

Confronting the Constitutional Order:
Reconciling Satan and the Free Exercise of Religion

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In defending the separation of church and state, James Madison wrote, “The Religion...of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate.”¹ The crux of Madison’s argument was that if the government were allowed to interfere in people’s religious choices, the government would be able to choose or remove people’s religious practices at will. In Madison’s conception, one’s freedom of conscience precedes one’s commitment to the government, and therefore shouldn’t be within the power of government to regulate.

Since the founding of the United States, religious freedom has been one of the most venerated values, but determining which religions are afforded religious freedom has historically been very contentious. This principle of freedom of conscience was translated into the U.S. Constitution in the form of the very first words of the First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”² The establishment clause prevents the government from creating a state church, while the free exercise clause limits the government’s ability to force people to act in violation of their religion. Limiting government engagement with religion is difficult everywhere, but it is especially difficult for the U.S. because of its vast religious diversity. The U.S. Supreme Court is the final arbiter in disputes between the government and religious practitioners, but this important role does not cover all disputes. Because the courts are typically very hesitant to determine what does and does not constitute a religion, the public is often involved in determining religious authenticity and which religions are afforded religious freedom. Many Americans claim that the

¹ James Madison, “A Memorial and Remonstrance, Presented to the General Assembly of the State of Virginia, at Their Session in 1785, in Consequence of a Bill Brought into That Assembly for the Establishment of Religion by Law,” 1786, 3, https://link-gale-com.exlibris.colgate.edu/apps/doc/CW0105770692/ECCO?u=nysl_ce_colgul&sid=ECCO&xid=df072bba.

² U.S. Const. amend. I.

U.S. is a Christian nation and that Christian tenets form the basis of American law. Though Protestantism has been the majority religion throughout most of America's history, there have always been religious minorities, and the number of minorities has grown significantly over the course of the twentieth and twenty-first centuries. Throughout America's history, many religious minority groups have openly fought against the idea that the United States is a Christian nation, and, in doing so, these groups have highlighted the "unofficial disestablished Protestant" nature of America and the limits of Americans' commitment to religious freedom, even when the religion in question was founded in the U.S.

Two religions in particular have put Americans' commitment to religious freedom to the test: The Church of Jesus Christ of Latter-day Saints (LDS) and The Satanic Temple (TST). Exploring these two religions and their interactions with the American constitutional order and citizenry provides interesting information about the limits of American commitment to religious freedom and shows two very different strategies for contending with the (Protestant) Christian preferentialism present in American church-state relations.

The U.S. often defines itself by its commitment to a public sphere either devoid of religion or, at minimum, nonpreferential toward religion. In reality, however, things are almost always more complicated. After all, even secular states have religious histories and entanglements that make some kind of religions more "familiar" and less threatening than others. The very familiarity of these religions often lends them a quality of "invisibility, or at least unobtrusiveness" within the minds of citizens. This invisibility can easily make some religions appear more "compatible with democracy and the liberal state" than others.³ More "visible"

³ Tracy Fessenden, "Introduction," in *Culture and Redemption: Religion, the Secular, and American Literature* (Princeton University Press, 2007), 2, <https://www.jstor.org/stable/j.ctt7sdhr.4>.

religions, on the other hand, are more likely to be understood as “bad.” Thus, while people often understand U.S. secularism as an absence or contraction of religions from the public sphere, this understanding of secularism is simplistic. This view of secularism allows Christianity’s influence to remain pervasive in the public realm. As Tracy Fessenden notes,

When secularism in the United States is understood merely as the absence of religious faith, or neutrality in relation to religious faith, rather than as a variety of possible relationships to different religious traditions—for example, an avowedly secular United States is broadly accommodating of mainstream and evangelical Protestantism, minimally less so of Catholicism, unevenly so of Judaism, much less so of Islam, perhaps still less so of Native American religious practices that fall outside the bounds of the acceptably decorative or “spiritual”—then religion comes to be defined as “Christian” by default, and an implicit association between “American” and “Christian” is upheld even by those who have, one imagines, very little invested in its maintenance.⁴

Protestant Christianity, which is both historically mainstream and more easily privatized than many other religions due to its emphasis on belief rather than practice, often occupies the public sphere in ways that are imperceptible to Americans. Even when Christianity is not overtly involved in the public sphere, it is an implicit feature of American secularity. Because of the control “a Protestantized conception of religion” has on how the religious and the secular are defined, “the secular sphere as constituted in American politics, culture, and jurisprudence has long been more permeable to some religious interventions than to others.”⁵ Often, U.S. jurisprudence and culture have favored Christian, specifically Protestant, norms and beliefs to the detriment of non-Christian and non-Protestant groups. Often, in order to be considered authentic Americans, non-Christian groups have had to assimilate to Protestant norms and beliefs.⁶

The pervasiveness of Protestant Christianity within the political and public realms of the U.S. has led many people to claim that America is a Christian nation. Often, people support this

⁴ Fessenden, “Introduction,” 3.

⁵ Ibid., 4.

⁶ Ibid., 5.

claim by pointing to statements and official actions during America's founding period.

Supporters of the "Christian nation" myth contend that numerous statements and official acts during the time of America's founding "demonstrate a reliance on religious principles in the ordering of the nation's political and legal structure."⁷ Using this evidence, Christian nation supporters argue that the idea that the founders intended to create a secular state with strict church-state separation is disputable.⁸ Supporters of the myth are misguided in using founding-period statements and official acts as evidence of an intent to enshrine America as a Christian nation. Often, arguments that rely on founding-era religious discourse decontextualize those statements and acts. At the time of the founders, religious discourse was quite common because of its efficacy in legitimizing revolutionary efforts.⁹ In "identifying America's successes with divine providence" and equating "Britain and King George to Egypt and the pharaoh, and the colonists to the Children of Israel," political and religious leaders were able to anoint "the struggle with a transcendent purpose."¹⁰ Those who support the notion of America as a Christian nation often attribute more significance to the prevalent religious discourse of the time. Religious discourse allowed leaders of a new nation to unite the colonists together in a shared language. Furthermore, the assumption that those of the founders who were religiously devout would have wanted a government dependent on religion does not properly take context into account. That many of the Founders "expected that religion and religious institutions would play an important role in the maintenance of a moral citizenry" does not imply that those Founders thought that government and religion should be tied together.¹¹ Overall, there is minimal evidence that

⁷ Steven K. Green, "Understanding the 'Christian Nation' Myth," *Cardozo Law Review De Novo* 2010 (2010): 245.

⁸ Green, "Understanding the 'Christian Nation' Myth," 246.

⁹ *Ibid.*, 252.

¹⁰ *Ibid.*

¹¹ *Ibid.*, 258.

supports the idea that the Founders wished to create a government under the authority of God or Christianity.¹² Yet, while the Christian nation argument has been largely rejected by historians, many Americans still ardently claim that America is at its core a Christian nation.

The prevalence of the Christian nation myth is largely due to the purpose it serves. The Christian nation myth has been “created and retold for the purpose of anointing the founding, and the nation, with a higher, transcendent meaning.”¹³ Myths like “Christian America” “are essentially identity-creating narratives...that help identify [nations and peoples] as a distinct group, distinguishable from other peoples, and legitimate their heritage.”¹⁴ In other words, “statements like ‘America is a Christian nation’ represent a discursive practice that seeks to align the boundaries of authentic national belonging with adherence to the dominant religious faith.”¹⁵ The U.S. is a diverse nation filled with people of many different ethnicities and heritages. The myth of America as a Christian nation binds Americans together. Of course, this myth does not reflect the religious diversity of the U.S., particularly as we move further into the twenty-first century. Like a lot of myths, the myth of Christian America both is and is not true. The founders did not establish Christianity as the official religion of the U.S., but there is an implicit Protestantism that makes it seem as if America is a Christian nation. Christianity has a default hegemony in the history and in the contemporary politics of America.

