R. Stephen Warner

PARAMETERS OF PARADIGMS: TOWARD A SPECIFICATION OF THE U.S. RELIGION MARKET SYSTEM

Abstract

The «New Paradigm» for the sociology of religion announced in 1993 was not intended to serve as a general theory. Rather it represented a claim that religion in the United States operates according to institutionalized patterns that are distinct from European patterns. In particular, the U.S. system is diffusely pro-religious; the rights of religious minorities, while not always honored, are deeply institutionalized in U.S. tradition. Why this pattern should obtain was not explained in the 1993 article. The present article attempts to do so. A key insight is found in the observation that the rights of racial minorities are better institutionalized in France and the rights of religious minorities less so than in the U.S. Histories of the founding period of the U.S. as a political entity—especially the writing of the Constitution and the Bill of Rights (1787–1789) and acts of Congress and the Executive Branch in the early republic (1790–1803)—are accessed to understand the deep seated pattern by which intergroup difference in the U.S. tends to be played out disproportionately on the religious stage.

Key words: religion, race, immigration, paradigm, Native Americans, African Americans, United States, France

Prologue

The announcement of a «new paradigm» in sociology of religion (Warner 1993) was sufficiently cryptic as to cause serious confusion. In particular, some interpretations of the «new paradigm» proposed the application to religion in general of what I would characterize as falsely universalistic theorizing, very much at variance with my intention. This article, offered by way of clarification, intends to add analytic specificity to the new paradigm.

What was proposed in the 1993 article was not that a new theory (e.g., rational choice) be adopted by the sociology of religion in general but that a new paradigm be adopted for the understanding of religion specifically in the United States, as the title of the article stated. But the key concept of a «paradigm» was left undefined. A later
commentary (Warner 1997) supplied the missing definition: «A paradigm is a ‘gestalt’ (Kuhn 1970: 112, 122, 204), a way of seeing the world, a representation, picture, or narrative of the fundamental properties of reality.» The claim of the 1993 article was that religion in the U.S. works differently from religion in most of Europe and that the study of U.S. religion must therefore be freed from the blinders imposed by the imposition of a framework (called, invidiously, the «old paradigm») that had been developed to account for the experience of religion in Europe.

Aspects of the U.S.-specific «new» paradigm were found in the works of historians of U.S. religion dating back to the 1950s and anthropologists of the 1970s, as well as more recent sociologists and economists. Indeed, to call the paradigm «new» was itself misleading, for the idea that American religious organizations had flourished since early in the 19th century under the condition of disestablishment and an open market system was new only to sociologists steeped in the Eurocentric old paradigm, with its baseline presupposition of an established religious monopoly. Grace Davie’s notion (2002) of different «conceptual maps» for religion in America, Europe, East Asia, Africa, and Latin America is, in this perspective, a concept parallel to what I call a «paradigm».

My 1993 article went on to say that the religious open market in the U.S. brought about by disestablishment made it possible for religious institutions to accommodate the enormous cultural diversity generated in the U.S. by social class, racial, regional, and urban/rural differentiation and brought to the country by wave after wave of immigration. Because laws could not differentiate among religions, the system was structurally flexible and religious institutions could serve as vehicles of popular empowerment. Because religion could not be imposed, individuals were legally free to adopt whatever religion they wished. According to the article, these were the «fundamental properties» of religion in the U.S.

The 1993 article only hinted at why religion takes the form it does in the U.S. and therefore did not sufficiently guard against the temptation to extrapolate the U.S. experience to other societies, either by way of scholarship or social policy. In particular, the concept of an «open market» for religion might have suggested to some that it is enough for the state to take its hands off the sphere of religion and say, in effect, laissez faire to all interested parties. Indeed, some proponents of the general application of rational choice theory to religion (e.g., Finke and Stark 1992) insist on speaking of the U.S. religious market as «unregulated,» in seeming disregard of the long-ago admonition of Emile Durkheim to the effect that economic processes are not self-sufficient but must be understood as social constructions. «For sociologists, market exchange implies a whole background of social arrangements that economics does not even begin to hint at» (Fligstein and Dauter 2007: 113). For sociologists, markets «reflected the social and political construction of each society, where the history and culture surrounding class relations and the various kinds of interventions by governments produced unique institutional orders» (Fligstein and Dauter 2007: 110). The new sociology of markets challenges sociologists of religion to detail the «embeddedness» of the open market system of religion in the U.S.

