

Educational Policy

<http://epx.sagepub.com/>

One Nation Under God? Religion and the Politics of Education in a Post-9/11 America

Catherine A. Lugg

Educational Policy 2004 18: 169

DOI: 10.1177/0895904803260040

The online version of this article can be found at:

<http://epx.sagepub.com/content/18/1/169>

Published by:



<http://www.sagepublications.com>

On behalf of:

Politics of Education Association

Additional services and information for *Educational Policy* can be found at:

Email Alerts: <http://epx.sagepub.com/cgi/alerts>

Subscriptions: <http://epx.sagepub.com/subscriptions>

Reprints: <http://www.sagepub.com/journalsReprints.nav>

Permissions: <http://www.sagepub.com/journalsPermissions.nav>

Citations: <http://epx.sagepub.com/content/18/1/169.refs.html>

One Nation Under God? Religion and the Politics of Education in a Post-9/11 America

CATHERINE A. LUGG

For American public schools, the interplay between religion and public policy has been rather volatile, thanks to both state and federal constitutions mandating an ever shifting degree of separation between church and state, yet permitting free religious expression. Some of the most intense political disputes in the past 40 years have involved educational issues such as the teaching of evolution or intelligent design within public schools, publicly funded vouchers for attendance at religious institutions, state-sanctioned prayer within public schools, and the rise of sexuality education. This article seeks to map some of the contemporary features involved with religion and the politics of U.S. education by focusing on (a) recent court decisions, (b) the policy agendas of the current Bush administration, and (c) curricular issues. The article closes by focusing on a few of the larger issues relating to religion and education in a highly pluralistic and religiously fluid society.

Keywords: *religion; politics; education; faith; public schools*

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality.

—U.S. Supreme Court, *Abington v. Schempp*, 1963

EDUCATIONAL POLICY, Vol. 18 No. 1, January and March 2004 169-187
DOI: 10.1177/0895904803260040
© 2004 Corwin Press

Americans, it would seem, take the pursuit of religious faith quite seriously. Survey data consistently indicate that Americans believe in a god, attend religious services, and financially support their religious institutions to a far greater degree than their European counterparts. As a result, almost 90% of all Americans belong to a mosque, synagogue, or church (Roof, 1999). Likewise, many political leaders invoke a divine when making public policy pronouncements, claiming to be on the side of some deity's angels. This collective religious pursuit was clearly demonstrated in the aftermath of the 2001 attacks on the World Trade Center and the Pentagon when interdenominational memorial services were held around the country, drawing political elites as well as ordinary citizens (Marshall, 2002b). Some of these services that involved President Bush or then New York City Mayor Rudolph Giuliani were broadcast live, further underscoring the collective nature of these particular expressions of religious faith (Gresock, 2001).

Yet, Americans are also highly eclectic, idiosyncratic, and individualistic in the pursuit of religion. They worship Allah, Ahura Mazda, Jehovah, God, G-d, and Jesus, as well as honoring Buddha, Mother Earth, Mohammed, Mary and the Saints, and Zoroaster, to name only a few. In addition, although a person might have been raised a Baptist, as an American he or she is more likely to convert to another branch within Christianity or convert to an entirely different faith system as compared with other religious nationals. The pace of religious and spiritual innovation is also impressive. For example, more than half of the 2000 or so religious organizations operating within the United States today were formed after 1960 (French, 2003). In the United States, religious identity is remarkably fluid (French, 2003; Roof, 1999),¹ and both the private and public spheres reflect this spiritual smorgasbord of religious ideals and practices.

Religious faith can take on increased political significance when it comes to matters of education and educational policy (Boyd, Lugg, & Zahorcheck, 1996; Edwards, 1998; Fraser, 1999; Gaddy, Hall, & Marzano, 1996; Karst, 2003; Layton, 1996; Lugg, 1998; Marty, 2000; Provenzo & McCloskey, 2000; Zimmerman, 2002). For American public schools, the interplay between religion and public policy has been rather volatile, thanks to both state and federal constitutions mandating an ever shifting degree of separation between church and state, yet permitting free religious expression (see Gaddy et al., 1996; McCarthy, 2000, 2001). Some of the most intense political disputes in the past 40 years have involved educational issues such as the teaching of evolution or *intelligent design* within public schools, publicly funded vouchers for attendance at religious institutions, state-sanctioned prayer within public schools, and the rise of sexuality education (Fraser, 1999; Gaddy et al., 1996; Zimmerman, 2002). This article seeks to map some

of the contemporary features involved with religion and the politics of U.S. education by focusing on (a) recent court decisions, (b) the policy agendas of the current Bush administration, and (c) curricular issues. The article closes by focusing on a few of the larger issues relating to religion and education in a highly pluralistic and religiously fluid society.

RECENT COURT DECISIONS

This Court's jurisprudence makes clear that a government aid program is not readily subject to challenge under the Establishment Clause if it is neutral with respect to religion and provides assistance directly to a broad class of citizens who, in turn, direct government aid to religious schools wholly as a result of their own genuine and independent private choice. (*Zelman v. Simmons-Harris*, 2002)

In the past 3 years, a series of federal court decisions have shifted the famous wall between church and state separation in some novel and unexpected ways. This article will focus on three of these decisions: *Zelman v. Simmons-Harris* (2002), which involves publicly funded vouchers for religious schools; *Santa Fe Independent School District v. Doe* (2000), which involves publicly broadcasted prayers prior to high school football games; and *Newdow v. U.S. Congress* (2002), which involves the recitation of the Pledge of Allegiance in public schools.

