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Religion, Politics and Gender Equality

Country Report: USA

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Introduction

Since at least 1980, the United States has been dominated by a political coalition in which conservative evangelical Protestants have played a major role.[1] This coalition has typically operated within the framework of the Republican political party and has supported Republican dominance in electoral politics, leading to a vociferous conservativism in U.S. policy on issues of both gender and sexuality: using U.S. aid so as to promote worldwide restrictions on women's reproductive freedoms, promoting the male-headed nuclear family as the optimal model for personal life, and dismantling government offices and programs that had been dedicated to ending gender discrimination in economic sectors. In conjunction with neoliberal imperatives to privatize government programs and devolve responsibility onto individual households, this conservatism has had significant negative effects on gender equality, particularly for poor women and women of color, in the United States and around the world. As a result, it is easy to think that the removal of religion from the American political process would also directly further gender equality. As we explore in detail below, however, American secular politics includes gender and sexual conservatism that, while better than the intense conservatism promoted by actors on the religious right within the Republican coalition, has oftentimes combined a Christian secularism with neoliberal imperatives in support of policies that are punitive toward women and that undercut possibilities for gender equality.

The most recent Presidential election in 2008 fractured the Republican religious coalition and opened the door to a new alliance between the Democratic Party and "new evangelical" Christians who identify as politically moderate or progressive. While this alliance between Democrats and Christians might also be assumed to usher in a model of religious political engagement in a far more progressive guise, on questions of gender and sexuality the result is by no means obvious. While both progressive evangelicals and the Democratic Party nominee and eventual victor, Barack Obama moved to shift the focus of public debate from questions of gender and sexuality to economic issues, this move runs the risk of leaving existing political visions of gender and sexuality largely in tact. The individual states that voted for more progressive political leadership in Obama and continued conservatism on the issue of same-sex marriage (California and Florida) demonstrated the danger in Obama's strategy of shifting away from cultural issues to economics. An analysis of exit polling in conjunction with contributions to the campaign for the successful Proposition 8 anti-gay-marriage amendment in California shows a coalition of religious funders led by the Catholic Church and the Church of Jesus Christ of the Latter Day Saints (the Mormons) operating somewhat independently of the Republican Party, a coalition that connected with voters from the more conservative Christian elements of the Obama coalition (Public Policy Institute of California 2008, Carlton 2008).[2]

Overall, the 2008 elections made visible a shifting landscape both within and among politically organized Christian groups and in alliances between Christian and secular activists within political parties. For the past few years, new alliances driven specifically by political allegiances around gender and sexuality have formed among

[1] We would like to thank Lucy Trainor, Suzanna Dennison, and Meryl Lodge for their truly invaluable research assistance on this project, as well as Alison Bilderback for her work on the coding of the 1996 "welfare reform" debate.

[2] The Republican Governor of the California, Arnold Schwarzenegger, opposed the measure after having vetoed legislative efforts to allow same-sex marriage on two separate occasions (Rothfeld and Barboza 2008, Tucker 2007).

religious groups that were previously divided, including conservative Catholics and Mormons in the campaign for California's Proposition 8 against gay marriage, as well as in international policy circles among conservative Protestants, Catholics and Muslims. As these specifically religious connections have grown the connections between Protestant evangelicals and the Republican Party have frayed. The massive unpopularity of President Bush, who personally embodied the conservative evangelical Protestant-Republican Party alliance, undercut the political power of the coalition by 2008 and also emboldened new groups who identified themselves as progressive evangelicals to organize politically and to ally with the Obama campaign, if not the Democratic Party as a whole. These shifts were met by changes within the Democratic Party as it took up more openly Christian rhetoric. None of these shifts challenged the dominance of Christianity in American politics, however. His supporters roundly denied the rumor that Obama was a Muslim; they did not question why it should be a problem for a Muslim to run for President of the United States. Thus, with all the change wrought by the 2008 election, the Christian presumption of American politics remained intact and with it the visions of gender and sexuality implied by American Christianity and Christian secularism.