Comparative in intention, striving to avoid a false universalism, the present paper takes up that task.
Thesis Statement

The U.S. has an open market for religion which is diffusely pro-religious, with increasingly broad boundaries. Americans are constrained to honor the rights of religious minorities (without denying the claims of religious majorities). Originally an overwhelmingly Protestant nation, the U.S. over time has come to accept Catholics and Jews as full constituents in our religious system to the extent that it is now a popular cliché for Americans to speak of «our Judeo-Christian heritage.» I claim (but will not here document) that the U.S. is on the road to accepting Buddhists, Hindus, Sikhs, and even Muslims as fully American by virtue of their religion. But despite great progress since the civil rights movement of the 1960s, the U.S. still has difficulty accepting non-whites, racial minorities, as full cultural citizens. Fifth generation Asian Americans are still asked «where are you from?» Dark-skinned Hispanics, no matter how many generations their families may have lived in the U.S., are suffering a new round of discrimination in the current climate of fear and hatred of «illegal immigrants.» African Americans still suffer from centuries not only of economic oppression but also social suspicion. For example, a black male jogging in a dominantly white suburb is likely to be harassed as a probable thief on the run. In many parts of the country black drivers are subject to special scrutiny, symbolized in the satirical charge DWB, «driving while black.» Black businessmen have more trouble than whites hailing cabs on busy downtown streets.

The U.S. is religiously open, where minorities are encouraged to express their difference as a matter of religion. «Collective religious identities have been one of the primary ways of structuring internal societal pluralism in American history» (Casanova 2007: 67). Yet the U.S. is suspicious of racial difference. These features of the American religious/racial system have deep-seated histories.

The U.S. stands in this respect in marked contrast to France, which, notwithstanding its dominantly secular culture, is suspicious of religious difference but remarkably open to racial minorities as long as they speak French, affirm Republican values and especially come from Francophone but Christianized countries. The French republican tradition «posits that anyone can join in the polity as long as he or she comes to share a political culture based on the universal (and superior) values of reason and progress. This principle has applied historically to members of colonies, including blacks» (Lamont 2000: 190). In the U.S., Muslims are relatively accepted as a religious minority, a situation that stands in contrast to the persistent problem of racial discrimination. France, by contrast, manifests greater racial openness but Muslims suffer religiously-based discrimination (Casanova 2007; Foner and Alba 2008). For well over a millennium, western and central European societies defined themselves as part of «Christendom» over against religious others (Islam, Judaism). By contrast, from early colonial days, the American colonists that became citizens of the U.S. defined themselves as «whites» over against a series of racial others (native Americans especially in the colonies and the advancing frontier, African Americans in the south and north, Chinese and other Asians in the west, Mexicans and other Hispanics in the southwest). These are among the reasons that religious differentiation is relatively less problematic (and racial differentiation more so) in the U.S. than in such countries as France.
The U.S. system today is religiously diverse and religiously robust, religiously open but indiscriminately pro-religious

Recent papers by Jose Casanova (2007) and Nancy Foner and Richard Alba (2008) document the comparatively more welcoming atmosphere of the U.S. to the public expression of immigrant religious communities in contrast to most European societies. One major factor, of course, is that the overwhelming majority of new (i.e., post-1965) immigrants to the U.S. are Christian, predominantly Catholics from Latin America but also from the Philippines and Vietnam, and Protestants also from Latin America as well as Korea (Warner 2006). Moreover, because of factors of geographical proximity and occupational preference provisions in the law, the U.S. immigrant population with the lowest average «human capital» (occupational skills and formal education) and thereby the least promising objective life chances is that of Mexicans, who are Christian, whereas the overall educational and occupational status of immigrant Muslims in the U.S. exceeds that of the native-born population. Thus, it is no surprise that Muslims in the U.S., unlike those in France, are not disproportionately found at the bottom of the class hierarchy and in the most marginalized residential locations in our cities. To be sure, Muslims are widely distrusted in the U.S., increasingly so after 9/11, but the U.S. experience suggests that the strenuous efforts of Muslims to gain public acceptance and the many expressions of support they have gained from spokespersons for other American religious communities will have the effect of Muslims joining the accepted ranks of the new category of «Abrahamic religions» in the not-too-distant future.

Two features of the U.S. religious system combine to make Americans comparatively more comfortable, or perhaps less nervous, about public displays of Muslim identity than tends to be true in Europe. The first is, notwithstanding the fact that Americans remain overwhelmingly Christian in broad religious identity, the U.S. is accustomed to religious diversity. There has never been only one correct church in the nation as a whole. Beginning with a profusion of Protestant sects whose rights were recognized early in our national history and later incorporating Catholics, Jews and Mormons as full cultural citizens by the middle of the 20th century, Americans approve religion and accept religious difference. President Eisenhower had it right when he said (perhaps apocryphally) that «Our government makes no sense unless it is founded on a deeply felt religious faith–and I don’t care what it is» (Warner 2005: 263). At the same time, in the 1950s, the Advertising Council ran relentless public service announcements promising that «the family that prays together stays together» (Isserman and Kazin 2000: 242). It didn’t seem to matter to whom they prayed.

