested along with him – Bangladesh breaks its promises to its citizens and to the international community.

1 Militant atheist blogger stabbed in Bangladesh. (2013, Jan 15). *Hindustan Times*. Retrieved from http://www.hindustantimes.com/world-news/Bangladesh/Militant-atheist-blogger-stabbed-in-Bangladesh/Article1-989966.aspx
2 Blogger Asif Mohiuddin held. (2013, Apr 3). *The Daily Star Online*. Retrieved from http://www.thedailystar.net/beta2/news/blogger-asif-mohiuddin-held/
3 International Relations and Security Network, ISN ETH Zurich. (1972, Nov 4). *Constitution of the People's Republic of Bangladesh*. Retrieved from http://www1.umn.edu/humanrts/research/bangladesh-constitution.pdf
4 Blogger Asif Mohiuddin sent to jail, court rejects his plea for permanent bail. (2013, Jul 29) *Dhaka Tribune*. Retrieved from http://www.dhakatribune.com/law-amp-rights/2013/jul/29/blogger-asif-mohiuddin-sent-jail

RAIF BADAWI

Raif Badawi, 30, co-founded the (now-defunct) website Liberal Saudi Network, dedicated to fostering open discussion on social issues and religion. In 2008, Badawi was detained and questioned on charges of apostasy. Though eventually released, Badawi was arrested on June 17, 2012 and formally charged with insulting Islam and apostasy. Under Saudi law a conviction for apostasy carries an automatic death penalty.[1]

On January 22, 2013, a Saudi court refused to charge Badawi with apostasy after he proclaimed his devotion to Islam.[2] But on July 29, 2013, he was sentenced to seven years in jail and 600 lashes for his offenses.[3] His lawyer plans to appeal. Badawi's wife and children have fled to Lebanon.

Saudi Arabia is one of the few countries to neither sign nor ratify the ICCPR. However, Saudi Arabia is a United Nations member and has significant trade agreements with the United States.

1 International Constitutional Law Project. *Saudi Arabia – Constitution.* Adopted on March 1992. Retrieved from http://www.servat.unibe.ch/icl/sa00000_.html
2 Usher, S. (2013, Jan 22). Court refuses to charge Saudi blogger. *BBC News, Middle East*. Retrieved from http://www.bbc.co.uk/news/world-middle-east-21149851
3 Reuters. (2013, Jul 30). Saudi Arabian social website editor sentenced to seven years behind bars and 600 lashes. *The New York Daily News*. Retrieved from http://www.nydailynews.com/news/world/saudi-arabian-social-website-editor-sentenced-years-behind-bars-600-lashes-article-1.1412811

International Human Rights

Freedom of religion, freedom of belief, and freedom of expression are at the heart of international human rights agreements, just as they are at the heart of the U.S. Constitution. All persons deserve to be able to freely select their beliefs, to practice their religion or lack thereof as they choose so long as no harm is done to others, and to engage in public discussion and debate on religion. The U.S. government has both a moral and a legal duty to defend and protect these rights around the world.

U.S. diplomatic staff can and should work with secular non-governmental organizations (NGOs) just as they work with religious NGOs when abroad. NGOs can often help communicate with people on the ground in foreign countries – including persecuted dissenters, their families, friends, and legal experts. An active network of secular NGOs is committed to protecting freedom of conscience and speech. Such NGOs include the Secular Policy Institute, the Center for Inquiry, International Humanist and Ethical Union, and the American Humanist Association. These organizations often work with religious groups to achieve common goals.

The U.S. government is the largest single financial supporter of the UN, contributing roughly one quarter of its budget.[102] Unfortunately, many of the UN's key human rights enforcement mechanisms lack funding. As elected officials of a government that supports the UN, U.S. lawmakers must help ensure effective implementation of programs that promote freedom of belief, religion, and expression.

POLICY RECOMMENDATION

The U.S. government should apply political pressure whenever possible to countries violating their international human rights obligations.