The Status of Religion in the Political Context

The difficulty of effectively responding to the problem of gender inequalities in the United States is, in part, based on the historical intertwining of religion and political life in the United States, despite official pronouncements to the contrary. The First Amendment to the U.S. Constitution officially mandates the disestablishment of religion from government and protection for the free exercise of religion, stating simply, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." However, these mandates have not been realized historically. There is a great deal of debate about the meaning of both the "disestablishment" principle and the "free exercise" principle, as well as about the relationship between the two. Until the 1940s the U.S. Supreme Court did not treat the First Amendment as applying to any level of government below the federal level (Feldman 2000). As a result, Protestant religious practice in the public schools was a regular part of American life. In 1947 Justice Hugo Black provided the following definition of disestablishment as applying to state governments in *Everson v. Board of Education*: disestablishment means "at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor 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" (Eastland 1993). Since that time, the Supreme Court has developed a number of different tests to determine the basic standard of religious disestablishment. The most stable of these tests was developed in *Lemon v. Kurtzman* (1971) and required that laws pass a three-pronged test: that they have a secular purpose, do not support or inhibit religion, and do not excessively entangle the government in religion. But, more recent cases, such as *Lynch v. Donnelly* (1984) and *County of Allegheny v. American Civil Liberties Union* (1989) have suggested other standards by which to determine if government action violates the principle of disestablishment. None of these have resolved ongoing controversies between those who believe that Christianity is a central part of "the American way of life," (Feldman 2000), including American law and politics, and those who support a stronger "separation between church and state." Even among those who support the "separation of church and state" the meaning of this dividing line is hotly debated. Is the separation an impenetrable wall or does it require "a few doors" (Carter 1993)?

Similarly, with regard to free exercise the standard established by the U.S. Supreme Court in 1963 has been subject to controversy, as well as revision by the court and the legislature. The 1963 standard, established in *Sherbert v. Verner* required that a law must be based on "a compelling state interest" if it contravened an individual's free exercise of religion. Yet, despite the apparent strictness of this test, between 1973 and 1990, the Supreme Court ruled against the government only three times in defense of free exercise and never for a non-Protestant religion (Feldman 2000, Geddicks 1995). In a 1990 case, *Employment Division, Department of Human Resources v. Smith*, a case involving the question of whether two Native Americans who were fired for the religious use of peyote were eligible for unemployment benefits, the Court ruled that the *Sherbert* standard did not apply. The legislative process has been somewhat more open to non-Protestant religions (e.g., there is an exemption for religious peyote use in federal drug laws) and Congress responded to the *Smith* decision with the passage of the Religious Freedom Restoration Act in 1993, to return to the "strict scrutiny" standard of a compelling state interest. This law was ruled unconstitutional insofar as it applied to state governments in 1997, but left the Act intact with regard to federal law. In 2006 the Court appealed to this law when ruling against the government in *Gonzales v. O Centro Espírita Beneficente União do Vegetal* 126 S.Ct. 1211, another case involving the ritual use of (otherwise) illegal substances, this time in the setting of a Brazilian religion, but this use of the strict scrutiny standard only applies when federal laws are involved. Moreover, the question of whether the "restoration" of religious freedom is intended to restore a proliferation of Christian expression in the public sphere or a more diverse freedom remains a subject of debate.

These problems in interpretation reflect not just fundamental disagreements about the role of religion in American political life, but also serious questions about the meaning of religion itself, as well as about the relation between religion and secularism. Winnifred Fallers Sullivan (2005) has made a strong argument that the idea of religion put into use by the Courts is based on a Protestant model; such that non-Protestant practices simply do not register as religion. Sullivan supports this argument with her own experience as an expert witness in a court case in Florida, where the Court would not recognize folk funerary practices as religious and thus as worthy of the Court's protection. She summarizes her position by pointing out that: "Almost everyone in this debate is working with a model of religion that is historically and culturally bound in ways that are rarely fully acknowledged" (Sullivan 2000). Even those participants in debates over free exercise who "are sincerely committed to pluralism" are also trapped by the fact that "the diverse American religions they celebrate all look a lot like evangelical Protestantism" (2000, 42).

A second problem for religious freedom has been the Court's interpretation of public Christianity as secular rather than religious. In *Lynch v. Donnelly* (1984) and again in *Allegheny County v. ACLU* (1989), the Court ruled that the display of religious symbols at public expense or on public property at Christmastime was an essentially secular act. For the Court, Christmas had become a secular, commercial holiday and the religious effects of the display of Christian symbols were, in the case of *Lynch*, "indirect, remote, and incidental." While no one can deny that the Christmas has become a highly commercial holiday in the United States, the reasoning that this commercialism makes it effectively non-Christian for public purposes has been vigorously disputed (Feldman 1997, Sullivan 2000). The implications of this reasoning, taken as common sense by the Court, are important to understanding the role of religion in politics in the U.S. Not only is Christianity the dominant religion in the United States, such that when the Courts and legislatures draw on religious claims, these claims are almost always Christian, but also secular culture can be taken as presumptively Christian.