Second, especially in comparison to most European countries, the U.S. remains religiously active, or, if you prefer, much less secularized. To be sure, Americans are inclined to exaggerate their levels of religious observance in opinion polls, but that only points up the fact that Americans think they are supposed to be religious whereas western Europeans think they are supposed to be irreligious (Casanova 2007). Religiosity occupies high moral ground in the U.S. Those immigrants who wish to express themselves religiously are not thereby made to feel alien by reason of their public reli-
giosity. Those immigrants who are not especially religious learn that religion is an acceptable vehicle in the U.S. for the expression of their home-country mores.

Striking confirmation of this ethnographically derived observation is found in recent survey research by Penny Edgell and her University of Minnesota colleagues. Edgell et al. (2006) demonstrate that having a religion–any religion–is a robust boundary marker in American society. Using 2003 national survey data, they show that Americans have less tolerance for «atheists» than for members of any other category or social group. As measured by subjects’ willingness to vote for one as President, to approve one’s child marrying one, or agreement that members of that group agree with one’s own vision of American society, «atheists» rank lower than Muslims, homosexuals, African Americans, Asian Americans, Hispanics, and any other historically marginalized group. Not that any of the respondents has any particular atheists in mind (Edgell et al. 2006: 228, 230). Self-acknowledged atheists are so few in America (Edgell et al. 2006: 214)² and it is so easy for one who would bear that stigma to «pass» that atheists are more imagined than identified in the public mind. What these attitudes do point to is the symbolic boundary of what it means to be American: «... the boundary between the religious and the non-religious is... about the historic place of religion in American civic culture and the understanding that religion provides the ‘habits of the heart’ that form the basis of the good society...» (Edgell at al. 2006: 230). Moreover: «It is possible that the increasing tolerance for religious diversity may have heightened awareness of religion itself as a basis for solidarity in American life and sharpened the boundary between believers and non-believers in our collective imagination» (Edgell at al. 2006: 231).

The forthcoming book by Margarita Mooney (2009) based on her recent Princeton PhD dissertation sheds additional light on the comparatively greater welcome immigrant religion receives in the U.S. than in Europe. Mooney studied Catholic immigrants from Haiti in three global cities, Miami, Montreal and Paris, in three historically immigrant-receiving countries, the U.S., Canada and France. Haitian immigrants in Québec and France tend on average to have higher human capital than those in the U.S., and French, the dominant language of the first two host countries, is the language of the Haitian elite and closely related to the French-based Creole of the common people. France and Canada also offer higher levels of social service provision than does the U.S. Moreover, as an African-origin population, Haitians face arguably greater racial discrimination in the U.S. For these reasons, one can imagine that the Haitians would feel more welcome in Québec and France than in the U.S. But that is not what Mooney found.

Instead the Haitians she interviewed expressed more confidence in their and their children’s future in Miami than did their counterparts in Montreal or Paris, and they have that confidence because of the encouragement they receive, culturally and institutionally, from their Catholic faith and practice. The respective Catholic communities offer immigrants different levels of what Mooney calls «institutional mediation,» where the hierarchy and the laity of the church in Miami have greater societal legitimacy in speaking and advocating on behalf of Haitian immigrants than does the church in either Canada or France, where any public role of the church is less acceptable.
A complicating factor has to do with the history of Haitian immigration to the three cities. The fact that the Haitian elite are fluent and literate in French allowed them, as earlier emigrés, to gain better access to Québec and French society than the later-arriving Creole-speaking common people, but that very access into secularized societies tended to erode their piety, eventually making them less effective mediators and advocates for the Haitian masses who followed them. That did not happen in the U.S. because the arrival of working class Haitian boat people in the 1980s was to a society characterized by higher levels of popular piety and was not preceded by a substantial presence of a prematurely secularized co-ethnic elite.

My broad claim is that among immigrant-receiving countries, the U.S. is a pro-religious host. This means that the immigration-religion nexus is cross-societally specific. From the outset, the U.S. has had a diffusely pro-religious culture, and that pro-religiousness serves to encourage religious expression among subgroups (e.g., racial minorities, immigrants, even gays and lesbians) and thereby to replicate over time the correlations between diversity and vitality in American religion. It is not, as proponents of the religious economies theory tend to say, that a free market of religion itself produces diversity of religion which in turn promotes vitality, but rather that the American context of reception encourages diversity of whatever source to take on a religious expression.