RESOURCES

1 Public Religion Research Institute. *Economic values survey 2013*. Retrieved from http://publicreligion.org/research/2013/07/economic-values-survey-07-2013/

2 Pew Research Center, Religion & Public Life Project. (2007). *U.S. religious landscape survey*. Retrieved from http://religions.pewforum.org/reports

3 Pew Research Center. (2012, Oct 9). *Nones on the rise*. Retrieved from http://www.pewforum.org/2012/10/09/nones-on-the-rise/

4 *Jefferson's Letter to the Danbury Baptists*. Jan. 1, 1802. Retrieved from http://www.loc.gov/loc/lcib/9806/danpre.html

5 Reynolds v. United States, 98 U.S. 145, 164 (1879).

6 *See* West Virginia Bd. of Ed. v. Barnette, 319 U. S. 624, 638 (1943) (stating that "[t]he very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts"). The Establishment Clause protects just such a fundamental right. *See e.g.* McCreary County v. ACLU of Ky., 545 US 844, 884 (2005) (O'Connor, J., concurring) (stating that courts "do not count heads before enforcing the First Amendment").

7 Everson v. Bd. of Ed. of Ewing, 330 U.S. 1 (1947).

8 Allegheny Co. v. Greater Pittsburgh ACLU, 492 U.S. 573, 590-91 (1989).

9 *Id.*, quoting Everson.

10 See Everson, 330 U.S. at 15-16.

11 McCreary County, Ky. v. American Civil Liberties Union of Ky., 545 U.S. 844, 860 (2005).

12 Wallace v. Jaffree, 472 U.S. 38, 52-54 (1985).

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

14 *See e.g.* Stone v. Graham, 449 U.S. 39, 41 (1980) (per curiam) (striking down state law that required posting of Ten Commandments displays in schools because "[t]he pre-eminent purpose for posting the Ten Commandments on schoolroom walls is plainly religious in nature").

15 *See* McCreary County v. ACLU, 545 U.S. 844, 869 (2005); *accord* ACLU of Ohio Foundation v. Deweese, 633 F.3d 424 (6th Cir. 2011); Green v. Haskell County Board of Com'rs, 568 F.3d 784 (10th Cir. 2009). Certain longstanding displays of the Ten Commandments (approximately 50 years or more) on public property have been grandfathered-in.

16 *See* County of Allegheny v. ACLU of Pittsburgh, 492 U.S. 573 (1989); Lynch v. Donnelly, 465 U.S. 668 (1983).

17 *Id.* at 615, 617.

18 *See e.g.* Trunk v. San Diego, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2535 (2012); Buono v. Norton, 371 F.3d 543, 550 (9th Cir. 2004); Carpenter v. City and County of San Diego, 93 F.3d 627,632 (9th Cir. 1996); Friedman v. Bd . of County Comm'rs, 781 F.2d 777, 778 (10th Cir. 1985) (en banc); ACLU v. Rabun County Chamber of Commerce, 698 F.2d 1098, 1111 (11th Cir. 1983); ACLU v. Eckels, 589 F. Supp. 222, 241 (S.D. Tex. 1984).

19 Bowen v. Kendrick, 487 U.S. 589, 621 (1988).

20 Committee for Public Education v. Nyquist, 413 U.S. 756, 777 (1973) (struck down repair grants meant to renovate parochial schools because the buildings were used for sectarian purposes). *See also* Tilton v. Richardson, 403 U.S. 672 (1971) (unanimous holding that government construction subsidies are unconstitutional if the buildings are ever used for religious activities); Hunt v. McNair, 413 U.S. 734 (1973) (upheld government construction bond because bond financed buildings were barred from being used for religious activities).

21 Public Religion Research Institute. Economic values survey 2013. Retrieved from http://publicreligion.org/research/2013/07/economic-values-survey-07-2013/

22 463 U.S. 783 (1983).