Zelman

On June 27, 2002, a deeply divided U.S. Supreme Court (Crisafulli, 2003) ruled that tax-funded educational vouchers provided to low-income students living in Cleveland to attend the private school of their choice—including religious schools—were permissible under the U.S. Constitution (*Zelman v. Simmons-Harris*, 2002). Although the decision garnered a highly unusual six separate opinions (Fried, 2002)—three for the majority and three for the dissent—the majority of the Court held that the Cleveland voucher plan did not violate the establishment clause of the U.S. Constitution. The majority reasoned that the Cleveland plan facilitated individual choice in selecting an educational institution. Furthermore, parents were offered a variety of options that included public and private schools, hence, the state was neutral in its approach to religion (Crisafulli, 2003; Minow, 2003; Van Geel, 2003). Proponents of more expanded school choice programs heralded this decision as a landmark. They quickly returned to their state legislatures to work for passage of various voucher bills—largely along the lines of the Cleveland program (Minow, 2003).² On the other hand, opponents of the Supreme Court's decision, including Justice Souter who vigorously dissented, lamented that

Zelman marked a stark erosion of the wall of separation between church and state.

In fact, in upholding the constitutionality of the Cleveland plan, the Supreme Court ignored more than 50 years of legal precedence regarding public funding, education, and religion, establishing that direct and restricted aid to religious schools does not violate the establishment clause of the U.S. Constitution (see Crisafulli, 2003; Green, 2002). Many observers have stated the decision is emblematic of a fundamental cultural and political shift regarding the propriety of public funding for religious institutions (Blasi, 2002; Crisafulli, 2003; Fried, 2002). They further noted that this shift, in turn, might hold looming fiscal consequences for public schools (Crisafulli, 2003; Minow, 2003).

Yet, the early evidence indicates that perhaps the decision and its potential educational impact is much less than either side has portrayed (Crisafulli, 2003; Ryan & Heise, 2002; Van Geel, 2003). Although vouchers for private religious education are constitutional at the federal level, many states have specific state constitutional bans on providing public monies to religious schools, either directly or indirectly. In addition, although vouchers might be a popular reform for troubled urban schools, they have been deeply unpopular with suburban voters. As a result, the scope of most extant voucher programs is quite limited (Crisafulli, 2003; Ryan & Heise, 2002). Furthermore, vouchers may be met with increasing political skepticism if the current economic slow down lingers.

The *Zelman* decision also leaves a host of First Amendment policy questions unanswered (Sullivan, 2003; Van Geel, 2003). The majority was quite clear that in the case of the Cleveland voucher program, there was no religious coercion or "steering" (Blasi, 2002) involved and that parents were provided real educational options. Yet, the Court set no threshold level regarding if and when such action(s) or lack of options would constitute violations. Many urban areas lack the diversity of schooling options when compared to Cleveland. Furthermore, state-sponsored religious coercion could very well be an issue if public funds follow a religious-minority student into a religious-majority private school where the student's differing faith (or lack thereof) is not respected. Not all religiously affiliated schools are sensitive to or even acknowledge the concerns of their religious-minority students. As one Muslim young woman who recently attended a parochial school remembers:

We had to memorize [and recite] something called the apostle creed.³ "I believe in this . . . I believe this . . . I believe this" . . . these were all things I did not believe in. So that was the only time where I really did not feel comfortable saying this, I don't want

to memorize it. “Can I memorize something else? Can I do another project instead?” They were like, “No. You have to memorize it.”—Azizah (Tabbaa-Rida, 2003, p. 56)

Besides the potential dangers of state-funded religious coercion, there is also some concern that the *Zelman* decision might have unintentionally opened the door for intensive state regulation of religious schools (Sullivan, 2003), which in turn would potentially reduce the appeal of vouchers for parochial schools. Although Justice O’Connor did employ the Lemon Test in her own concurring opinion,⁴ Chief Justice Rehnquist, who wrote for the majority, did not (Crisafulli, 2003). The third prong of Lemon—excessive entanglement between church and state—has insulated religious schools from the vast majority of state and federal regulations (Gilman, 2002; Minow, 2003). With the viability of Lemon now an open question (McCarthy, 2001; McLaughlin, 2002), this federal protection against governmental intrusion may be threatened if a given religious school accepts publicly funded vouchers (Crisafulli, 2003; Marshall, 2002a; Van Geel, 2003). Thanks to the split decision and numerous differing opinions involved in *Zelman*, the Supreme Court has set the stage for numerous and ferocious political and legal debates at the state level regarding the scope of subsequent voucher programs and the possible reach of any attendant state regulation (Minow, 2003; Sullivan, 2003; Van Geel, 2003).

Santa Fe

In *Santa Fe Independent School District v. Doe* (2000), the Supreme Court ruled, in a six to three decision, that prayers broadcast over a high school’s public announcement system prior to the start of a football game violated the establishment clause of the Constitution. The school district had been in litigation since 1995 over various practices. They included teachers promoting Christian revivals and chiding students who were nonadherents, administrators sponsoring the election of an official “student chaplain,” and school personnel allowing students to read Christian invocations at graduation and football games (Gey, 2001; McCarthy, 2001; Veen, 2000). Two religious-minority families—one Catholic and one Mormon—sued the district. The federal court permitted them to file under the name of *Doe*, given the high degree of hostility already encountered by religious minorities within that community.

The case presented to the Supreme Court focused solely on the issue of prayers broadcasted over a loudspeaker system at football games. The school board stated that the prayers were student led and therefore, private religious speech. However, the Court majority found that the mechanism of a school-wide election prior to the game to determine who would give “a speech”

carried the stamp of state endorsement because the school authorized the election in the first place (Gey, 2000, 2001; McCarthy, 2001). Given the majoritarian enterprise of elections, it was doubtful that any religious-minority viewpoint, or none, could ever be broadcast (see Lehman, 2001). The majority noted, "This student election does nothing to protect minority views but rather places the students who hold such views at the mercy of the majority" (*Santa Fe v. Doe*, 2000 at 304). Furthermore, the majority noted that given the mandated presence of cheerleaders and band members, and the overwhelming social pressures on adolescents to "fit in," the broadcasted prayers were coercive. Consequently, such practices by the school district violated the U.S. Constitution's establishment clause. The dissent, written by Chief Justice Rehnquist, was blistering, claiming that the majority's decision "bristles with hostility to all things religious in public life" (*Santa Fe v. Doe*, 2000, p. 318). Yet even the dissent conceded the election mechanism employed by the school district could generate unconstitutional results (see Kaminer, 2002).