Qualifications on the U.S. Open Religious Market: It is not «Unregulated»

Across its constituent religious groups, the U.S. does not offer a wholly level playing field. Kurien (2006: 726–729) makes the particular case for Hindu Americans that could be made in different detail for other religious minorities in the U.S. (see, e.g., Cadge 2008). Namely, that in order to avail themselves of the perquisites of religious communities offered by the American open religious system (e.g., tax exemption, zoning regulations, religious worker visas), immigrants are institutionally constrained to emulate what American tradition, and to some extent American law, takes to be «religion.» Although the Internal Revenue Service, for example, does not intend to interfere with any group’s freedom to define the content of its own religion, it does have criteria for the proper form of a generic «church» that are clearly drawn from American Christian (and, to some extent, Jewish) models: the applicant organization must have a creed, a definite form of governance, regular congregational meetings and religious education programs, and a professionally trained ordained clergy. Some long-established American churches might themselves have trouble with some of these criteria, and some Hindu sects already approximated them prior to their arrival in the U.S. But these criteria are clearly (one might say inevitably) ethnocentric. Many Hindu organizations will, as it were, have to jump through hoops to qualify, especially in adopting what I have called «de-facto congregational» forms (Warner 1994, 2000).
Moreover, the U.S. religious system is not rigidly separationist. The U.S. is not a «secular» regime, and religious communities enjoy certain privileges. Long before the controversy over «faith-based initiatives» inspired by the presidency of George W. Bush, the separation of church and state was by no means absolute in the U.S. American currency (coins and paper bills) affirms that «In God We Trust.» The Great Seal of the United State contains the motto «Annuit Coeptis,» which translates as «He [God] has approved our undertaking.» Sessions of Congress are opened with prayer by an array of chaplains, including Protestants, Catholics, Jews, Muslims, and Hindus. Sessions of the Supreme Court are opened with the invocation, «God save this honorable court.» The Department of Defense certifies and employs military chaplains. Federal and state social service funds have long been channeled through huge religiously-based agencies like Catholic Charities and Lutheran Social Services.

Thus, the U.S. religious system is an institutionally specific system, with built-in biases (e.g., pro-religious, institutionally isomorphic), not simply an «unregulated religious market.»

Historical Roots of the U.S. Religious Market: The expression of religion and religious diversity has long been encouraged by the political system

*George Washington and Civil Religion*

George Washington (1732–1799), General of the Continental Army during the Revolutionary War (1775–1783) and first President (1789–1797) of the United States under the Constitution, played a major role in shaping the simultaneously non-sectarian but pro-religious orientation of the American church/state nexus. As Steven Waldman (2008: 68) puts it, Washington’s approach was that the attitude of government toward religion was to be «neutral but not secular.» In this regard, Washington seems to be the primary progenitor of the distinctively American «civil religion» (Bellah 1967) or what Waldman (2008: 160) calls our «public religion».

Although an upstanding member of the Anglican church in Arlington, Virginia, Washington was never seen taking communion, and he was never known to speak of any distinctively Christian, let alone Protestant, aspect of his faith (Waldman 2008: 59). But he clearly thought that religion was a key source of what we would now call social capital, and he regularly invoked God or Providence in public prayer. Beyond that, he seems genuinely to have believed that God’s providence played a role in the success of the U.S. war of independence. His role in shaping the U.S. religious system was not in any contribution to the concept of separation of church and state but rather in his practice of tolerance for all faiths and in his own publicly expressed but highly generalized faith.

Aspects of this role include the following:

Washington was aware that Roman Catholic soldiers in the Continental Army were fighting and dying for their country (Waldman 2008: 65, 66). This was a particularly

In an (unsuccessful) effort to rally Canadians to the cause of the rebellion, and in the successful effort to win the favor of France as an ally, Washington reproved rampant anti-Catholic sentiment among Army officers (Waldman 2008: 64–66). Washington’s insistence on tolerance toward Catholics, represented in a decree of November 1775, had the effect that «The practice of burning effigies of the pope apparently disappeared from the colonies..., and newspaper attacks on Catholics dwindled» (Waldman 2008: 65).3

As President, Washington visited the Touro synagogue in Newport, Rhode Island, and followed up the visit with a «letter declaring full religious equality for Jews» (Waldman 2008: 164).

Washington was a Mason, a member of an association devoted to what Christians call an Old Testament kind of faith. The Masons’ God was «the Grand Architect» of the world. Moreover, the colonial Masonic order included Catholics and even Jews (Waldman 2008: 62). Washington was sworn in as President (1789) using a Bible borrowed from a New York Masonic temple. He wore Masonic attire when laying the cornerstone of the Capitol in 1793. He added to his oath of office the expression, «So help me God» (Waldman 2008: 160).

His prayers in the midst of his speeches as President regularly invoked the blessing of a providential but vaguely defined God. God is addressed as «Invisible Hand,» «Almighty Being,» «Heaven,» «Arbiter of the Universe,» «Supreme Ruler of Nations,» «Lord and Ruler of Nations» (Waldman 2008: 159–163); earlier he had spoken of the hand of providence in the victory over the British (Ellis 2007: 8). Washington’s God may seem similar to the Deists’ rule-giver and watch-winder, but Washington evidently believed sincerely in this God’s providential care for the new American republic.