According to a survey by the Pew Research Center, the percentage of Americans who identify as Christian is declining while the percentage of those who do not identify as a member of an organized religion is increasing. While the U.S. remains the nation with the highest

¹² Ibid., 259.

¹³ Ibid., 260.

¹⁴ Ibid., 261.

¹⁵ Jeremy Brooke Straughn and Scott L. Feld, “America as a ‘Christian Nation’? Understanding Religious Boundaries of National Identity in the United States,” *Sociology of Religion* 71, no. 3 (2010): 281.

percentage of people who identify as Christians, “the percentage of adults (ages 18 and older) who describe themselves as Christians has dropped by nearly eight percentage points in just seven years, from 78.4% in an equally massive Pew Research survey in 2007 to 70.6% in 2014.¹⁶ Meanwhile, the percentage of people who are religiously unaffiliated (atheists, agnostics, or “nothing in particular) has increased from 16.1% in 2007 to 22.8% in 2014, and the percentage of Americans who identify with a non-Christian faith has increased from 4.7% to 5.9%.¹⁷ Although the number of Christian-identifying Americans has decreased, the Christian America myth is still strong; in fact, views of the U.S. as a Christian nation “have generally grown *more* prevalent among U.S. adults since the turn of the century.”¹⁸ Myths that create “boundaries of authentic national belonging” that are aligned with the dominant religious faith often mark “certain groups as prototypical of the larger community while relegating others to the symbolic margins.”¹⁹ By aligning authentic national identity with the Christian faith, the myth of America as a Christian nation “tacitly reinforces the moral prestige of the religious majority, even as it presents Americans of other faiths, or with no formal religion, with invisible barriers to symbolic inclusion.”²⁰

The U.S. Constitution operates on two levels: the practical/political level and the symbolic level. On the practical and political level, the Constitution is “a written plan for the construction and maintenance of the legal structures of the national government” and the “ultimate law.”²¹ The Constitution has been given the authority to limit people’s behaviors, and if

¹⁶ “America’s Changing Religious Landscape” (Washington, D.C.: Pew Research Center, May 12, 2015), <https://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/>.

¹⁷ “America’s Changing Religious Landscape.”

¹⁸ Straughn and Feld, “America as a ‘Christian Nation’?,” 281.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Eric Michael Mazur, *The Americanization of Religious Minorities: Confronting the Constitutional Order* (Baltimore, MD: The Johns Hopkins University Press, 1999), 13.

found in violation of the Constitution, people may face penalties.²² On the symbolic level, the Constitution's authority rests "on the ability to convince people to do what they would not ordinarily be inclined to do...This need to convince...is rooted in the authority of the Court to interpret the Constitution consistently with the general will of the majority or to ground its decisions in a manner that, to the legal community at least, seems consistent with society."²³ The Constitution, the authority of which comes from its creators, is understood "as a collective expression of the citizens of this country, with its power resting squarely on the religious sentimentalization of national unity."²⁴ Because only a few religious (majority) communities were present during the time of the Constitution's creation, the "collective expression of the citizens" is steeped in *de facto* Protestantism, and thus minority religious groups have often had a difficult time influencing the practical and symbolic levels of the Constitution.²⁵ As we will see, the combination of Protestantism's long status as a mainstream religion and this common perception of America's founding upon Christian principles has created a variety of burdens for religious minorities.

The Church of Latter-day Saints

Although the American legal system has long been hesitant to designate particular religions "true" or "false," assessments of truth and falsity have played a significant role in the public perceptions of religions. Because many Americans have claimed that the advancement of

²² Ibid., 14.

²³ Ibid.

²⁴ Ibid., 16, 18.

²⁵ Ibid., 19.

true religion is “critical for maintaining American strength,”²⁶ and because different religions were allowed to coexist in America, early Americans feared that, in the religious free market, people might choose incorrectly and thereby threaten the nation.²⁷ In such a context, the ideal of religious tolerance proved much easier to uphold than the actual practice of tolerance. The Church of Jesus Christ of Latter-day Saints (LDS), commonly known as Mormonism, is perhaps the most prominent religion to have become entangled within this paradox of religious “truth” and “falsity.” From its very origins in the 1830s, Americans have denounced Mormonism as a fake religion and have attempted to lessen its influence.

The LDS Church arose in 1830, founded by New Yorker Joseph Smith who published *The Book of Mormon*, which Smith claimed contained the translations of the “prophecies of Jesus’s then-future life, death, and resurrection, as well as teachings that Jesus himself gave during a visit he made to the Americas after he rose from the dead.”²⁸ From the beginning of the Mormon Church, many non-Mormons declared Mormonism a fake religion, which many people thought was evident from the fraudulent, unamerican, and alien nature of the religion. Smith, who understood himself to be a prophet, was deemed a fraud by many non-Mormons, and the *Book of Mormon*, thought to be a ludicrous imitation of the Bible, was considered by anti-Mormons to be a clear marker of Smith’s deceit.²⁹ Anyone who followed Joseph Smith and accepted the *Book of Mormon* was considered fanatical and gullible. The apparent fraudulent nature of the religion was further bolstered by the association of Mormonism with magic and trickery. Smith’s early involvement in treasure hunting was associated with folk supernaturalism,

²⁶ J. Spencer Fluhman, “*A Peculiar People*”: *Anti-Mormonism and the Making of Religion in Nineteenth-Century America* (The University of North Carolina Press, 2012), 27.

²⁷ Fluhman, “*A Peculiar People*”, 24.

²⁸ John Charles Duffy and David J. Howlett, *Mormonism: The Basics* (Routledge, 2017), <https://doi-org.exlibris.colgate.edu/10.4324/9781315453972>, 2.

²⁹ Fluhman, “*A Peculiar People*”, 29, 35.

and thus Mormonism as a whole has been studied both in early and modern America through the lens of “occult supernaturalism and folk magic,” regardless of early Mormon condemnation of magic.³⁰ Smith thus seemed to be dabbling in “magic” rather than actual religion, and by claiming to be doing something resembling Christianity, Smith threatened the legitimacy of all kinds of Christianities. These perceptions of the fraudulence of Smith and his claims were significantly exacerbated by a sense among many Americans that Mormonism constituted a political and moral threat.

Ideals and features of Mormonism, such as Mormon-governed communities and polygamy, were perceived as threats to the authority of the constitutional order and thus led the LDS Church into direct confrontation with this order. Since the beginning of the LDS Church’s foundation, Smith announced many visions and revelations declaring that the Mormons must construct communities that would be governed solely by Mormon rule. The early efforts of Latter-day Saints to build Mormon communities in several states, however, quickly collapsed. Not only did many Americans consider prophetism to be a form of political tyranny, but they also understood Mormonism as a political machine that was undemocratic and unamerican.³¹ Anti-Mormons understood the LDS ideals of bloc voting and church leaders as civil leaders tyrannical and detrimental to the American constitutional order.³² Mormon polygamy further heightened anti-Mormon fears of Mormonism’s political power. While polygamy is not a key doctrine for Mormons, it represented the central feature of Mormonism’s alienness and the threat that Mormonism posed to the authority of the American government for non-Mormons.³³

³⁰ Ibid., 39-40.