The implications beyond Santa Fe are important for those public schools that maintain the custom of student-led prayer, not only at sporting and other extracurricular events but also at perhaps the most symbolic and tradition-bound public school ceremony: high school graduation. Many U.S. public high schools maintain some form of student-led prayer at commencement (Lehman, 2001). And the vast majority of these districts claim that student-initiated prayer is a form of constitutionally protected private speech. However, in light of Santa Fe and the Court's concern with religious coercion, it appears that such practices might not pass Supreme Court scrutiny (Karst, 2003; Lehman, 2001; Ryan, 2000).

Newdow

The final case for this discussion comes from the U.S. Court of Appeals for the Ninth Circuit, but is currently on appeal to the U.S. Supreme Court. In June of 2002, in *Newdow vs. U.S. Congress*, the ninth circuit court ruled that the daily recitation of the Pledge of Allegiance in public schools, which was mandated by the California State Legislature, violated the establishment clause of the U.S. Constitution. Newdow, an atheist, had objected to his daughter being exposed to the Pledge of Allegiance because she was compelled to "watch and listen to her classmates in a ritual proclaiming that there is a God, and that our's [sic] is 'one nation under God'" (see Yannella, 2002, p. 83). Drawing on the recent *Santa Fe* decision, the ninth circuit court noted that Congress had amended the Pledge in 1954 to include the words *under God* largely in response to the "godless Communism" of our cold war enemy, the Soviet Union. As such, the legislative purpose was specifically to advance

religion, something that the Congress is barred by the Constitution from doing (see *Newdow v. U.S. Congress*, 2002). The majority noted:

In the context of the Pledge, the statement that the United States is a nation “under God” is an endorsement of religion. It is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation “under God” is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase “one nation under God” in the context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and—since 1954—monotheism. The text of the official Pledge, codified in federal law, impermissibly takes a position with respect to the purely religious question of the existence and identity of God. A profession that we are a nation “under God” is identical, for Establishment Clause purposes, to a profession that we are a nation “under Jesus,” a nation “under Vishnu,” a nation “under Zeus,” or a nation “under no god,” because none of these professions can be neutral with respect to religion. (*Newdow v. U.S. Congress*, 2002, pp. 607-608, footnotes omitted)

The political reaction to the ninth circuit court decision has been overwhelmingly negative (Yannella, 2002). Nevertheless, the decision has survived several subsequent legal challenges. The entire ninth circuit court denied a request for a rehearing in February of 2003, although it did issue a stay allowing public schools to continue to use the Pledge. The current Bush administration has requested that the Supreme Court intervene, and the high Court has agreed to hear the case. However, the Court will be missing one member—Justice Scalia—because he has recused himself given his own public and highly negative comments on the ninth circuit court’s decision.

In addition, the decision itself is carefully crafted, drawing on Supreme Court precedence. The high Court has been clear in its own decisions regarding religion and public education. As legal scholar James Ryan (2000) has observed, there “is a distinction between education and religious proselytizing. The Court has consistently made clear that it is constitutional to teach about religion. . . . Schools are not free, however, to promote religion” (pp. 1383-1384, footnotes omitted). Because the ninth circuit court saw the Pledge regulation as a state-sponsored statement of patriotism and a confession of religious faith, it held that the recitation of the 1954 version in public schools is unconstitutional. The Supreme Court may very well let the current decision stand and wait for another time to render a definitive ruling.

When these three cases (*Zelman*, *Santa Fe*, and *Newdow*) are taken together, it seems that the federal judiciary is mapping a two-track system when it comes to religion—particularly the establishment clause—and edu-

education. If the matter involves using public money to provide students an education at religious schools, this is permissible under certain, if somewhat unclear, conditions. It appears the judiciary has a fairly fluid conception of the establishment clause—at least as it pertains to private religious entities that receive public monies. However, if the issue involves religious practices, such as prayer, education, and public schools, these practices must be truly individual and private—not tied to the state in any manner. In contrast to the fluidity involved with private religious organizations, the courts have taken an increasingly strict approach with public schools. Furthermore, with the *Newdow* decision, what is known as ordinary *ceremonial deism* (see Epstein, 1996), or the customary religious references such as *One nation under God* and *In God we trust*, may receive greater judicial scrutiny if they occur in public school settings.⁵ It would seem that the public schools are becoming less “officially Protestant” in cultural tone than at any point in their history.

THE CURRENT BUSH ADMINISTRATION

All things being equal, I would prefer to have a child in a school where there's a strong appreciation for values, the kind of values that I think are associated with the Christian communities, and so that this child can be brought up in an environment that teaches them to have strong faith and to understand that there is a force greater than them personally. —Secretary of Education Rod Paige (from a March 7, 2003 interview) (Baptist Press, 2003)

Since 2001, the current Bush administration has tried building closer ties between the federal government and religious organizations, as well as promoting greater religious expression in the public sphere. From establishing a White House Office of Faith-Based Initiatives, to publishing recently a new set of regulations concerning prayer in public schools, the administration has been clear in its embrace of religiosity as well as “faith-based” solutions for a myriad of social ills. This is not a surprise, given the apparent overall religiosity of many of the administration's current personnel (McLaughlin, 2002). In addition, Protestant conservatives⁶ have composed a core political constituency of the national Republican Party since the early 1980s (Diamond, 1995; Fraser, 1999; Wilcox, 1996). In addition to the White House office, the administration has successfully established faith-based centers in the Departments of Education, Health and Human Services, Housing and Urban Development, Justice, and Labor (McLaughlin, 2002). Each federal department offers competitive grants to religious organizations that are willing to provide specific social services to the targeted groups (children at risk, the homeless, people who are addicted, prisoners, the elderly, and families on welfare).