In Waldman’s summary: «For more than two centuries, Americans have celebrated George Washington’s courage, wisdom, and leadership. To that list of attributes, we ought to add another: a preternatural, daring, and deeply felt belief in religious equality» (Waldman 2008: 164). It is arguable that the precedent of Washington’s leadership as well as the earlier theistic language of the Declaration of Independence (its reference to «Divine Providence» and «Nature’s God,» only the second of these in Jefferson’s original draft) provide the key to the simultaneous high cultural ground occupied by both reason and faith in U.S. civic culture, or what Habits of the Heart (Bellah et al. 1985) calls our «Biblical» and «Republican» languages. To whatever extent it can be said that the U.S. is characterized as enjoying a separation of church and state, U.S. culture has not been dominated by a discourse in which reason and revelation or politics and religion are divorced.

James Madison and the First Amendment

The U.S. Constitution (drafted in 1787), unlike the Declaration of Independence (1776), makes no mention of God. It is a secular statement, and in the original docu-
ment, Article VI specifically provided that «no religious test shall ever be required as a qualification for any office or public trust under the United States.» Taken alone, that provision might be taken to imply that ten years after Washington’s winter in Valley Forge the Founders had decided on a secular republic. For the most part, they had not.

For one thing, Article VI was binding only on the new government, that of the «United» States, not on the constituent states, which were free to, as many did, apply religious tests for public office. But the limitations and possible extensions of federal power were deemed insufficiently defined by the original constitution itself so as to require more specific provisions that soon became the first ten amendments or «Bill of Rights.»

The first and most important of these was the «First Amendment,» the first two clauses of which read, «Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.» These two clauses—the «establishment» and «free exercise» clauses—contain between them much of the genius and internal tension of the eventual U.S. religious system: not immediately but over time emerged what I have characterized as the «open» but nonetheless highly favorable market for religion in the United States.

With the diversity, indeed cacophony, of well-entrenched churches in the several states (Congregational in New England, Reformed in the middle colonies, and Anglican in the south) and the vociferous protests of popular but marginalized sects like the Baptists (Waldman 2008: 113–126), it was clear to the constitutional convention that there could be no established church in the new nation as a whole. Madison won the day with his astute demonstration of the folly entailed in codifying even «Christianity» as the official religion of the new United States (Waldman 2008: 116–118). At the same time, as we have seen, George Washington was promoting a broad tolerance of what (much later) would be called America’s «Judeo-Christian» religious heritage.

The First Amendment, like the constitution it supplemented, was based on an intricate set of compromises, some of them between those who, like Madison and his Baptist allies, wanted to protect religion from government intrusion, and those, like Thomas Jefferson, who wanted to protect government, or the public sector, from religious interference. For example, with respect to the constitution of the state of Virginia, Jefferson proposed a ban on clergymen holding public office. Madison opposed him (Waldman 2008: 247–248 n65). This tension in the U.S. legal system is undiminished to this day and is the legal source of many of the accommodations between religion and the state that have already been mentioned.

But other of the compromises in the Bill of Rights were between those who wanted to expand the powers of the new federal government and those who would restrict those powers in favor of the rights of the still theoretically sovereign thirteen states. The First Amendment carefully but ambiguously prevented «Congress» (not state legislatures) from making any law «respecting an establishment of» (not «establishing») religion (not «a» religion). Madison (according to Waldman 2008) would have been happy to prohibit any state establishment of religion, but he knew very well that the defenders of the established state churches (especially in Massachusetts and Connecticut) would have rejected such a provision. So the limitation of the provision to Congress represented Madison’s sacrifice of his broader separationist principles. On the
other hand, leaving out the indefinite article represents a broader reading of the provision. It prohibits not only congressional action to establish a national religion and congressional interference with extant state established churches. It was Madison’s intention that it also would prevent Congress from making any legislation at all on religion, for example, providing non-discriminatory financial support for all existing denominations. Madison wanted no such action.

The limitation of the provision to «Congress» was crucial to the success of the compromise. The Amendment, and Bill of Rights generally, were seen as limiting the power of the Federal Government and thereby at least not limiting and perhaps enhancing the power of the states. What was at stake was not only the abstract doctrine of states’ rights but the more urgent question of slavery. A federal legislature that could overturn acts of the respective state legislatures could also outlaw slavery (Ellis 2007: 175). Southern delegates fought against any such extension of congressional powers.