23 *Id.* at 794-95

24 *See* Joyner v. Forsyth County, 653 F.3d 341 (4th Cir. 2011); Wynne v. Town of Great Falls, 376 F.3d 292 (4th Cir. 2004); Galloway v. Town of Greece, 681 F.3d 20 (2nd Cir. 2012)

25 681 F.3d 20 (2d Cir. 2012) (town council prayers that contain Christian references two thirds of the time, even when other faiths also give prayers, are unconstitutional), *cert. granted,* 2013 WL 2149803, (U.S. May 20, 2013) (No. 12-696).

26 Employment Div., Dep't of Human Resources of Oregon v. Smith, 494 U.S. 872, 879 (1990). Following Smith, Congress passed the Religious Freedom Restoration Act of 1993, 42 U.S.C. § 2000bb-1 ("RFRA"), which requires the application of "strict scrutiny" to government action "substantially burdening a person's exercise of religion." The Supreme Court struck down RFRA as applied to states governments as unconstitutional. City of Boerne v. Flores, 521 U.S. 507 (1997).

27 Lee v. Weisman, 505 U.S. 577, 587 (1992).

28 Cutter v. Wilkinson, 544 U.S. 709, 720 (2005).

29 Estate of Thornton v. Caldor, Inc., 472 U.S. 703, 711 (1985) (O'Connor, J., concurring).

30 Schreiber, C.A., Sober, S., Ratcliffe, S., Creinin, M.D. Ovulation resumption after medical abortion with mifepristone and misoprostol. *Contraception.* 2011 Sep 84(3):230-3.

31 Church Amendment, 42 U.S.C. § 300a-7,

32 Guttmacher Institute. State Policies in Brief: Refusing to Provide Health Services. Nov.1 2013. http://www.guttmacher.org/statecenter/spibs/spib_RPHS.pdf

33 Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Maine, Mississippi, South Dakota, Tennessee, and Washington.

34 *Stormans Inc. v. Selecky*, 844 F. Supp. 2d 1172 (W.D. Wash. 2012), *Menges v. Blagojevich*, 451 F. Supp. 2d 992 (C.D. Ill. 2006).

35 *Griswold v. Connecticut*, 381 U.S. 479 (1965).

36 See Hobby Lobby Stores v. Kathleen Sebelius No. 12-6294 (2013) and the Constitutional Law Section for more information about current challenges to the contraceptive requirements of the Affordable Care Act.

37 State of Oregon, Oregon Health Authority. (2012) *Oregon Death with Dignity Act, annual statistical report*. Retrieved from http://publichealth.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/index.aspx

38 Gonzales v. Oregon, 546 U.S. 243 (2006).

39 321 U.S. 158 (1944).

40 Dwyer, J.G. *The children we abandon: religious exemptions to child welfare and education law as denials of equal protection to children of religious objectors*. (1996). Retrieved from William and Mary Law School, Scholarship Repository, Faculty Publications, Paper 170. http://scholarship.law.wm.edu/facpubs/170

41 CAPTA at 42 USC § 5106i: "Nothing in this subchapter and subchapter III of this chapter shall be construed—(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the pArent or legal guardian; and (2) to require that a State find, or to prohibit a State from finding, child abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian."

42 National District Attorney Association. Religious Exemptions to Child Neglect, June 2013. http://www.ndaa.org/pdf/Religious%20Exemptions%20to%20Child%20Neglect%202013.pdf More information at www.childwelfare.gov.

43 National Conference of State Legislatures. (2012, December) *States with religious and philosophical exemptions from school immunization requirements*. Retrieved from http://www.ncsl.org/issues-research/health/school-immunization-exemption-state-laws.aspx

44 Haemophilis influenzae type B

45 Manning, A. (2009, Feb 15). Hib infection in children makes a deadly return. *USA Today*. Retrieved from http://usatoday30.usatoday.com/news/health/2009-02-15-hib-kids_N.htm?loc=interstitialskip

46 World Health Organization. (2008, Feb). Vaccination greatly reduces disease, disability, death and inequity worldwide. *Bulletin of the World Health Organization*, 86(2); 81-160. Retrieved from http://www.who.int/bulletin/volumes/86/2/07-040089/en/

47 Glanz, J.M., McClure, D.L., Magid, D.J., et al. (2009). Parental refusal of pertussis vaccination is associated with an increased risk of pertussis infection in children. *Pediatrics*, 123(6): 1446-51.