As a result, even if official free exercise and disestablishment were to be achieved the problem of the secular Christian hegemony in American culture would remain. Even when shorn of its explicitly religious aspects, secular American law continues to depend on a Christian, and explicitly Protestant, history and to ensure that Protestant presumptions undergird the political process (Campbell 2007, Green 2007, Layman 2001, Newcomb 2008, Smith 2006). For example, Philip Hamburger argues that even the idea of the "separation of church and state," which is usually traced to eighteenth century founders Thomas Jefferson and James Madison, developed as it is used in contemporary American political discourse mainly in the nineteenth century as part of Protestant efforts to ensure that state funds would not go to Catholic projects, organizations, and schools (Hamburger 2004). Steven Newcomb (2008) argues that the very claim to dominion over the United States is based "on Old Testament narratives of the chosen people and the promised land, as exemplified in the 1823 Supreme Court ruling *Johnson v. McIntosh*, that the first 'Christian people' to 'discover' lands inhabited by 'natives, who were heathens,' have an ultimate title to and dominion over these lands and peoples." Tracy Fessenden (2007) has traced the development of this presumption in American culture from Puritan ideas of God-given dominion over the Native Americans as foundational to the United States to a larger project of "equating American Protestantism with American culture," such that "those religious sensibilities that do not shade invisibly into 'American sensibilities' fail to command our attention as foundational to our national culture, while those that *do* shade imperceptibly into American sensibilities fail to command our attention as religious" (33).

As we shall examine in detail below, this combination of direct Christian influence on American political life and Protestant secular presumption has had profound implications for issues related to gender and sexuality. All three branches of government—judicial, legislative and executive—have depended on both direct claims about Christian norms regarding gender and sexuality and secular norms that reflect Protestant influence in promoting imperial subordination and heterosexual familialism, particularly in the form of the nuclear family.

Indicators of Democratic Pluralism

The United States has a political system that is officially free and fully democratic as indicated by most indices of political freedom: elections, free expression, and freedom of the press. There are also indicators that there are limits imposed on some of these freedoms. These limits are produced by a failure to fully realize the claims of American democracy, as indicated by low voter turnout in comparison to other democracies. The U.S. ranks 139 out of 172 countries with free elections (International Institute for Democracy and Electoral Assistance) and persistently disenfranchises minorities. Over 65% of eligible whites vote versus 60% of eligible Blacks, 44% of Asians and 47% of Hispanics (U.S. Census Bureau 2005a). In addition, democracy in the United States exists in concert with a penal system that is more extensive than that of any other nation and that depends on high rates of executions. As of 2006, the U.S. has less than 5% of the world's population, but over 23% of the world's incarcerated people (National Council on Crime and Delinquency 2006). Both the rate of incarceration and the rate of execution are demonstrably biased on the basis of both race and class. African Americans are incarcerated at nearly 6 times the rate of whites and Latinos at nearly double the rate (The Sentencing Project 2006, Hartney 2006, Mauer 2003, Walmsley 2003). This racial bias in incarceration intensifies voter exclusion because in many states any person who has been convicted of a felony is barred for life from voting.

Limitations on freedom are also produced by corporate consolidation of media outlets and the difficulty of achieving citizen access to mainstream media, a problem that is shifting but not solved by the rise of the internet (Curtis 2004, DellaVigna 2007, Giles 2003, Morris 2007, Perlmutter 2008, Salter 2004, Shapiro 2006). While in 1983, there were over 50 major media corporations in the United States; twenty years later only 5 major corporations controlled the vast majority of the mainstream media. These corporations also have interlocking boards of directors, with more than 45 people serving on the board of more than one of these corporations (Bagdikian, 2004). In addition to this diminishment of freedom of the press, other freedoms have been curtailed in recent years due to the "war on terrorism." As the Freedom House report on the United States notes, over the past six years there has been "political friction and litigation" over perceived violations of civil liberties and international standards by the Bush Administration's counterterrorism policies (Galloway 2002, Cavoukian 2006). There has, for example, been considerable controversy over the Administration's stance on the use of torture in interrogation, the judicial status of prisoners in Guantanamo Bay, whether the U.S. participates in extraordinary rendition, and the policy of warrantless wiretapping. The Obama Administration is expected to reverse the worst of these abuses of power and has committed to closing the Guantanamo Bay facility, but it is unclear what restrictions on freedom might remain as part of the new Administration's "counterterrorism" measures.