That aspect of the argument over the constitution and the Bill of Rights raises the specter of race in the American system, a factor as important as religion in shaping the public space for the constituent groups within the ever-evolving American civil society. I shall return to this point soon. But first I will briefly outline:

Additional legal grounds of the open but religion-tilting American religious market system

The compromises leading up to the Constitution and the Bill of Rights led to a weaker federal state than some of the founders (especially Alexander Hamilton) would have wanted but a much stronger one than others (e.g., Patrick Henry) wished for. The relatively weak position of the U.S. federal state today, especially with respect to domestic affairs (Lipset and Marx 2000, Dobbin and Sutton 1998), militates against the generous social welfare provision that might reduce the perceived need for religion on the part of vulnerable populations (Inglehart and Norris 2004). The U.S. has one of the lowest and most porous of governmental safety nets in the modern west. Women in particular are comparatively disadvantaged by U.S. welfare law (McLanahan et al. 1995). Thus American women must look more to institutions of civil society (including marriage and churches) than to the state for their basic well being.

American electoral rules and resultant political party systems make very little provision for the representation of minority interests. The U.S. has numerous (indeed, many hundreds of) religious denominations but only two long-standing political parties, whereas the situation is reversed in many European countries, where there are few churches but multiple political parties. The single-member-constituency representative system and plurality («winner-take-all») electoral rules typical of the U.S. political system militate against multiple parties (Lipset 1963). Minorities (whether social class or ethnic or other) do not easily gain political representation in the U.S., but they can quite easily gain religious representation. This is another structural parameter behind the observation that U.S. subcultures disproportionately take on religious forms.

Lastly, state legislatures facilitated religious organization in the new republic. An emerging literature on the development of civil society in the antebellum United States
(Novak 2001; Kaufman 2008) focuses on the legal facilitation of incorporation on the part of non-governmental associations. «Incorporation» tends to conjure up images of businesses operating in the economy, and that is part of the focus of this literature. How it was that the prerogative of legal personality came to be extended to enterprises associated for the purposes of making a profit from production of economic goods and services is a theoretically fruitful question. But the benefits of incorporation were also taken advantage of by cultural associations—schools, museums, charities, and churches—and it is remarkable that many hundreds of churches were granted charters of incorporation in the years soon after the U.S. gained its independence from Britain: «The majority of private corporations chartered between 1780 and 1810 were not business concerns at all; they were churches, townships, schools, and voluntary organizations» (Kaufman 2008: 404). Diverse motives stood behind this unprecedented dispersion of the medieval concept of incorporation of non-state bodies, which extended far beyond traditional practice «the right of intermediary associations to exist as full-fledged polities» (Kaufman 2008: 422). Some of the new American states may have wanted to exercise surveillance over collective non-governmental activities. Other impulses had almost the opposite intent, to guarantee autonomy to such entities. Regardless of intent, the autonomization of «private sector» associations became the typical outcome of the proliferation of incorporation well before the Civil War (Kaufman 2008: 410). Churches were among the primary participants in this early republican wave of incorporation. Referencing Tocqueville’s observations about the proliferation of voluntary associations in the early 1830s, Kaufman writes, «Americans’ unusual propensity to ‘associate’ does not appear to be the result of Americans’ ingrained preferences... American voluntarism instead appears directly related to state support for private corporations...» (Kaufman 2008: 421).

Thus, many early developments in American law, whatever the intent, positively encouraged the proliferation and prominence of churches in the new nation, well before the middle of the nineteenth century.

The U.S. Racial Regime

But racial exclusion and rigid racial boundaries were also present from the outset. Well before the founding of the United States, the pattern of European settlement in North America presaged a regime of religious openness but racial exclusion.

The Settler Church and the Colonial Church

To understand religion (and race) in the U.S., we must distinguish the settler church of the English Protestant «colonists» in North America from the colonial church of the Spanish Catholic conquistadors in South and Central America.
There are powerful ironies in this contrast, particularly in the way that aspects of civil society of which Americans tend to be proud—our European ancestors came to settle this land, not to plunder it, and that some of our most iconic religious institutions, those of the New England Puritan, were self-governing albeit theocratic—are precisely implicated in other features of our society of which we are increasingly ashamed. The work of Emerson and Smith (2000: chapters 7–8) has been alerting us to these ironies.

The Treaty of New York, August 1790: the Leading Edge of Settlement
The story of European North Americans’ treatment of the natives of the land they coveted is a long and dismal one. Beginning with the early 17th century settlements in Virginia and Massachusetts, the native populations were drastically reduced through unintentionally and intentionally inflicted disease and outright violence and their land relentlessly stolen out from under them. Historian Joseph Ellis (2007: 127–164) recounts the failed attempt on the part of Secretary of War Henry Knox and President Washington to change this already well-charted course of action during the early years of the republic. Knox convinced Washington that the ideals they fought for in the revolutionary war required that they do justice to the natives. The result was a treaty signed in New York by Washington and representatives of the Creek nation in August 1790 that would guarantee the natives’ rights to their lands, which on today’s map encompass western Georgia, eastern Tennessee, western Florida, eastern Mississippi and all of Alabama. The Creeks and their allies had sufficient military might to defend themselves against American armies, but they needed the help of the U.S. government to defend their borders from the onrush of would-be settlers. That task, according to
Ellis, would have required a standing U.S. Army exponentially larger than any the new republic could afford, and so, in his opinion, the treaty was unrealistic from the start. It became yet another piece of paper signed by white men and Indians that the Indians came to recognize as inherently worthless.