In addition to establishing its faith-based center, the Department of Education has issued regulations regarding the role of religion in public schools. In February of 2003, it released guidelines concerning prayer and other religious practices in public schools. These guidelines were amendments to the larger and recently reauthorized Elementary and Secondary Education Act, renamed the No Child Left Behind Act of 2001. According to the guidelines, “a local educational agency (‘LEA’) must certify in writing to its State educational agency (‘SEA’) that it has no policy that prevents, or otherwise denies participation in, constitutionally-protected prayer in public schools as set forth in this guidance” (U.S. Department of Education, 2003, para. 1). The Clinton administration issued regulations on three separate occasions covering prayer and public schools (Haynes, 2003). However, unlike the more general guidelines that were promulgated between 1993 and 2001, the current regulations contain some important sanctions if individual school districts fail to comply. Districts that run afoul of the new federal prayer regulations could be sanctioned, including the loss of federal aid. What makes these regulations striking is that they contain no such penalty if public schools promote religious practices that are blatantly unconstitutional—such as sponsoring prayer at football games or at graduation ceremonies (see Lehman, 2001). Furthermore, contrary to the warnings contained in the regulations, the Department of Education currently has no statutory authority to fiscally penalize districts for running afoul of these regulations (see Americans United for Separation of Church and State, 2003).

Portions of these regulations seem to be an attempt to overturn a series of lower court and Supreme Court rulings, particularly as they relate to student use of religious themes in homework assignments and teacher involvement in on-site religious activities. Although the regulations imply that teachers may be involved with on-campus student religious activities and that students may make religious presentations as part of the academic work, various courts have consistently ruled otherwise (Americans United for Separation of Church and State, 2003). In addition, although the regulations may be inconsistent with both case law and the enabling language of No Child Left Behind, they are consistent with both Secretary Paige’s now famous Christian preferences,⁷ as well as those of much of the current administration. For example, in 2000, then candidate George Bush stated, “I have a problem with the teachings of Scientology being viewed on the same par as Judaism or Christianity” (Goodstein, 2001, p. A1), a statement that does not bode well for a truly ecumenical approach when it comes to mixing religion and public services. It is more likely than not that the federal Department of Education favors promoting mainstream religious practices in public schools, par-

ticularly if they are Christian, over public schools remaining religiously neutral or promoting the practices of religious minorities.

Such a theological preference raises both Constitutional and political problems, particularly in an increasingly diverse and pluralistic society such as the United States (French, 2003). As scholars Kramnick and Moore (1997) have elegantly noted, the U.S. Constitution, by design, is a godless document—failing to mention God, Yahweh, Jehovah, Jesus, or Allah. Yet, the current executive branch, by strongly hinting that it holds a religious preference (Christianity) and concurrently pursuing policies that seem to favor this preference, runs the risk of having its policies rejected by the larger general public and/or overturned by the federal judiciary. As the polling data reveal, Americans are supportive of the notion of greater religious expression in public schools as well as greater public support for religious educational organizations, until they are confronted with details of who is to be funded and how as well as the specific religious practices to be promoted. This support becomes increasingly fragile as the issues become increasingly complex (see McLaughlin, 2002). Consequently, it is unlikely that the current administration will be able to engender judicial or political support for lasting change in the federal approach. But like the earlier Reagan administrations, it is probable that the current administration will continue to make public statements voicing its preferences and occasionally engaging in losing political debates to appeal to a core political constituency (see Lugg, 1996).

THE POLITICS OF RELIGION AND CURRICULUM

Evolution is destroying our Christian kids' faith in God. —Reverend Robert Simonds, 1991 (Gaddy et al., 1996)

Historically, the curriculum used by public schools has been an area of great contention, particularly in the areas of religious practice, belief, and tolerance (Apple, 2001; Fraser, 1999; Karst, 2003; Ryan, 2000; Zimmerman, 2002). Early public schools espoused a loosely Protestant ethos, which although it was not doctrinally tied to any specific sect, could be anti-Catholic and anti-Semitic (Fraser, 1999; Karst, 2003; Moore, 1994). For example, one 19th-century Catholic observer found that more than a few public school texts were fiercely anti-Catholic: "The term 'Popery' is repeatedly found in them. The term is known and employed as one of insult and contempt towards the Catholic religion, and it passes into the minds of children" (Fraser, 1999, p. 55). Although much—but not all—of the hostility toward minority religions and minority-religious students has abated, there are still fierce debates regarding religion and its place within curricular contexts.

These tensions are highlighted by some recent developments in perhaps the two most volatile of curricular areas: science and sexuality education.