³¹ Ibid., 82, 90.

³² Ibid., 79.

³³ Ibid., 118.

Polygamy was considered an affront to American morality, and out of fear of religious anarchy, Congress passed the Morrill Act of 1862, which outlawed polygamy.³⁴ This act was upheld by the U.S. Supreme Court itself, in large part due to the Court's perception of polygamy as a profound threat to civic order. In *Reynolds v. United States* (1878), the Supreme Court noted that if polygamy were allowed, people could argue for bride burning and human sacrifice on religious grounds, making "the professed doctrines of religious belief superior to the law of the land, and, in effect,...permit[ing] every citizen to become a law unto himself."³⁵ Under these circumstances, the government would not be able to rule properly over the people. Polygamy thus bolstered the idea that Mormonism was a fraudulent religion that acted in opposition to the American constitutional order and morality.³⁶ Although Mormonism was similar to mainstream Christianity, it was just different enough for anti-Mormons to feel threatened by its presence. The full force of the American constitutional order worked toward "squeeze[ing] the Mormon leadership until Mormons could no longer survive without choosing between political annihilation and recognition of the order's ultimate authority."³⁷ This pressure was so strong that LDS leaders eventually wholly backed away from polygamy as a religious tenet and the notion of autonomous LDS self-rule.

The Satanic Temple

This history of mainstream American resistance to Mormonism, a religion born out of Christianity, provides a foreshadowing of the difficulties bound to be faced by religions with less

³⁴ Mazur, *The Americanization of Religious Minorities*, 75.

³⁵ *Reynolds v. United States*, 98 U.S. 145 (1878), 166-67.

³⁶ Fluhman, "A Peculiar People", 119.

³⁷ Mazur, *The Americanization of Religious Minorities*, 91.

resemblance to Christianity. This Protestant preferentialism still exists today as is evident in the treatment of The Satanic Temple (TST). In early America, Satan was perceived as the ultimate evil against which Americans must fight. As the “discarded, unloved son” of God, Satan gets his revenge against God by “corrupting the individual soul by preventing the spread of the gospel or surfeiting it on the pleasures of the flesh.”³⁸ Early Americans understood Satan as able to take on many different physical forms and thus is “a living actor in the world, a creature with whom men entered into contracts and pacts.”³⁹ As a tempter who is the embodiment of vanity, avarice, pride, and indulgence, Satan never forces people to do his bidding; rather, humans are free agents and are thus responsible for following Satan.⁴⁰ During this time, many Americans felt it was their God-given duty to fight against Satan using spiritual warfare, and this feeling still exists today. Rather than fighting against Satan as a tempter, modern Americans understand Satan as the Other. In understanding “evil as departure from a merciless norm,” as deviancy, people have come to understand their enemies as demonic.⁴¹ Through his “followers who had created a worldwide conspiracy,” Satan has corrupted business and world leaders and has become perceived as a more powerful enemy in modern America.⁴² Furthermore, many evangelical Christians understand Satan as the inspiration for rights expansion and progressive politics.⁴³ While the overt belief in a physical Satan may not seem as prevalent in today’s America, beliefs about Satan continue to impact how different groups are perceived by the religious majority. The devil is a major part of many Christian sects’ theologies, and several studies have indicated that

³⁸ Andrew Delbanco, *The Death of Satan: How Americans Have Lost the Sense of Evil* (New York, NY: Farrar, Straus and Giroux, 1995), 18; W. Scott Poole, *Satan in America: The Devil We Know* (Lanham, Maryland: Rowman & Littlefield Publishers, Inc., 2009), 88.

³⁹ Delbanco, *The Death of Satan*, 28.

⁴⁰ *Ibid.*, 51.

⁴¹ Delbanco, *The Death of Satan*, 176; Poole, *Satan in America*, xiii.

⁴² Poole, *Satan in America*, 151.

⁴³ *Ibid.*, 161, 192.

many people today still believe in Satan as a living being and want to fight against him. A 2014 study by Baylor University found that almost 60 percent of Americans “absolutely believe in Satan’ and nearly 50 percent of Americans agree or strongly agree that ‘Satan causes most evil in the world.’”⁴⁴ Even if people do not believe in Satan as a physical being, many people are still uncomfortable with all that Satan represents and are offended and threatened with by those who seem to be or are aligned with him.

During the twentieth century, Satanism had a large public presence in the American imagination. References to Satanism ranged from pre-twentieth-century literary works of John Milton and William Blake to the cinematic depictions of *Rosemary’s Baby* to organizations like the Church of Satan (CoS). Founded in 1966 by Anton Szandor LaVey, the author of *The Satanic Bible*, CoS was the first official satanic organization.⁴⁵ Central to CoS is the understanding of Satan as the representation of “pride, liberty, and individualism.”⁴⁶ Drawing on this image of Satan, CoS is “a religion based on self-indulgence, carnality (here and now instead of there and then), and pleasure instead of self-denial.”⁴⁷ The variety of allusions to Satan and the emergence of groups like CoS helped crystalize a vision of Satan that is not merely a one-dimensional character who represents evil, but a character who embodies individualism and liberty.

When people think of Satanists today, they often picture devil worshippers who engage in ritual killings of animals and people. This view of Satanism is due in large part to the Satanic

⁴⁴ Joseph P. Laycock, *Speak of the Devil: How the Satanic Temple Is Changing the Way We Talk About Religion* (Oxford University Press, 2020), 188.

⁴⁵ Peter H. Gilmore, “Anton Szandor LaVey,” Church of Satan, 2003, <https://www.churchofsatan.com/history-anton-szandor-lavey/>.

⁴⁶ “F.A.Q. Fundamental Beliefs,” Church of Satan, accessed May 6, 2020, <https://www.churchofsatan.com/faq-fundamental-beliefs/>.

⁴⁷ Blanche Barton, “Church of Satan History: The Church of Satan,” Church of Satan, 2003, <https://www.churchofsatan.com/cos-church-of-satan/>.

Panic of the 1980s and 1990s, which “comes entirely from the media and from movies.”⁴⁸ The discourse created by the Satanic Panic has been “a powerful weapon in the war waged against minority religious groups.”⁴⁹ During this time, Satanists were popularly depicted as part of a network involved in kidnapping, torturing, and murdering thousands of children.⁵⁰ As a result of the extremist depictions of Satanists, the Satanic Panic led people to label Satanists (or those deemed as a part of Satanism) as “misguided, mentally unfit or evil” and as “threats to the moral fabric of society and to family life.”⁵¹ The “link” between Satanists and gruesome crimes, such as murder and ritual abuse of children, “effectively damaged the reputation of any individual labeled a Satanist, who was viewed as an agent on an ‘international mission of subversion.’”⁵² Groups deemed “deviant” are recognized as fraudulent cults and irreligious, thus dominant groups aim to weaken those groups in order to preserve dominant views of morality and to prevent minority groups from being able to spread their “perverse” messages.⁵³ During the Satanic Panic, many groups, especially those oriented toward traditional Christian family values, aimed to control this new religious movement through the law. These groups understood destroying Satanism as an urgent goal because of the popular idea that Satan was active in practically every aspect of life, from “rock music and role-playing games” to “the efforts of liberal politicians and the American Civil Liberties Union.”⁵⁴ Because many people thought that

⁴⁸ Jay Wexler, *Our Non-Christian Nation: How Atheists, Satanists, Pagans, and Others Are Demanding Their Rightful Place in Public Life* (Stanford University Press, 2019), 92.