48 Omer, S.B., Salmon, D.A., et al. (2009, May 7). Vaccine Refusal, Mandatory Immunization, and the Risks of Vaccine-Preventable Diseases. *NEJM*, 360:1981–1988.

49 U.S. Centers for Disease Control and Prevention. (2008, July). Update: Measles—United States, January—July 2008," *Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report*, 57(33): 893–896. Retrieved from http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5733a1.htm.

50 Salmon, D.A., et al. (1999, July 7). Health consequences of religious and philosophical exemptions from immunization laws. *JAMA*, 282:47-

51 Ramanathan, K. (2013, July 2). New Oregon law hopes to keep kids safe by making it harder to get vaccine exemptions. ThinkProgress. Retrieved from http://thinkprogress.org/health/2013/07/02/2244831/oregon-law-vaccine-exemptions/?mobile=nc

52 Approximately 119 bills in 37 states introduced in states' 2013 legislative sessions on the reporting of suspected child abuse and neglect. Twenty three bills have been enacted. Only 3 states had legislation attempting to include clergy as mandated reporters: Michigan, New York, and Pennsylvania. National Conference of State Legislatures. (2013, Aug26) *Mandatory reporting of child abuse and neglect, 2013 introduced state legislation*. Retrieved from http://www.ncsl.org/issues-research/human-services/mandatory-rprtg-of-child-abuse-and-neglect-2013.aspx

53 Delaware, Florida, Idaho, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Utah, Wyoming.

54 Current through July 2012; states that include clergy as mandated reporters are Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, West Virginia, Wisconsin.

55 Hazle v. Crofoot, 727 F.3d 983, 983 9th Circuit (2013).

56 Id.

57 Americans United. (2011, Feb). *10 reasons why private school vouchers should be rejected*. Retrieved from https://www.au.org/church-state/february-2011-church-state/featured/10-reasons-why-private-school-vouchers-should-be

58 Hamblin J. (2013, Sep 13). Bullied for not believing in God. *The Atlantic*. Retrieved from http://www.theatlantic.com/health/archive/2013/09/harboring-young-atheists/279095/

59 Board of Regents of the University of Wisconsin System v. Southworth 529 U.S. 217 (2000).

60 Rosenberger v. University of Virginia 515 U.S. 819 (1995).

61 Rosenbaum, J.E. (2009, Jan). Patient teenagers? A comparison of the sexual behavior of virginity pledgers and matched nonpledgers. *Pediatrics*. 123(1): e110-120.

62 Martinez, G., Copen, C.E., Abma, J.C. (2011). Teenagers in the United States: sexual activity, contraceptive use, and childbearing, 2006—2010, national survey of family growth. National Center for Health Statistics. *Vital Health Statistics*. 23(31). Retrieved from http://www.cdc.gov/nchs/data/series/sr_23/sr23_031.pdf

63 Kirby, D. (2002). Effective approaches to reducing adolescent unprotected sex, pregnancy, and childbearing. *Journal of Sex Research*. 39(1):51-57.