Science, in particular the place of evolution within the public school science curriculum, has been generating heated political debates for nearly eight decades (Fraser, 1999; Greenawalt, 2003; Karst, 2003; Kitcher, 1982; Marty, 2000; Pennock, 1999; Rosenberg, 2001). From the famous Scopes trial in Tennessee during the 1920s to the Kansas State Board of Education's August 1999 decision to remove evolution from the state science standards, conservative Protestants have continually objected to the teaching of evolutionary science in public schools. Much of their objections have been predicated on their contention that evolution contradicts the literal Biblical story of creation and, hence, presents a threat to their religious faith (Armstrong, 2000).⁸

During the past 15 years, conservative Protestants have had some impressive political successes in placing members on state and local school boards, which in turn have been able to rewrite various curricular policies involving science (Gaddy et al., 1996; George, 2001; Kirkpatrick, 2000; Rosenberg, 2001). Nevertheless, they have found few subsequent successes in the courtroom when their curricular changes were challenged on legal grounds (Bruce, 2000; Greenawalt, 2003). This lack of legal success is largely due to the legacy of two Supreme Court decisions. The high Court ruled that (a) states could not ban the teaching of evolution in public schools (*Epperson v. Arkansas*, 1968) and (b) public schools that taught creation science violated the establishment clause (*Edwards v. Aguillard*, 1987) (Greenawalt, 2003; Pennock, 1999; Wexler, 1997). Furthermore, a federal court ruled in 1982 that science and scientific theory contained the following characteristics:

(1) it is guided by natural law; (2) it has to be explanatory by reference to natural law; (3) it is testable against the empirical world; (4) its conclusions are tentative, i.e., are not necessarily the final word; and (5) it is falsifiable. (*McLean v. Ark. Bd. of Educ.*, 1982, as cited in Greenawalt, 2003, p. 369)

Because creationism is based in theology, it fails each of these tests.

Consequently, some conservative Protestants have moved the debate away from the long-standing creationism versus evolution curriculum debate—a legally fruitless pursuit in the long term—toward promoting a new amalgam of science and theology called intelligent design (ID). Unlike earlier creationist attempts to fuse religion and science into public school curricula, ID tries to avoid any obvious creationist trappings and concedes the larger point that evolution might have occurred while still leaving the door open to having a creator of some sort involved in biological processes (Barbour,

2002). Proponents of ID omit any direct mention of the Biblical story of creation, and they are deliberately vague regarding “the nature of Creation, the separate ancestry of humans and apes, the explanation of earth’s geology by a catastrophic global flood, or the age of the earth” (Pennock, 1999, p. 227). Instead, ID advocates spend much of their rhetorical efforts on underscoring evolution’s many unanswered questions. Because ID is merely a competing theory, proponents claim that ID should be included in the science curriculum under a “multicultural rubric” (Greenawalt, 2003; Pennock, 1999).

But science is not democracy, as one working scientist has pointed out in an op-ed piece (Moore, 2002). ID, like early versions of creationism, also fails the test for science formulated in *McLean* (see Greenawalt, 2003). The political paradox confronting science education within U.S. public schools is that although science is not democratic, educational policies can be quite sensitive to democratic pressures—by design (Barbour, 2002). By appearing to jump on the multicultural bandwagon, ID proponents have been able to exploit broad democratic impulses to substitute theology for science in some school systems including—if temporarily—the state of Ohio. With the increasing pressure wrought by the standards movement, the tension between faith and science and implications for science education will continue to ebb and flow.

However vexing evolution might be for some people of faith, perhaps no other area involving public education has seen as great political turmoil as sexuality education (Diamond, 1998; Fraser, 1999; Karst, 2003; Marty, 2000; Zimmerman, 2002). Given their vehemence, this is the one area where conservative Protestants, some times in conjunction with other like-minded citizens including conservative Catholics, Jews, and Muslims (Lugg, 1998; Zehr, 2003), have consistently influenced the direction of the curriculum. In many cases, they have blocked implementation of comprehensive sexuality education programs (Eskridge, 2000; Jones, 2002; Seiler, 2002; Vergari, 2000).⁹ At present, only 19 states have comprehensive programs, although all 50 states mandate HIV/AIDS education in their public schools (Seiler, 2002). Furthermore, in the vast majority of extant HIV/AIDS programs and sexuality education programs, promoting sexual abstinence is the core pedagogical issue (Arndorfer, 2000; Kirby, 2002), with school districts increasingly favoring an “abstinence only” approach (Jones, 2002; Kirby, 2002).

In addition, issues of sexual orientation and identity are generally either avoided or are addressed in a limited and inaccurate manner. According to legal scholar William Eskridge (2000),

some states have laws requiring sex education or AIDS education programs in public schools to emphasize that “homosexual conduct is not an acceptable lifestyle” and is

illegal. Other states and presumably many localities have followed the same policy informally or on a school-by-school basis. A milder policy generally followed in state and local regulations is to allow parents to opt their children out of sex education policies. Such opt-out policies are grounded on common law or substantive due process recognition of parental rights to manage their children's upbringing and even education and allow homophobic or sex-negative parents to shield their children from information they feel would be corrupting. (pp. 1359-1360, internal citations omitted)

Ironically, the polling data indicate that most Americans favor a comprehensive approach to sexuality education (Arndorfer, 2000; Jones, 2002). Nevertheless, religious conservatives of many faiths have been remarkably successful in limiting the expansion of sexuality education in public education as well as sharply curtailing the scope of extant programs.

These politics involving sexuality education are sure to intensify in light of the U.S. Supreme Court's recent decision in *Lawrence v. Texas* (2003), which decriminalized private consensual sodomy. Given the hostility of many conservative people of faith toward lesbian, gay, bisexual, and transgendered issues being even mentioned in public school settings (Apple, 2001; Lugg, 1998, 2003), this is sure to become an important focus as states revise their HIV/AIDS and sexuality education curricula, as well as other policies, to align with this decision.