⁴⁹ John Corrigan and Lynn S. Neal, “Intolerance toward ‘New’ Religions in the Twentieth Century,” in *Religious Intolerance in America: A Documentary History* (University of North Carolina Press, 2010), 182.

⁵⁰ Poole, *Satan in America*; Kurt Andersen, *Fantasyland: How America Went Haywire: A 500-Year History* (New York, NY: Random House, 2017).

⁵¹ Jenny Reichert and James T. Richardson, “Decline of a Moral Panic: A Social Psychological and Socio-Legal Examination of the Current Status of Satanism,” *Nova Religio: The Journal of Alternative and Emergent Religions* 16, no. 2 (2012): 48.

⁵² Reichert and Richardson, “Decline of a Moral Panic,” 49.

⁵³ Corrigan and Neal, “Intolerance toward ‘New’ Religions in the Twentieth Century,” 182-183.

⁵⁴ Poole, *Satan in America*, 167.

Satan could easily enter America through the home, people became concerned with destroying Satan and Satanism with spiritual warfare.

While the effects of the Satanic Panic have dissipated considerably, the basic stereotypes about Satanism and Satanists prevalent during this time have remained in the minds of many Americans, continuing to affect court cases and other public situations. Local governments have often aligned with groups against so-called cults and have used the law “as a weapon of harassment” in the “battle over the cultural ability to define religion in the United States, as well as the power to define the United States itself.”⁵⁵ The continued success of the labels of “deviant” and “evil” as applied to Satanists reflect the ongoing campaign of the dominant religious group to preserve the notion of a “Christian America.”

Although The Satanic Temple is drawing on a long-standing central image of Satan as the ultimate rebel and the representation of individuality similar to the Church of Satan, TST has done something different with it. It is true that TST is a reactionary activist organization, but they also have a theological orientation that guides their political activism. TST, founded in 2013 by “Lucien Greaves” and “Malcolm Jarry,”⁵⁶ was created with the following mission: “to encourage benevolence and empathy among all people, reject tyrannical authority, advocate practical common sense and justice, and be directed by the human conscience to undertake noble pursuits guided by the individual will.”⁵⁷ TST holds seven core tenets⁵⁸:

1. One should strive to act with compassion and empathy toward all creatures in accordance with reason.

⁵⁵ Corrigan and Neal, “Intolerance toward ‘New’ Religions in the Twentieth Century,” 185.

⁵⁶ The co-founders of TST have received numerous death threats and thus use these pseudonyms in order to protect themselves and their families. While Malcolm Jarry avoids the spotlight, Lucien Greaves is the spokesperson and public figure for TST.

⁵⁷ The Satanic Temple, “Learn,” The Satanic Temple, accessed November 22, 2019, <https://thesatanictemple.com/pages/learn>.

⁵⁸ The Satanic Temple, “Learn.”

2. The struggle for justice is an ongoing and necessary pursuit that should prevail over laws and institutions.
3. One's body is inviolable, subject to one's own will alone.
4. The freedoms of others should be respected, including the freedom to offend. To willfully and unjustly encroach upon the freedoms of another is to forgo one's own.
5. Beliefs should conform to one's best scientific understanding of the world. One should take care never to distort scientific facts to fit one's beliefs.
6. People are fallible. If one makes a mistake, one should do one's best to rectify it and resolve any harm that might have been caused.
7. Every tenet is a guiding principle designed to inspire nobility in action and thought. The spirit of compassion, wisdom, and justice should always prevail over the written or spoken word.

Simply put, TST's Satanism is about being kind toward all people, pursuing justice and knowledge, and respecting others' freedoms. Clearly, these tenets contradict the depictions of Satanism from the Satanic Panic. TST's tenets, particularly the first two, do not align with the notion of baby-killing, blood sacrificing Satanists. While TST is unconventional and definitely "political" in its identity, it has qualities that clearly locate them within the realm of religion. Similar to other religions, TST's basic tenets are made up of rules governing human behavior and interpretations of the meaning of life. Moreover, TST's ethics are intricately tied to a long-standing narrative about Satan and his qualities. Finally, TST hosts many private rituals that foster a sense of community for its members. TST may not fit traditional ideas about religion, but it is still a religion.

The Satanic Temple's beliefs diverge greatly from the many commonly-held misconceptions surrounding Satanism beyond these tenets. Although many non-Satanists understand Satanists as those who worship the physical being of Satan, in reality, TST does not worship nor presume the existence of Satan.⁵⁹ There may be some people who understand Satan as a physical figure, but for TST members, this is not the case. It is a core belief of TST "that

⁵⁹ Ibid.

religion can, and should, be divorced from superstition.”⁶⁰ For TST, Satan is not a real being but is the embodiment of “rational inquiry removed from supernaturalism and archaic tradition-based superstitions.”⁶¹ Furthermore, “Satan is a symbol of the Eternal Rebel in opposition to arbitrary authority, forever defending personal sovereignty.”⁶² Contrary to popular belief, TST does not promote evil, but rather promotes beneficence.

Although somewhat dependent on media coverage for raising awareness about the organization and its campaigns, TST deeply believes in the goals of those campaigns. Detached from the supernatural, TST emphasizes that “a religion should be without a compulsory attachment to untenable items of faith-based belief.” Religion “provides a narrative structure by which we contextualize our lives and works” and “a sense of identity, culture, community, and shared values.”⁶³ In accordance with TST’s philosophy, core tenets, and mission, the Satanic Temple has been involved in numerous campaigns aimed at enforcing church-state separation and religious liberty (e.g., TST has been particularly active in campaigns involving religious displays in the public sphere, prayer in public schools, state-sanctioned invocations, and religious after-school clubs). TST’s campaigns provide a compelling lens through which to examine church-state separation and religious freedom (especially for religious minorities) in the United States.

Many people have denounced The Satanic Temple as merely an organization, not a religion, aimed at “trolling” Christianity. A “troll” refers to “people who enter a discussion with the goal of deliberately upsetting people or creating fruitless argument rather than expressing a

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

valid viewpoint.”⁶⁴ As a trolling organization, then, TST is not a religion but a joke, an organization whose media stunts are aimed only at banishing Christianity from the public sphere.⁶⁵ Not only conservative Christians, but other satanic affiliated organizations as well, characterize TST as merely a troll. The Church of Satan has accused TST of being a ““prank”” and a ““self-acknowledged satire and an activist group, which pretends to be a religion when it suits their ends.””⁶⁶ For these reasons—and in an interesting parallel to American reactions to Mormonism—TST is often accused of fraudulence. TST is also often accused of fake Satanism because of the group’s nonconformity to the accusers’ traditional ideas of satanic values and beliefs. Many people charge that, because TST believes that Satanism is about beneficence rather than spreading evil and because TST does not believe in the supernatural, TST embodies fake Satanism. While TST’s brand of Satanism is different from that of the Church of Satan, the name and imagery TST uses draw on previous forms of Satanism. For both TST and the Church of Satan, ““Satanic’ beliefs, ideas, practices, and attitudes are rooted—however tenuously—in the mythological character of Satan, especially the myth of Satan’s rebellion against God as told by Milton.””⁶⁷ By charging that TST is merely a trolling organization and that TST embodies fake Satanism, TST’s opponents have been prone to characterize TST as fraudulent in both its religious claims and in its claims to be committed to religious freedom.