A few years earlier, in 1783, Philip Schuyler, another Revolutionary War general, had made a formal proposal of the demographic strategy that in the end sealed the natives’ fate. Rather than take their land by outright force, he recommended «a staged expansion driven by the front edge of American settlements. ‘As our settlements approach their country,’ Schuyler explained, ‘they [Indians] must, from the scarcity of game, retire further back, and dispose of their lands, until they dwindle comparatively to nothing, as all savages have done... when compelled to live in the vicinity of a civilized people.’... In the Schuyler scheme the Americans could afford to be patient and gracious at each stage, knowing full well that every treaty was merely a temporary halt on the inexorable march westward» (Ellis 2007: 132–133).

The Naturalization Law of 1790: Racism Encoded

Soon after the Constitution was ratified, an early act of Congress, explicitly authorized by Article 1, section viii, paragraph 4, was to pass the United States Naturalization Law of March 26, 1790. This law limited naturalization to aliens who were «free white persons» and thus left out indentured servants, slaves, free African-Americans, and, by later court decision, Asian Americans. Birthright citizenship was extended to European Americans by the principle of *jus soli*. Among whites then, there were no barriers to citizenship by reason of national origin or religion. Despite the virulent anti-Catholic prejudice that had been manifested by colonists only 16 years earlier in the anger directed at the British parliament for recognizing the rights of Catholic Québécois in 1774, the First Congress thus extended U.S. citizenship rights to Catholics (and Jews) as long as they were of the accepted race. But the right of naturalization for non-whites was withheld by the 1790 law (which remained on the statute books until 1952) and the *jus soli* citizenship rights of native born Blacks were only very sparsely recognized until the passage of the post-civil war Fourteenth Amendment in 1868. Even after that act, in the wake of Reconstruction, their rights were effectively denied again in much of the south until the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

The Louisiana Purchase: Slavery Extended, Native Rights Doomed

The Louisiana Purchase, a transaction with France by which the U.S. gained nearly a quarter of its eventual territory, was accomplished during the administration of Thomas Jefferson in 1803, despite vocal protests, in which he would have joined had he not been president, that it lacked any constitutional authorization. One ground for opposition on the part of Northern, «free state,» interests was that the action might serve, as it later did, to extend slavery into new territory and thereby to exacerbate not only the evils of the «peculiar institution» itself but also the sectional conflict that would eventually lead to the civil war. Not only did Jefferson do nothing to prevent that extension,
Despite the unprecedented powers he arrogated to himself to carry off the transaction and despite his well-known unease with slavery itself. According to Ellis (2007), Jefferson did not act because the South would not accept such an action, seeing it as a first step toward abolition. Abolition of slavery and emancipation of African Americans, in turn, was inconceivable for Jefferson, given his assumption that free blacks and free whites could never live together in harmony. There could be no emancipation without a plan for repatriation of slaves to Africa or the Caribbean (Ellis 2007: 237–238). For Jefferson, slavery was like «an inoperable cancer; any effort by government to remove it would only end up killing the patient.»

Not only did the Louisiana Purchase provide the institution of slavery with huge new territories in which to spread, it also made more feasible a «solution» to the Indian question conformable to white settlers’ interests. President Jefferson envisioned that lands west of the Mississippi River and north of the Arkansas would serve as a depotitory for the Indians of the Ohio River Valley and southward, who were being overwhelmed by settlers’ demographic pressure. By the 1830s, land adjacent to the Arkansas River, but well west of the Mississippi (the eastern part of present-day Oklahoma), was set aside as «Indian territory,» and the Indian Removal Act made possible the forced emigration of the Creeks and their native allies. Those who had tried to secure their rights to their ancestral lands through the treaty of 1790 were made to endure the «Trail of Tears» almost a half century later (Ellis 2007: 232).

**Rights of Racial Minorities Denied; Rights of Religious Minorities Recognized**

Jefferson did even more to extend the policy of white supremacy to the vast middle of the continent. The treaty with France that authorized the Louisiana Purchase carried the provision that «as soon as possible» «the inhabitants of the ceded territory» shall be admitted «to all of the rights, advantages and immunities of Citizens of the United States» and «protected in the free enjoyment of their liberty, property, and the religion they profess» (Ellis 2007: 229). In a single-word insertion to that provision, intended to become part of a constitutional amendment on Louisiana that was never ratified, Jefferson changed «inhabitants» to «white inhabitants,» thus continuing what had by then become the American practice, the privileging of the rights of religious minorities, especially the Catholics of New Orleans, over racial ones, including the mixed-race population of that city.