CONCLUSION

One day I woke up and wondered: maybe today I should be a Christian, or would I rather be a Buddhist, or am I just a Star Trek freak? —Vicki Feinstein (Roof, 1999, p. 139)

Historically, Americans have been notoriously idiosyncratic and heterodox when it comes to matters of faith (Ahlstrom, 1972; French, 2003; Roof, 1999). In a country with no state church or mosque, and where individuality strongly resonates, American religious life has been characterized by experimentation, innovation (see Ahlstrom, 1972), and mass commercialization (Moore, 1994). These long-standing cultural norms have only grown stronger during the past 20 years (see French, 2003; Roof, 1999). Americans are increasingly either "shopping" for a specific faith or applying a smorgasbord approach to religious life, taking sprinklings from one or more faith traditions and happily depositing them over another (see French, 2003; more generally Moore, 1994). Furthermore, it is more likely that children will embrace cultural (and religious) identities that differ from their parents' (see Karst, 2003). This polyglot of religious beliefs and practices is not surprising in a highly diverse society that has an officially secular government. Never-

theless, such religious diversity has important implications for the politics of education.

First, the legal decisions involving education, religion, and public funding seem to embrace a consumer approach. The Supreme Court's reasoning in *Zelman* reflects the notion that education is a commodity, including education provided by religious institutions. So long as a publicly funded voucher system neither favors nor disfavors attempts by religious schools and public schools to expand educational diversity and presents education as a consumer item, the plan should pass judicial muster. Yet the Court's notion that religious education is merely a consumer product is surely offensive to religious proponents of expanded school choice. Although many Americans do take a consumer or shopping mall approach to faith (see French, 2003; Roof, 1999), it is a bit of a leap in logic to assume that all parents seeking vouchers to fund religious education for their children are similarly motivated. Second, in the case of public schools and religious practice, such practices must be truly private. Given the increasing religious diversity of public school students, it seems probable that courts will view even practices that traditionally fell into the category of ceremonial deism with heightened skepticism. Third, although the current Bush administration is embracing closer ties between faith institutions and public funding, the administration's own theological preferences may endanger broad-based and lasting political support for its policy initiatives. At present, it has had little success in either dramatically shifting public funds toward private religious schools or greatly expanding the space for state-sanctioned religious practices. Finally, in the areas of curriculum, religion, and public education, the on-going tensions involving sexuality education and science education will continue. However, the specifics are evolving, with the counters of the evolution battles constricting whereas those involving sexuality education have been dramatically expanded.

These on-going and historic tensions involving religion and the politics of education are emblematic of the dilemmas within the larger political culture (Zimmerman, 2002). As scholar Michael Apple (2001) has observed:

Education is a site of struggle and compromise. It serves as a proxy as well for larger battles over what our institutions should do, who they should serve, and who should make these decisions. And yet, by itself, it is one of the major arenas in which resources, power, and ideology specific to policy, finance, curriculum, pedagogy, and evaluation in education are worked through. Thus, education is both cause and effect, determining and determined. (p. 36)

In a post-9/11 world, religion and the politics of public education within the United States have taken on an increased poignancy. There is an ongoing

national, as well as global, debate over the roles of religious faiths within a secular society that is increasingly spiritually diverse and diffuse. To raise only a few of many questions: Is religious faith a stabilizing or destabilizing political influence? If religious organizations are to receive public funds, are certain social and/or religious groups favored or disfavored? How are the rights of religious minorities and those who follow no faith tradition protected? In the United States, the outcomes of these struggles and compromises involving education and religion will lay the groundwork for our future political culture.

NOTES

1. One example of the fluidity of religious identity is that of President George W. Bush. His parents were and remain Episcopalians; he was raised in the Presbyterian Church and later converted to the United Methodist Church.

2. At this writing, 24 states have passed some form of voucher legislation.

3. The Apostles' Creed is a basic statement of faith for the majority of Christians. With its acknowledgment of the divinity of God, Jesus, and the Holy Spirit, and its roots in both the monotheism of Judaism and polytheistic systems of ancient Greece (see Lugg, 1999), the Apostles' Creed stands in contradiction of the strict monotheism of Islam, which states "There is only one God, and Mohammed is his servant."

4. The Lemon Test was established by the Court in *Lemon v. Kurtzman* (1971). The test comprises three prongs: Any policy or regulation must have (a) a secular purpose, (b) a secular effect, and (c) there must be no "excessive government entanglement" with religion.

5. Although most Americans are quite comfortable in these seemingly innocuous and traditional invocations (Lugg, 1999), they might not be quite as comfortable with public school children reciting the phrases *One nation under Beelzebub* or *Satan bless America*.

6. The terminology surrounding people of faith as conservative political activists has been imprecise, inaccurate, and politically volatile. The present author has not helped in this matter (see Lugg, 1996, 1998, 1999, 2000, 2001). Although much of the academic research literature tends to use the descriptors *evangelicals*, *fundamentalists*, *conservative Christians*, *Christian Right*, *New Christian Right*, and *Religious Right*, such language generally misses an obvious point. The overwhelming majority of these activists are Protestants. An earlier version of this article used the term *conservative Christians*. However, a dear colleague who is Catholic gently pointed out that my earlier usage of *Christian* reifies an old anti-Catholic slur that Catholics are not Christians. Consequently, my use of *conservative Protestant* is my mea culpa.

7. Paige remained unrepentant in light of the controversy his March 2003 remarks generated.

8. Although many conservative Protestants reject evolution, Catholics and mainstream Protestants have concluded that evolutionary science and Christian belief are compatible (Pennock, 1999). In addition, antievolutionary sentiment seems to be particular to the United States.

9. Comprehensive sexuality education programs cover sexual orientation, sexual identity, sexual development, reproduction, contraception, sexually transmitted diseases, abortion, healthy sexual relationships, marriages and families, boundary setting, and abstinence.