The contrasting examples of the LDS Church and the Satanic Temple reveal two ways in which a society that claims to value religious freedom as its “first freedom” has, in practice, treated unfamiliar religious minorities with hostility and disbelief. By decrying both the Mormon

⁶⁴ Laycock, *Speak of the Devil*, 103.

⁶⁵ *Ibid.*, 18.

⁶⁶ *Ibid.*, 91.

⁶⁷ *Ibid.*, 88.

Church and TST as fake religions harmful to the American constitutional and moral order, opponents of both are able to maintain the implicit Protestant Christian rule in the U.S. Though the U.S. Constitution and judicial system are commonly perceived as mechanisms designed to protect minority groups from the domination of more culturally and politically powerful groups, the interplay of concerns about order and morality show that these realms are often surprisingly hard to separate. In fact, the experiences of the Mormons and TST members as free exercise claimants within the U.S. constitutional order reveal the true difficulty that religious minorities face in a country so strongly shaped by Protestant preferentialism.

Engaging with the Constitutional Order

Despite the Constitution's applicability to all citizens, not every group is able to encounter the American legal system on equal footing. In *The Americanization of Religious Minorities*, Eric Mazur identifies three strategies that religious minorities have tended to take when confronting the American constitutional order: congruence, conflict, and conversion. Using the congruence strategy, religious communities can receive recognition from the constitutional order without relinquishing fundamental aspects of their religion. If a religious community finds that joining the American constitutional order is not an attractive choice, the religious community can choose to abstain by living in relative seclusion under its own rule (as long as its rule does not violate the constitutional order); however, this abstention is only granted by the constitutional order if the religious community is not considered a danger to the authority of the American government.⁶⁸ Under this strategy, the religious community must be benign or congruent in such a way that the community's behavior does not clash with the constitutional

⁶⁸ Mazur, *The Americanization of Religious Minorities*, 20-21.

order's ideals and mandates.⁶⁹ Only when it meets these (often unstated) requirements is the religious community able "to maintain the integrity of its theological authority" and perform the correct behaviors according to their religious beliefs.⁷⁰ In other words, the community's beliefs about right actions can differ from that of the constitutional order as long as the right actions are the same. Finally, the congruent strategy is most often used by those groups who are able "to avoid participation in the constitutional order's political and legal systems."⁷¹ By refraining from participation in the political and legal systems, religious minorities prevent conflict with the constitutional order and do not run the risk of destroying their status as congruent communities.

A prime example of the congruence strategy is the Jehovah's Witness community. Jehovah's Witnesses were initially held in deep suspicion and considered a threat by other Americans largely for their belief that all worldly governments were influenced by Satan and thus had to be "overthrown by the forces of God and righteousness."⁷² This view of worldly governments directly opposed the popular belief that the American government was endorsed by God and thus threatened the constitutional order's authority over Jehovah's Witnesses. In the 1960s, the Jehovah's Witness leadership announced a shift in the interpretation of government authority in which God came to be understood as that which invested political authority in non-Jehovah's Witness governments.⁷³ While "Satan still ruled the earthly governments, all were under the watchful eye of God."⁷⁴ This new interpretation of government authority meant that "there was reason enough for members of the Jehovah's Witness community to give respect to

⁶⁹ Ibid., 21.

⁷⁰ Ibid., 22.

⁷¹ Ibid.

⁷² Ibid., 32.

⁷³ Ibid., 47.

⁷⁴ Ibid.

governmental authority.”⁷⁵ Jehovah’s Witnesses were thus no longer a threat to the political authority of the American constitutional order.

Earlier in their history, however, the Jehovah’s Witnesses engaged in legal battles with the constitutional order. By translating their religious claims into terms easily understood by the dominant culture, Jehovah’s Witnesses were able to win many court cases without having to “recognize the superiority of the Constitution over their religious fundamentals.”⁷⁶ Relying on the First Amendment, specifically the religion clauses, rather than on religious arguments, Jehovah’s Witnesses were able to make their claims legible to the Court, but as legal battles progressed, Jehovah’s Witnesses found that the U.S. Supreme Court was more responsive to religious claims couched in the language of free speech. The Court has typically preferred protecting religious belief over religious action, and as such, “speech would be less a perceived threat than would challenges to the transcending authority of the U.S. Constitution.”⁷⁷ While Jehovah’s Witness theology underwent change, those changes “were not caused by the external pressure from the constitutional order,” and moreover, the sacrifices of the constitutional order were far greater than those of the Jehovah’s Witness community.⁷⁸ By casting their religious claims in free speech terms, Jehovah’s Witnesses converted the constitutional order into a system that afforded more religious freedom to non-mainstream religions.

Some religious minorities who are unable to use the congruence strategy have tended to enter into a conflictual relationship with the constitutional order. There are two forms of the conflict strategy: eruptive and continuous. Under the eruptive conflict strategy, the religious

⁷⁵ Ibid., 47-48.

⁷⁶ Ibid., 60.

⁷⁷ Ibid., 58-59.

⁷⁸ Ibid., 60-61.

community and the constitutional order once co-existed, but either the religious community adopted a new tenet that conflicted with the order's authority, or the constitutional order's values shifted, causing conflict between the dominant culture and the religious minority.⁷⁹ On the other hand, in the continuous conflict mode, the "basic terms and concepts [of the religious community and the constitutional order] are irreconcilable from the start."⁸⁰ This mode of conflict may involve physical violence between the religious minority and the dominant culture.⁸¹ In both the eruptive and the continuous modes of conflict, there is an "inability to reconcile the conflicting authority of theology and the constitutional order," and the constitutional order may decide that differences in orientation and practice should not be permitted.⁸² Religious minorities can utilize more than one of these strategies, but whichever strategy they use, religious minorities will still have to decide between their religion and its authority and a peaceful place within the American constitutional order.⁸³

Some religious groups are so fundamentally different from the dominant culture of (Protestant) Christianity such that those groups are not congruent with the American constitutional order. One such religious group that has been unable to use the congruence strategy is Native Americans. Native American tribal sovereignty and emphasis on the importance of land are difficult for the dominant culture to understand or accept.⁸⁴ Notions of tribal sovereignty and sacred land threaten the authority of the American constitutional order, and those notions have typically not been protected by the Supreme Court. In fact, several court

⁷⁹ Ibid., 24.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid., 25.

⁸³ Ibid.

⁸⁴ Ibid., 98-99.

cases and laws have minimized the communal authorities of different tribes.⁸⁵ Initially, Native Americans were not granted citizenship, but when they were granted citizenship “without asking for it,” Native Americans were able to “do virtually everything that all other citizens could,” except “express themselves through their distinctive collective identities.”⁸⁶ Furthermore, the typical non-Native view of land is that land is a commodity, which “stands in stark contrast to many traditional Native American religious beliefs that posit a custodial or partnership approach.”⁸⁷ Court cases arguing for the extension of religious freedom to Native Americans have largely lost due to Protestant presuppositions in the court system and to contrasting views of sovereignty and land.⁸⁸ Due to the fundamental differences between indigenous beliefs and practices and Christian beliefs and practices, coupled with the fact that the decision to “play by the rules” of the U.S. constitutional order is itself a capitulation to the legitimacy of the system, Native Americans will almost inevitably be in conflict with the American constitutional order.