64 Trenholm, C., Devaney, B., Fortson, K., et al. (2007 Apr). *Impacts of four title V, section 510 abstinence education programs, final report*. Mathematica Policy Research, Inc. HHS 100-98-0010, 8549-110. Retrieved from http://Mathematica-mpr.net/publications/pdfs/impactabstinence.pdf

65 Epperson v. Arkansas 393 U.S. 97 (1968)

66 Edward v. Aguillard 482 U.S. 578 (1987)

67 Kitzmiller et al v. Dover Area School District 400 F. Supp. 2d 707 (2005)

68 Engel v. Vitale 370 U.S. 421 (1962); Wallace v. Jaffree 472 U.S. 38 (1985)

69 McCollum v. Board of Education 333 U.S. 203 (1948)

70 Haynes, C.C., Duning, N. (ed). (2008) *A teacher's guide to religion in the public schools*. First Amendment Center. Nashville TN. Retrieved from http://www.freedomforum.org/publications/first/teachersguide/teachersguide.pdf

71 Lee v. Weisman 505 U.S. 577 (1992)

72 Santa Fe Independent School Dist. v. Doe, 530 U.S. 290 (2000).

73 4 U.S.C.A. § 4 (West 2002)

74 See Pledge Statutes State-by-State Document

75 See Pledge Statutes State-by-State Document

76 U.S. Department of Education, National Center for Education Statistics. *Schools and staffing survey (SASS), average number of hours in the school day and average number of days in the school year for public schools, by state: 2007-2008*. Retrieved from http://nces.ed.gov/surveys/sass/tables/sass0708_035_s1s.asp

77 West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943). The Court declared that recitation of the pledge violated the First Amendment rights of students who were members of the Jehovah's Witnesses.

78 Bellamy, F. (1892, Sep 8). The pledge of allegiance. *The Youth's Companion*.

79 West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943). FN 17 states: "S 7 of House Joint Resolution 359, approved December 22, 1942, 56 Stat. 1074, 36 U.S.C. (1942 Supp.) s 172, 36 U.S.C.A. s 172, prescribes no penalties for nonconformity but provides: 'That the pledge of allegiance to the flag, 'I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all', is rendered by standing with the right hand over the heart."

80 Joint Resolution to amend the pledge of allegiance to the flag of the United States of America. Pub.L. No.396, 83rd Cong.,68 Stat. 249 (codified as amended at 4 U.S.C.A. § 4 (1954)). Retrieved from http://research.archives.gov/description/5730382

81 Knights of Columbus. (1999) *How the words "under God" came to be added to the Pledge of Allegiance to the Flag*. Doc. #995-99. Retrieved from http://www.kofc.org/un/en/resources/communications/pledgeAllegiance.pdf

82 The office that currently oversees much of the relationship between religious groups and the government, the White House Office of Faith-Based and Neighborhood Partnerships, is an outgrowth of the White House Office of Faith-Based and Community Initiatives that was started by President George Bush through an executive order on January 29, 2001. 3

83 Human Rights Campaign. (2013, Jul 13). *Statewide employment laws and policies*. Retrieved from http://www.hrc.org/files/assets/resources/employment_laws_072013.pdf

84 CBS News, Associated Press. (2013 May 29). California bill may end tax exemption for boy scouts. *CBS San Francisco Bay Area*. Retrieved from http://sanfrancisco.cbslocal.com/2013/05/29/california-bill-may-end-tax-exemption-for-boy-scouts

85 This concept was affirmed by the Supreme Court's ruling in Boy Scouts of America v. Dale 530 U.S.640 (2000), in which a gay assistant scoutmaster was expelled from the organization.

86 Blackwood, A.S., Roeger, K.L., Pettijohn, S.L. (2012) *The nonprofit sector in brief: public charities, giving, and volunteering* National Center for Charitable Statistics. Urban Institute Press. Retrieved from http://www.urban.org/UploadedPDF/412674 The-Nonprofit-Sector-in-Brief.pdf

87 26 USC §508(c)(1)(A). ((c) Exceptions (1) Mandatory exceptions Subsections (a) and (b) shall not apply to— (A) churches, their integrated auxiliaries, and conventions or associations of churches)

88 26 USC §6033(a)(3)(A)(i) (1954). ((3) Exceptions from filing (A) Mandatory exceptions Paragraph (1) shall not apply to— (i) churches, their integrated auxiliaries, and conventions or associations of churches.)