REFERENCES

- Abington School District v. Schempp*, 374 U.S. 203 (1963).
- Ahlstrom, S. E. (1972). *A religious history of the American people*. New Haven, CT: Yale University Press.
- Americans United for Separation of Church and State. (2003). *An analysis of the "Guidance on constitutionally protected prayer in public elementary and secondary schools."* Retrieved May 15, 2003, from <http://www.au.org/legal/publicschoolguidance.htm>
- Apple, M. W. (2001). *Educating the "right" way: Markets, standards, god, and inequality*. New York: Routledge-Falmer.
- Armstrong, K. (2000). *The battle for God*. New York: Knopf.
- Arndorfer, E. (2000). Absent abstinence accountability. *Hastings Constitutional Law Quarterly*, 27, 585-595.
- Baptist Press. (2003, April 11). *Transcript of interview with the secretary of education* (March 7, 2003 interview with Secretary of Education Rod Paige). Retrieved May 4, 2003, from <http://www.baptistpress.com/bpnews.asp?ID=15707>
- Barbour, V. (2002). Science and myth. *The Lancet*, 359(9315), 1364.
- Blasi, V. (2002). Vouchers and steering. *Journal of Law & Politics*, 18, 607-633.
- Boyd, W. L., Lugg, C. A., & Zahorchak, G. L. (1996). Social traditionalists, religious conservatives and the politics of outcome-based education: Pennsylvania and beyond. *Education and Urban Society*, 28(3), 347-365.
- Bruce, S. (2000). Zealot politics and democracy: The case of the new Christian right. *Political Studies*, 48(2), 263-282.
- Crisafulli, S. J. (2003). *Zelman v. Simmons-Harris*: Is the Supreme Court's latest word on school voucher programs really the last word? *Fordham Law Review*, 71, 2227-2281.
- Diamond, S. (1995). *Roads to dominion: Right-wing movements and political power in the United States*. New York: Guilford.
- Diamond, S. (1998). *Not by politics alone: The enduring influence of the Christian right*. New York: Guilford.
- Edwards, J. (1998). *Opposing censorship in the public schools*. Mahwah, NJ: Lawrence Erlbaum.
- Edwards v. Aguillard*, 482 U.S. 578 (1987).
- Epperson v. Arkansas*, 393 U.S. 97 (1968).
- Epstein, S. B. (1996). Rethinking the constitutionality of ceremonial deism. *Columbia Law Review*, 96, 2083-2174.
- Eskridge, W. N., Jr. (2000). No promo homo: The sedimentation of antigay discourse and the channeling effect of judicial review. *New York University Law Review*, 75, 1327-1411.
- Fraser, J. W. (1999). *Between church and state: Religion and public education in a multicultural America*. New York: St. Martin's.
- French, R. (2003). Shopping for religion: The change in everyday religious practice and its importance to the law. *Buffalo Law Review*, 51, 127-199.
- Fried, C. (2002). Five to four: Reflections on the school voucher case. *Harvard Law Review*, 116, 163-198.
- Gaddy, B. B., Hall, T. W., & Marzano, R. J. (1996). *School wars: Resolving our conflicts over religion and values*. San Francisco: Jossey-Bass.
- George, M. (2001). And then God created Kansas? The evolution/creationism debate in America's public schools. *University of Pennsylvania Law Review*, 149, 843-872.
- Gey, S. G. (2000). When is religious speech not "free speech"? *University of Illinois Law Review*, 379-460.

- Gey, S. G. (2001). The no religion zone: Constitutional limitations on religious association in the public sphere. *Minnesota Law Review*, 85, 1885-1916.
- Gilman, M. E. (2002). "Charitable choice" and the accountability challenge: Reconciling the need for regulation with the First Amendment religion clauses. *Vanderbilt Law Review*, 55, 799-888.
- Goodstein, L. (2001, February 20). Bush's call to church groups to get untraditional replies. *The New York Times*, p. A1.
- Green, S. K. (2002). The illusory aspect of "private choice" for constitutional analysis. *Willamette Law Review*, 38, 549-577.
- Greenawalt, K. (2003). Establishing religious ideas: Evolution, creationism and intelligent design. *Notre Dame Journal of Law, Ethics & Public Policy*, 17, 321-397.
- Gresock, J. (2001). No freedom from religion: The marginalization of atheists in American society, politics, and law. *Margins*, 1, 569-610.
- Haynes, C. (2003, February 16). *Schools may pay the price if they ignore new guidelines on religion*. First Amendment Center. Retrieved June 8, 2003, from <http://www.freedomforum.org/templates/document.asp?documentID=17561>
- Jones, J. (2002). Money, sex and the religious right: A constitutional analysis of federal funded abstinence-only-until-marriage sexuality education. *Creighton Law Review*, 35, 1075-1105.
- Kaminer, D. (2002). Bringing organized prayer in through the back door: How moment-of-silence legislation for the public schools violates the establishment clause. *Stanford Law & Policy Review*, 13, 267-322.
- Karst, K. L. (2003). Law, cultural conflict, and the socialization of children. *California Law Review*, 91, 967-1027.
- Kirby, D. (2002). The impact of schools and school programs upon adolescent sexual behavior. *Journal of Sex Research*, 39(1), 27-33.
- Kirkpatrick, L. D. (2000). Forgetting the lessons of history: The evolution of creationism and current trends to restrict the teaching of evolution in public schools. *Drake Law Review*, 49, 125-145.
- Kitcher, P. (1982). *Abusing science: The case against creationism*. Cambridge, MA: MIT Press.
- Kramnick, I., & Moore, L. (1997). *The godless Constitution: The case against religious correctness*. New York: Norton.
- Lawrence v. Texas* (2003). [The complete citation will not be available until spring 2004. Please see <http://www.supremecourtus.gov>.]
- Layton, D. H. (1996). Religion and the politics of education. *Education and Urban Society*, 28(3), 275-278.
- Lehman, D. M. (2001). The godless graduation ceremony? The state of student-initiated graduation prayer after *Lee v. Weisman* and *Santa Fe Independent School District v. Doe*. *Colorado Law Review*, 72, 175-199.
- Lemon v. Kurtzman*, 403 U.S. 602 (1971).
- Lugg, C. A. (1996). *For God and country: Conservatism and American school policy*. New York: Peter Lang.
- Lugg, C. A. (1998). The religious right and public education: The paranoid politics of homophobia. *Educational Policy*, 12(3), 267-283.
- Lugg, C. A. (1999). *Kitsch: From education to public policy*. New York: Falmer.
- Lugg, C. A. (2000). Reading, writing and reconstructionism: The Christian Right and the politics of public education. *Educational Policy*, 14(5), 622-637.
- Lugg, C. A. (2001). The Christian Right: A cultivated collection of interest groups. *Educational Policy*, 15(1), 41-57.