Finally, for some religious communities, the congruence and conflict strategies are unfeasible or undesirable. One strategy available for those communities is conversion. Communities who “convert” to the American constitutional order either alter theological authority so that it conforms to constitutional authority or subordinate theological authority to constitutional authority.⁸⁹ As we can imagine, there is a significant trade-off in this strategy. In short, the converted religious community holds the Constitution as equal or superior to its

⁸⁵ Ibid., 106.

⁸⁶ Ibid., 107.

⁸⁷ Ibid., 114.

⁸⁸ Ibid., 107.

⁸⁹ Ibid., 22.

theological mandates. Using the conversion strategy allows religious communities to live within the constitutional order with the ability to disagree with the order's beliefs.⁹⁰

The LDS Church represents what is probably the clearest historical example of a conversion strategy. Early Mormon theology affirmed many American ideals, but over time, “Mormon confidence in those positions of authority waned to the point of complete distrust in the system.”⁹¹ Latter-day Saints made many efforts to preserve and spread Mormon ideals. Mormons formed a “church-directed political party” and turned “to church leaders, not the federal courts, to resolve disputes.”⁹² Mormons also boycotted businesses run by non-Mormons and helped thousands of converts to emigrate to Utah.⁹³ In response to the efforts of Mormons to preserve their theological authority in resistance to the constitutional order, Congress passed laws “expanding the government's power to prosecute polygamists,” deprived Mormons of the right to vote, and “declared the LDS Church legally dissolved.”⁹⁴ As the conflict between the constitutional order and the Mormon Church became too much for Mormons, Mormons were forced to accept “what the dominant culture envisioned (with great vigor) was the community’s proper place” or risk losing their religion.⁹⁵ Unable to translate their beliefs and practices into terms familiar to the (Protestant) constitutional order, Mormons conceded some of their practices in order to coexist with the dominant culture. In the late 1800s, Mormon leadership feared that their temples, which are “the centerpieces of Mormon ceremonial ritual and the symbol of church authority,” would be confiscated by the U.S. government.⁹⁶ With this confirmation,

⁹⁰ Ibid., 23.

⁹¹ Ibid., 63.

⁹² Duffy and Howlett, *Mormonism*, 11.

⁹³ Ibid.

⁹⁴ Ibid., 12.

⁹⁵ Mazur, *The Americanization of Religious Minorities*, 63.

⁹⁶ Ibid., 82-83.

Mormon leadership realized that the endless government persecution was too high a cost for retaining the practice of polygamy and that, by relinquishing the practice of polygamy, the Mormon Church “might salvage the remainder of the LDS Church leadership’s authority,”⁹⁷ and allow the Church to “continue its work of missionizing the world and administering the rites necessary for salvation.”⁹⁸ In effect, the Mormon leadership decided that ceding certain practices and assimilating to the constitutional order’s idea of appropriate behavior was necessary to salvage what was left of the religion.

The concession of polygamy was not enough to “Americanize” the LDS Church. Realizing that its political involvement and authority posed a threat to the American constitutional order, the Mormon Church dissolved its political party, church courts, and economic cooperatives.⁹⁹ Early responses to these actions indicate the beginnings of Mormon acceptance into the American constitutional order, but many people still suspected that the Mormon Church secretly supported polygamy.¹⁰⁰ The election of Mormon Reed Smoot to the Senate and Utah’s admission into the Union signaled the further growth of the acceptance of Mormons into American society. After Smoot’s election to the Senate, Mormon leadership altered its political role from “involved kingmakers to acting as leaders of an involved interest group.”¹⁰¹ Rather than acting as a group working toward creating a theocracy, the Mormon Church’s political role became one resembling that of other religious groups in which it dealt with what it “perceived to be the best interest of the community but declining to operate an

⁹⁷ Ibid., 83.

⁹⁸ Duffy and Howlett, *Mormonism*, 12.

⁹⁹ Ibid.

¹⁰⁰ Mazur, *The Americanization of Religious Minorities*, 84-85.

¹⁰¹ Ibid., 88.

exclusive political system.”¹⁰² By ceding the practice of polygamy and its political power and by accepting the constitutional order’s authority, Mormons were able to peacefully coexist with the dominant culture.

Because of TST’s theological commitments to justice and their particular ideas about authority and rebellion, the congruence strategy is even more inaccessible to TST than it was to the LDS Church. Due to its particularly aggressive and confrontational modes of political and legal participation, TST is seen as a threat by the American constitutional order. Furthermore, TST is often understood to hold beliefs out of line with or harmful to the American constitutional order and thus not congruent with the constitutional order’s values. Unlike the Mormon Church, TST cannot convert to the constitutional order. Conversion would require TST to violate its theology of justice and its goal of exposing the hypocrisy involved in the constitutional order’s decision that certain groups are accorded religious freedom while others are not. Rather than convergence or conversion, TST embodies Mazur’s (continuous) conflict strategy, as indicated by TST’s brand of nonconformism.

By engaging in litigation and using the language of free exercise and anti-establishment, TST uses the tools of the American constitutional order to confront that same system while also refusing to conform to the system’s values and behaviors. There are two aspects of TST’s nonconformism: (1) TST is unwilling to cede any of its beliefs and practices, and continues to engage politically and legally despite backlash, and (2) TST’s brand of Satanism espouses virtues that do not conform to the dominant discourse regarding Satanism and evil, thus altering the way people think about good and evil. Highlighting its nonconformism, TST has developed

¹⁰² Ibid., 88-89.

three main strategies aimed at revealing the entrenched Protestantism and views of good and evil in the constitutional order.

The most striking of these strategies is “culture jamming,” a type of “guerilla theater meant to reframe cultural debates by shocking the audience.”¹⁰³ In line with its theology of Satan as the ultimate rebel against tyranny, TST performs numerous public rituals and protests that have high shock value in order to challenge the Christianity inherent in the American constitutional order. By performing rituals and protests with high shock value, TST tries to “make people reassess arrangements they have taken for granted” and “bring unstated assumptions into the open where they can be challenged.”¹⁰⁴ Through its protests and the responses to those protests, TST “exposes hidden contradictions in the ways we talk about religion.”¹⁰⁵ TST attempts to expose the hegemonic discourse at work in discussions of religion and the relationship religion has with the constitutional order.¹⁰⁶ Often, people do not notice the presence of harmful hegemonic discourse or cannot imagine life differently than the way hegemonic discourse mandates it should be, and thus the supremacy of the dominant group remains unchallenged.¹⁰⁷ Through protests and public rituals, TST actively works to challenge the unstated assumptions and arrangements of the dominant culture that are so often unnoticed by mainstream Americans.

A prime example of TST’s culture jamming is a series of counter-protests involving the issue of depictions and funding of Planned Parenthood. There have been several Planned Parenthood counter-protests, but one of the more shocking counter-protests took place in 2015 in

¹⁰³ Laycock, *Speak of the Devil*, 139.