The Status of Women

While the United States government promotes a national vision of the freedoms experienced by women in the United States, data on gender differentials among elected officials, the gender wage gap, reproductive rights and gender-based violence indicate that the United States still has a serious differential in social status based on gender. Furthermore, in terms of some indicators, such as the percentage of women in government, the U.S. lags far behind other countries (Hausman, Tyson, and Zahidi 2007, Blau and Kahn 2003, United Nations 2007, Lopez-Claros and Zahidi 2005, Garcia-Moreno et.al. 2005). For example, while there have been some notable strides for women in elective office in the past few years, the percentage of women as elected officials in the U.S. remains woefully low. For the first time in history a woman is serving as the Speaker of the House of Representatives, one of the most powerful positions in the Congress. In addition, for the first time a woman has been a viable candidate for the nomination of one of the two major political parties to be their candidate for President. Hillary Clinton garnered over 18 million votes in the Democratic primaries, the most ever for a woman candidate. Despite these gains, of the 535 current members of Congress, a mere 87 (or 16.3%) are women; 16 of these are in the U.S. Senate and 71 are in the House of Representatives. The proportion of women in state legislatures is 23.5% ("Women in Elective Office 2007" http://www.cawp.rutgers.edu). The World Economic Forum ranked the US 19 out of 58 countries on a scale of women's "political empowerment," based on data on the number of female ministers, seats in parliament held by women, women holding senior, legislative and managerial positions, and the number of years a female has been head of state (Lopez-Claros and Zahidi 2005). In a 2007 World Economic Forum report on the global gender gap, the U.S. ranked 27th out of 130 countries (well behind countries such as Lesotho (no. 16), Mozambique (no. 18), and Moldova (no. 20), based on assessment of jobs, education, politics, and health as a measure of gender parity (Hausman, Tyson, and Zahidi 2007, Pickert 2008, Kirdashy 2008).

Labor markets in the United States remain segregated by both gender and race, and it continues to be difficult for individuals to shift class position despite the preva-

lence of the narrative of class mobility in the United States. These factors come together to create what Leslie McCall has termed, "complex inequality" (McCall 2001). The statistics on gender difference alone are striking. The National Committee on Pay Equity reports that in 2006 the wage gap in the United States was such that on average women earned 76.9 cents for every dollar earned by men (http://www.pay-equity.org). According to current statistics from the U.S. Bureau of Labor, the gendered pay gap has widened – not narrowed – since 2005 (Kaufman and Hymowitz 2008). At the highest levels of employment, the "glass ceiling" remains widely intact. According to the research group Catalyst, women make up only 15.4% of corporate officers and 6.7% of those earning the highest pay. The National Association for Law Placement notes that at U.S. law firms, women accounted for only 17.9% of partners in 2006, despite that fact that they received 48% of law degrees that year and 43.5% of law degrees in 1996 (Kaufman and Hymowitz 2008). Data from within the professions including law, business, medicine, engineering, and academe consistently demonstrates slower rates of professional advancement for women as compared with men, as well as significant gendered pay gaps which are already substantial in entry-level positions and which expand still further in the upper professional tiers (Valian 2005). For women who are working at or close to the poverty line, the burdens on their labor force participation are increasing. Childcare costs have consistently risen over the past few decades. According to data provided by the U.S. Census Bureau in 1990, the average weekly cost of childcare was $60 (approximately $90 when adjusted to 2005 inflation). By 1997, weekly costs had increased to $75, or $91 at 2005 rates. In 2005, the weekly average cost of childcare was $107" (US Census Bureau 2005). For poor families this increase in costs has contributed to an increase in the percentage of their income going to childcare. The U.S. Census Bureau also reports that in Spring 2005, families living below the poverty line paid an average of 29.2% of their monthly income on childcare, compared with 6.1% for families living above the poverty line. This was up from Winter 2002, when families below the poverty line paid 25.7% of their monthly income on childcare (US Census Bureau 2005b).

When it comes to reproductive rights and freedoms, women's access varies greatly depending on their access to economic resources and medical care and the particular state within the country in which they reside. Since the legalization of abortion in 1973, the U.S. Congress, the courts and many state legislatures have created increasing restrictions on access to abortion. These restrictions include a refusal for federal Medicaid to pay for abortions for women who are covered by Medicaid health insurance, except in cases of rape, incest or to protect the life of the mother (Luker 1984). The federal government also refuses to provide funding through the health insurance program for federal employees, for military personnel and their dependents, through the