But already by 1794, availing themselves of religious rights extended to all Americans, whether or not they could vote, African Americans in Philadelphia organized their own church, thus establishing the pattern by which they used the religious freedoms available to Americans to fight the lack of political rights of most of their black brothers and sisters. In 1816, the first autonomous denomination of blacks’ churches came together in Philadelphia as the African Methodist Episcopal Church (Lincoln and Mamiya 1990: 50–52). In the South, enslaved blacks met in their own congregations as early as 1705, but it was not until after Emancipation that African American Baptists came together in the autonomous denomination eventually to be called the National Baptist Convention (Lincoln and Mamiya 1990: 23–30). By the 20th century, it could
be said that «the Black Church has no challenger as the cultural womb of the black community» (Lincoln and Mamiya 1990: 8).

As predicted by the original «new paradigm» article (Warner 1993: 1068), racial minorities in the U.S. continue to find in the pluralistic structure of American religion a source of individual and group empowerment. It is becoming clearer through critical scholarship that the mid-century movement for civil rights of African Americans was in many respects best understood as a religious movement (Marsh 1997). In the summer of 2006, Mexican Americans and other Hispanics in the U.S. found encouragement and support for their widespread protests against U.S. immigration policy in their Catholic parishes (Davis et al. Forthcoming).

Another recent example of racial minorities’ availing themselves of the pro-religious bias of American civil society is provided by Carolyn Chen in her study of immigrants from Taiwan who embrace newly defined Christian or Buddhist identities in the process of settlement (Chen 2002, 2008). Those who immigrate without extended families find in Taiwanese Christian congregations a surrogate extended family that offers greatly needed assistance and support. The Christian churches are aggressively evangelistic, and other families find an answer to their pressure in a modernized form of the Buddhism with which many of them had a previous residual identification. For both newly converted Christians and Buddhists, their religion offers them cultural resources that help them shape independent selves suitable to the round of life in their adopted homeland. For Buddhists in particular, their religious difference becomes a resource for civic inclusion in the U.S. «By virtue of the association of Buddhism with the Far East and Christianity with the West, the Buddhists, rather than the Christians, are the ones to be recruited and courted as the Chinese representatives at the multicultural table» (Chen 2002: 233).

To this day, intergroup difference in the U.S. tends to be played out disproportionately on the religious stage. That fact, as we have seen, has deep roots in public policy. It was not the automatic result of disestablishment.

Conclusion

No claim is intended that U.S. racism is unique or that the treatment of racial minorities is less hospitable in the U.S. today than in any European country. The U.S. has made enormous progress on the racial front in the past generation. Nor can it be said that the generally hospitable treatment of religious minorities in the U.S. precluded the abysmal treatment of Catholics when they began to arrive in very large numbers in the 1840s (cf. Casanova 2007). The full incorporation of non-Protestant groups in the U.S. was not accomplished until the 1950s. Nonetheless, white privilege is much deeper-seated in our system than is Protestant privilege. That fact goes a long way toward explaining the disproportionate use that racial minorities have long made of American religious freedoms (Warner 2006) and, in turn, the contribution of minority faiths to the long-standing association between religious diversity and religious vitality in America (Warner 2005; Finke and Stark 1992). The U.S. religious system is indeed an open reli-
gious market in which the personal and public expression of religion is more systematically encouraged and widely practiced than in most European countries, especially France. But that pattern was not the automatic result of disestablishment. It had deeper, more complicated, and more concerted roots in the actions of public figures.

Notes

1 In this article, «America» unless otherwise specified refers to the United States and «American» to the population, social structures and culture of that political entity.

2 The category of the «non-religious» (i.e. those who claim no affiliation with any religious group) has recently grown in the U.S., but very few of these people claim not to believe in God or some higher spiritual power.

3 Legal tolerance of Catholics and, despite continuing and eventually exacerbated social discrimination against Catholics, the lack of any anti-Catholic or explicitly pro-Protestant provisions in the Constitution and First Amendment, may also have been due to the difficulty, during the revolutionary period, of distinguishing between Catholics and the unevenly respected, often despised and equally episcopally-governed Anglicans in the American colonies (Waldman 2008: 231–232 ns. 33, 37, 43, 59).

4 The provisions of the First Amendment were extended to the states only by the Fourteenth Amendment (1868) and in settled law only by U.S. Supreme Court decisions in the 1940s (Waldman 2008: 261n1) and later. Meanwhile, the various states disestablished their churches only over time, not immediately but progressively (Holifield 2007: 110), the last of them, that of Massachusetts, finally disestablished in 1833.

References