¹⁰⁴ *Ibid.*, 23.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

Detroit. In August of 2015, anti-abortion protestors orchestrated a #PPSellsBabyParts protest, the slogan of which was based on a video “in which a Planned Parenthood staffer is filmed in such a way that gives the impression that the nonprofit harvests and sells organs from fetuses.”¹⁰⁸ The TST chapter of Detroit organized a counter-protest in which “two actresses [were] tied up in a kneeling prayer position, as people dressed as clergymen attempted to drown them in milk,” and counter-protestors sported signs declaring that “America is not a theocracy. End forced motherhood!”¹⁰⁹ The message of the counter-protest “was that the pro-life movement amounts to religious persecution of women.”¹¹⁰ Protestors responded to the counter-protest by loudly reciting a prayer to oppose spiritual evil.¹¹¹ As Penny Lane, director of the recent film *Hail Satan?*, describes, shock value as an important part of TST because TST is at its core about “poking people...to reconsider their assumptions about what they think is true or right or good” and “confronting corrupt authority, wherever you see it however you can. And part of that process is again, part of how you do all this is by putting on certain clothes. Engaging in certain types of rituals employing certain symbols and iconography to achieve those goals than, like, that's what it is like that Satanism. So in other words, trolling is part of the practice of Satanism.”¹¹² Protests like the Planned Parenthood counter-protests are “about images and the...power of images to...disrupt, you know, kind of your mind in a way.”¹¹³ In other words, TST’s theological

¹⁰⁸ Lee DeVito, “The Satanic Temple Countered Planned Parenthood Protests with Some Guerrilla Theatre,” *Metro Times*, August 24, 2015, <https://www.metrotimes.com/news-hits/archives/2015/08/24/the-satanic-temple-countered-the-planned-parenthood-national-day-of-protest-with-some-guerrilla-theatre>.

¹⁰⁹ DeVito, “The Satanic Temple Countered Planned Parenthood Protests with Some Guerrilla Theatre.”

¹¹⁰ Laycock, *Speak of the Devil*, 143.

¹¹¹ Ibid.

¹¹² Penny Lane, Hail Satan Interview, interview by Jenna Reinbold, April 4, 2020, https://colgate.zoom.us/rec/play/usd5Jr_8qzg3TNXH4wSDBvBxW9S0f_qs03Ab-aYJyB68ByNRN1qmYuYRY7HYm_CTxhLYheFb-w12RXSD?continueMode=true&_x_zm_rtaid=K9atiDBdSMm0tpXCBDaZlw.1587757900956.9264946a9430c4064935b9c7090b5e3c&_x_zm_rhtaid=83.

¹¹³ Lane, Hail Satan Interview.

commitment to “rebellion” requires that its members engage in confrontational and outrageous behaviors.

The shock value that TST deploys is effective for making people think about religion’s status in the constitutional order, but it can backfire. Satan is typically understood as “the enemy of all mankind,” and, by employing the symbol of Satan, TST may strengthen rather than weaken the hegemonic discourse of Christianity within America.¹¹⁴ Furthermore, while high in shock value, culture jamming’s “non-discursive nature of art makes it easy for cultural opponents to impose whatever narrative they want onto transgressive performances.”¹¹⁵ Because shocking, disruptive activism is such a key part of how TST embodies its message, TST is bound to fall into a conflictual relationship with both the US constitutional order and with mainstream society broadly. This is one of the significant trade-offs TST participants make for their worldview and the particular ways in which they have chosen to publicly embody it.

In addition to culture jamming, TST engages in unique philanthropic work that directly leverages the discourse of evil by reversing traditional concepts of good and evil. Through philanthropy, TST chapters across the U.S. are able to raise their profile within their communities as benevolent Satanists, thus “undermining claims that they are ‘outsiders’ who deserve no say in community affairs.”¹¹⁶ TST’s philanthropic efforts challenge the traditional moral order and “the assumption that Christians are inherently more moral than other people.”¹¹⁷ By linking Satanism with the good rather than the bad, TST alters the discourse of evil in such a way that transgresses entrenched beliefs about evil. The idea of “good Satanists” breaks down

¹¹⁴ Laycock, *Speak of the Devil*, 23-24.

¹¹⁵ *Ibid.*, 139.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*, 151.

the traditional barrier between good and evil, pushing people “to reassess who is good and who is evil.”¹¹⁸ By identifying with what the dominant culture perceives as the symbol of evil but then arguing that they, instead of their opponents, are the ones who truly value compassion and justice, TST members try “to undermine the assumption that the dominant religious group—American Christians—are inherently more moral.”¹¹⁹ This appropriation of the discourse of evil threatens the dominant rhetoric surrounding who is evil and who is good. Many people are uncomfortable with this appropriation, as is evident by the responses to TST’s actions. Government agencies and philanthropic organizations have obstructed TST’s efforts to engage in philanthropic deeds, and many Christian opponents have “accused them of not being ‘proper Satanists,’ to the extent that their actions are morally defensible.”¹²⁰

TST chapters have engaged in a variety of philanthropic campaigns, such as “Menstruatin’ with Satan.” Various TST chapters have been a part of this campaign, but the response to the campaign in Arizona indicates the deeply entrenched moral order in the U.S. In 2017, the Arizona chapter of TST partnered with the YWCA to collect donations of feminine products because “no person should miss work or school simply as they do not have the required personal hygiene, clothes, and shoe supplies.”¹²¹ The campaign was a huge success until the YWCA cut off the partnership after a Christian, upset by the YWCA’s cooperation with Satanists, called the corporate office of the YWCA.¹²² The YWCA dissolved the partnership shortly thereafter. From the quick response to the phone call, it is clear that philanthropic

¹¹⁸ Ibid., 135.

¹¹⁹ Ibid., 133.

¹²⁰ Ibid.

¹²¹ Elisa Meyer, “YWCA Ends Menstrual Project with Satanists,” World Religion News, May 22, 2018, <https://www.worldreligionnews.com/religion-news/ywca-ends-menstrual-project-satanist>.

¹²² Meyer, “YWCA Ends Menstrual Project with Satanists.”

campaigns involving the Satanic Temple can be unraveled merely because the dominant narrative of good and evil is flipped and because many organizations are “more concerned about not upsetting unfounded prejudices rather than helping people who need help.”¹²³ People associate evil with Satanism and good with Christianity. By engaging in philanthropic endeavors, TST members cause people to think about the assumptions about good and evil that influence what people understand as “true” religion.

While TST’s efforts to make people reassess good and evil have led people to see the hegemonic discourse at work, appropriating the discourse of evil is risky. Appropriating this discourse successfully requires that TST avoid “advertently reinforcing existing power structures by providing evidence that evil conspirators such as Satanists actually exist” and “sanitizing identification with the evil other to the point where the entire strategy appears disingenuous or silly.”¹²⁴ Perhaps more than any other of their activist endeavors, it is here that TST has been faced with the choice to either highlight or downplay its fundamental antagonism with mainstream America. This has been a fine line for many members to walk, but, on the whole, members have chosen to highlight their antagonism with mainstream America.

TST has received much media attention for their “Lucien’s Law” strategy. A legalistic strategy, Lucien’s Law holds that “governments will either (1) close open forums when The Satanic Temple asks to speak, or (2) censor The Satanic Temple, thereby opening itself to legal liability.”¹²⁵ Under this strategy, TST pushes the constitutional order to accord Satanists the same privileges as Christians, “knowing that the public will find this intolerable and retreat to a more universally applied principle of secularism where no religion benefits from government

¹²³ Ibid.

¹²⁴ Laycock, *Speak of the Devil*, 134.

¹²⁵ Ibid., 148.

resources.”¹²⁶ In other words, TST’s participation in the constitutional order’s legal system has shown that governments are quite reluctant to allow Satanists to publicize their religion in the public sphere and will often elect to limit the presence of religion, including Christianity, in the public sphere.