89 Church Audit Procedure Act, 26 USC §7611 (1984).

90 Kenyon, D.A., Langley, A.H. (2011, Nov). *The property tax exemption for nonprofits and revenue implications for cities.* Urban Institute. Retrieved from http://www.urban.org/UploadedPDF/412460-Property-Tax-Exemption-Nonprofits.pdf

91 SpeakupMovement.org (2013, Oct 11). *Preaching politics from the pulpit*. Retrieved from http://blog.speakupmovement.org/church/churches-and-politics/preaching-politics-from-the-pulpit

92 Dao, J. (2011, Apr 26). Atheists seek chaplain role in the military. *The New York Times*. New York edition, A1. Retrieved from http://www.nytimes.com/2011/04/27/us/27atheists.html?pagewanted=all&_r=0

93 Torpy, J. (2012, Jan 19). *Army chaplains deny soldier right to identify as humanist*. Military Association of Atheists and Freethinkers (MAAF). Retrieved from http://militaryatheists.org/news/2012/01/army-chaplains-deny-soldier-right-to-identify-as-humanist/

94 Military Leadership Diversity Commission (MLDC). (2010, Jun). *Religious diversity in the U.S. military*. Military Leadership Diversity Commission (MLDC), Issue Paper #22, Definition of diversity, version 2. Arlington VA. Retrieved from http://militaryatheists.org/resources/MLDC-RIPSdemographics.pdf

95 The Secular Coalition of America (SCA). (2012-2013). *Military chaplaincy report*. Washington DC. Retrieved from Secular.org/files/sca_military_chaplain_report.pdf

96 Banerjee, N. (2008 Apr 26). Soldier sues army, saying his atheism led to threats. *The New York Times*. New York edition, A14. Retrieved from http://www.nytimes.com/2008/04/26/us/26atheist.html?pagewanted=all

97 Carroll, C. (2013, May 3). Dod: ok to talk about faith, not to push on others. *Military.com News*. Retrieved from http://www.military.com/daily-news/2013/05/03/dod-ok-to-talk-about-faith-not-to-push-on-others.html

98 The United Nations. (1948, Dec 10) . *The Universal Declaration of Human Rights*. Retrieved from http://www.un.org/en/documents/udhr/index.shtml

100 Ibid.

101 The United Nations, Office of the High Commissioner on Human Rights. (2012, Oct 5). *Rabat plan of action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence*. Retrieved from http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

102 Better World Campaign. (2012). *U.S. funding for the UN*. Washington DC. Retrieved from http://www.betterworldcampaign.org/issues/funding/

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”

-The First Amendment to the U.S. Constitution

SPI Fellows

Amatzia Baram
Russell Blackford
Peter Boghossian
Thure Cerling
Richard Dawkins
Daniel Dennett
James Doty
Rebecca Goldstein
A. C. Grayling
Aymenn Jawad Al-Tamimi
Mark Juergensmeyer
Wendy Kaminer
Marty Klein
Lawrence Krauss
Stephn Law
Patrick Lindenfors
Ron Lindsay
Elizabeth Loftus
Elham Manea
Holger Mey
Taslima Nasrin
Greg Neimeyer
Steven Pinker
Carolyn Porco
Sarbagh Salih
Michael Semple
Michael Shermer
J Anderson Thomson
Phil Zuckerman
Patrik Lindenfors

The relationship between religion and government is consistently a subject of spirited discussion for all Americans, including our representatives in government. As Americans move away from affiliation with organized religious institutions, this conversation increasingly includes the effects of historically based government accommodations for religion on the nonreligious and nontheistic, as well as the recognition of freedom from religion implicit in religious freedom.

Secular Policy Institute
401 Ninth Street, NW, Suite 640
Washington, DC 20004
(202) 430-1888 office
(202) 888-0196 fax
www.SecularPolicyInstitute.net