- Lugg, C. A. (2003). Sissies, faggots, lezzies and dykes: Gender, sexual orientation and the new politics of education. *Educational Administration Quarterly*, 39(1), 95-134.
- Marshall, W. P. (2002a). Remembering the values of separatism and state funding of religious organizations (charitable choice): To aid is not necessarily to protect. *Journal of Law & Politics*, 18, 479-498.
- Marshall, W. P. (2002b). The limits of secularism: Public religious expression in moments of national crisis and tragedy. *Notre Dame Law Review*, 78, 11-33.
- Marty, M. E. (2000). *Education, religion and the common good*. San Francisco: Jossey-Bass.
- McCarthy, M. (2000). Religion and education: Whither the establishment clause? *Indiana Law Journal*, 75, 123-166.
- McCarthy, M. (2001). Preserving the establishment clause: One step forward and two steps back. *Brigham Young University Education and Law Journal*, 271-298.
- McLaughlin, S. T. (2002). More than meets the eye: President Bush's faith-based initiative. *University of Memphis Law Review*, 33, 41-81.
- McLean v. Arkansas Board of Education*, 529 F. Supp. 1255, 1267 (E.D. Ark. 1982).
- Minow, M. (2003). Values in an era of privatization: Public and private partnerships—Accounting for the new religion. *Harvard Law Review*, 116, 1229-1270.
- Moore, R. (2002). America's anti-evolution movement. *Academic Questions*, 15(2), 69-78.
- Moore, R. L. (1994). *Selling God: American religion in the market place of culture*. New York: Oxford University Press.
- Newdow v. U.S. Congress*, 292 F.3d 597, 607-608 (9th Cir. 2002).
- No Child Left Behind Act of 2001*, Pub. L. No. 107-110, 20 U.S.C. 6301 et seq.
- Pennock, R. T. (1999). *Tower of Babel: The evidence against the new creationism*. Cambridge, MA: MIT Press.
- Provenzo, E. F., Jr., & McCloskey, G. N. (2000). Religion and public education: An introduction to the special issue. *Educational Policy*, 14(5), 541-547.
- Roof, W. C. (1999). *Spiritual marketplace: Baby boomers and the remaking of American religion*. Princeton, NJ: Princeton University Press.
- Rosenberg, D. M. (2001). Monkey business and unnatural selection: Opening the schoolhouse door to religion by discrediting the tenets of Darwinism. *Journal of Law and Policy*, 9, 611-690.
- Ryan, J. E. (2000). The Supreme Court and public schools. *Virginia Law Review*, 86, 1335-1433.
- Ryan, J. E., & Heise, M. (2002). The political economy of school choice. *Yale Law Journal*, 111, 2043-2136.
- Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000).
- Seiler, N. K. (2002). Abstinence-only education and privacy. *Women's Rights Law Reporter*, 24, 27-41.
- Sullivan, K. M. (2003). The new religion and the Constitution. *Harvard Law Review*, 116, 1397-1421.
- Tabbaa-Rida, Z. (2003). *Muslim women reflecting on American education: Exploring the question of educational identity*. Unpublished manuscript, Rutgers University, New Brunswick, NJ.
- U.S. Department of Education. (2003, February 7). *Guidance on constitutionally protected prayer in public elementary and secondary schools*. Retrieved June 8, 2003, from http://www.ed.gov/inits/religionandschools/prayer_guidance.html
- Van Geel, T. (2003). Vouchers, the Supreme Court, and the next political rounds. In W. L. Boyd & D. Miretzky (Eds.), *American educational governance on trial: Change and challenges* (pp. 136-154). Chicago: University of Chicago Press.

- Veen, J. (2000). Where do we go from here? The need for consistent establishment clause jurisprudence. *Rutgers Law Review*, 52, 1195-1227.
- Vergari, S. (2000). Morality politics and educational policy: The abstinence-only sex education grant. *Education Policy*, 14(2), 290-310.
- Wexler, J. D. (1997). Of Pandas, people, and the First Amendment: The Constitutionality of teaching intelligent design in the public schools. *Stanford Law Review*, 49, 439-470.
- Wilcox, C. (1996). *Onward Christian soldiers? The religious right in American politics*. Boulder, CO: Westview.
- Yannella, P. N. (2002). Stuck in the web of formalism: Why reversing the ninth circuit's ruling on the Pledge of Allegiance won't be so easy. *Temple Political & Civil Rights Law Review*, 12, 79-94.
- Zehr, M. A. (2003, February 5). Culture clash. *Education Week*, 22(21), 26-30.
- Zelman v. Simmons-Harris*, 122 S. Ct. 2460 (2002).
- Zimmerman, J. (2002). *Whose America? Culture wars in the public schools*. Cambridge, MA: Harvard University Press.

Catherine A. Lugg is currently an assistant professor of education at the Graduate School of Education, Rutgers University. Her research interests include educational policy and politics, leadership, political and social history, and queer history and politics. She has published in Educational Administration Quarterly, Educational Policy, the Journal of School Leadership, The American Journal of Semiotics, Pennsylvania History, and Education and Urban Society.