A prominent instance of Lucien’s Law is TST’s campaign involving religious displays in the public sphere. Since the 1980s, during which the US Supreme Court shifted to what Jay Wexler calls a more ‘post-separationist’ approach to public displays, court cases regarding religious displays in the public sphere have typically been decided based on the context and purpose of the religious display. In general, the courts have determined that the government cannot exclude religions from being present in the public sphere while allowing others to be present.¹²⁷ Several states have attempted to display Christian symbols on public property, which TST has responded to by requesting that its own display be placed in the same vicinity. Local government officials’ responses to TST’s request is indicative of the hostility many people have toward “deviant” religions, and, often, non-government officials implement protests in order to prevent TST from implementing its displays. For example, in 2015, Arkansas state senator Jason Rapert sponsored easily-passed legislation that approved the installation of a privately-funded Ten Commandments monument near the grounds of the state capitol building.¹²⁸ Hearing about this bill, TST applied to the Capitol Arts and Grounds Commission for approval to install a larger-than-human sized Baphomet statue near the Ten Commandments. The Commission initially approved of the statue, but soon thereafter, a bill was passed requiring that all

¹²⁶ Ibid., 139.

¹²⁷ *McCreary County v. American Civil Liberties Union of Ky*, 545 U.S. 844 (2005), 851; *Van Orden v. Perry*, 545 U.S. 677 (2005), 686.

¹²⁸ Jason Rapert, “An Act Concerning the Placement of a Ten Commandments Monument Display on the State Capitol Grounds; and for Other Purposes: The Ten Commandments Monument Display Act,” Pub. L. No. SB939 (2015), <http://www.arkleg.state.ar.us/assembly/2015/2015R/Bills/SB939.pdf>.

monuments have legislative sponsorship before the Commission considers them, which TST was unable to obtain.¹²⁹ In response, TST hauled the statue of Baphomet to Little Rock for a rally protesting the Ten Commandments monument. Many Satanists, atheists, and Christians attended the rally, but not all were supportive. TST's message of pluralism and equality did not satisfy many of the protestors. For example, one of the protestors "interrupted the ceremony at one point to scream at a speaker for 'leading people to hell.'"¹³⁰ Many people, especially Christians are clearly uncomfortable with the idea of allowing Satanists free reign to promote their messages in the public sphere—so uncomfortable, in fact, that they may be prone to back off of their own efforts to have Christian displays in public places.

The "Lucien's Law" strategy is the one that has earned TST most of its notoriety in recent years. Interestingly, this strategy reveals the true complexity of TST's relationship with the American constitutional order, since this strategy hinges on actually demanding an equal place within the order itself. In other words, even as TST regularly sets itself in conflict against the constitutional order and US society in general, the Lucien's Law strategy actually hinges upon a cooperative, rather than a purely conflictual, interaction with this constitutional order. Lucien's Law requires substantial legal and financial resources, which TST has struggled with as an organization that largely depends on crowdfunding and support from other organizations.¹³¹ The issue of the substantial legal and financial resources reveals how difficult it is for a minority group to actually participate on an equal footing within the US constitutional order.

¹²⁹ Wexler, *Our Non-Christian Nation*, 107.

¹³⁰ Avi Selk, "A Satanic Idol Goes to the Arkansas Capitol Building," *The Washington Post*, August 17, 2018, <https://www.washingtonpost.com/news/acts-of-faith/wp/2018/08/17/a-satanic-idols-3-year-journey-to-the-arkansas-capitol-building/>.

¹³¹ Laycock, *Speak of the Devil*, 139.

Religious freedom is highly valued in the U.S., but not all religious groups are able to interact with the American legal system in such a way that secures the same level of religious freedom. Religious minorities tend to use one of three strategies in their interactions with the American constitutional order: congruence, conflict, or conversion. While Mormons found it difficult to achieve congruence with the constitutional order, achieving congruence is a much more difficult task for TST because of its theology and worldview. TST's commitment to unveiling the implicit Protestantism in American rule and its association with Satan leads TST into a highly conflictual relationship with the constitutional order. Despite the utility of Mazur's framework for helping us understand the particular burdens faced by religious minorities and the particular strategies they have used to navigate the constitutional order, Mazur's framework does not capture the uniqueness of TST.

Conclusion

When it comes to religion and its place in America, the U.S. constitutional order is guided by the establishment and free exercise clauses. Although the wording of these clauses is sparse, the history of their interpretation by the U.S. judicial branch has demonstrated that they can be interpreted in various ways. Some of these interpretations have proven more useful than others to particular religious minorities. For instance, interpretations of the free exercise clause that permit the government to place limitations on religious practices have been detrimental to Native Americans. Interestingly, the past thirty years have marked a period of what Jay Wexler calls "post-separationism" in the U.S. courts. By this, he means that the predominant legal interpretation of the religion clauses — particularly the establishment clause — has shifted from a commitment to a "wall of separation" church-state model to a "nonpreferentialist" model that is

more permissive of religion's presence in the public sphere. Over the past few decades, the Supreme Court has expanded religious groups' access to public property, money, and institutions, or at least confirmed religious groups' right to these things. As a result of this shift away from strict separationism, religious groups are able to receive (limited) financial aid from the government, and in certain conditions, religious groups can display religious symbols on public property.

While it is unquestionably the case that US courts' recent post-separationist shift has tended to favor more mainstream Christian expressions of religion, this shift has also had the consequence of inviting less mainstream religious minorities into the field to stake their claim. Wexler describes how groups have begun to demand a place in the American public sphere:

Groups like the Summum, the American Atheists, and the Satanic Temple have asked to have their monuments erected on government property. Various Atheist groups, Wiccans, and others have put up temporary religious displays alongside crèches and other Christian holiday symbols in public parks and buildings. Hindus, Wiccans, and Atheists have given prayers and invocations before legislatures and town boards. Muslims have used public voucher money to fund their private schools, while Scientologists and others have used public money to fund their social service programs and projects. Secularists and Satanists have started their own after-school clubs in the classrooms of public schools across the nation.¹³²

One ironic effect of this is that a group like TST has been able to advocate for a place within the U.S. public sphere largely on their own terms — without feeling as much pressure to conform to a default mainstream Protestantism.

This has given rise to an interesting characteristic of TST's engagement with the constitutional order: while their basic theological commitments center, as we have seen, on confrontation and rebellious critique, their legal activism has not been limited only to a confrontational strategy. By working within the current constitutional landscape to advocate for

¹³² Wexler, *Our Non-Christian Nation*, 158.

their right to engage in confrontational, anti-authoritarian discourses and behaviors, TST reveals a hybrid strategy that crosses the boundaries of Mazur's categories in fascinating ways. TST's engagement with the constitutional order seems to be a hybrid of Mazur's conflict and congruence strategies. While TST is often in conflict with the constitutional order because of its commitment to exposing injustices and hypocrisy, TST's tenets seem to be in line with contemporary First Amendment values, such as free speech, nonpreferentialism, and free exercise of religion. TST is thus in a position to "use" the constitutional order while also "resisting" it. Mazur's framework is useful for illustrating the variety of ways in which religious minorities have navigated the constitutional order, but, for all its usefulness, it fails to fully account for what a group like TST is able to do in a post-separationist time. An exploration of a very new and unconventional religious group like TST allows us to take Mazur's framework one step further, which is necessary given how unstable the U.S. church and state landscape is today. Pushing Mazur's framework a little bit further helps us to understand America's evolving church and state landscape as well as how Mazur's strategies might be very different in contemporary America.

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