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THE “CULTURE WAR” WILL CONTINUE  
- BECAUSE IT ISN’T A WAR

“Culture war” returned to American politics over the past year – at least that expression did. It seemed a throw-back to another time. In the late 1990s, prominent activists on the right acknowledged that the “culture war” of that era had ended. “We probably have lost the culture war,” a prominent cultural conservative concluded, after the Senate rejected impeachment charges against President Clinton.<sup>1</sup>

The term had come to prominence in 1992, when political commentator Patrick J. Buchanan used it in a speech to the Republican National Convention. One liberal commentator remarked at the time that Buchanan’s speech “would have sounded better in the original German.” That was unfair, of course – but there was something to it.<sup>2</sup>

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<sup>1</sup> Paul Weyrich, who helped organize the Heritage Foundation and the Free Congress Foundation in the 1970s – mainstays of conservative advocacy – said this in a February 1999 letter to supporters. It received a good deal of publicity at the time and was interpreted (by many liberal commentators, at least) as a semi-official concession statement, of the sort that candidates make after losing an election. Weyrich died in 2008.

<sup>2</sup> The quip is attributed to Molly Ivins, a Texas-based liberal columnist with a particularly sharp tongue. She seems not to have intended any reference to Bismarck – who launched the term *kulturkampf* in the 1870s – but to the murderous Germans of a later era. Mario Cuomo, liberal Catholic governor of New York at the time, offered the same anachronistic response when he denounced Buchanan’s speech with the remark, “What do you mean by ‘culture?’ That’s a word they used in Nazi Germany.” It was not, in fact, a word “they” used as a term of respect: Reichsmarschall Goering popularized the saying, “When I hear the word ‘culture,’ I reach for my revolver.”

Buchanan had started his political career as a speech writer for Richard Nixon in 1968, stayed with Nixon through the agonies of the Watergate scandal, then launched a successful career as a newspaper columnist and television commentator. He is certainly a gifted polemicist. He has earned the title – regularly conferred by talk radio hosts – “a great American.” But as a political actor, even as a political strategist, he has displayed many flaws. When he sought the Republican nomination for president in 1992, he did not win a single state primary.

The term “culture war” – as a metaphor – has obvious attraction if you are, like Buchanan, of a pugnacious disposition (or, as one might say, inclined to be culturally belligerent). In “war,” you must choose sides. In “war,” you must submit to the commanders on your side, lest your enemies prevail. “War” polarizes commitments, reducing all choices to “friend” or “enemy.”<sup>3</sup> Still, “war” is an odd word to join with “culture,” a term usually associated with dialogue and reflection, with immersion in the teachings of deep thinkers and inspiring artists of past times and distant places. Buchanan’s 1992 speech actually offered “culture war” as a synonym for “religious war.” Most Americans shudder at “religious war” – conceiving America as a place of refuge from the horrors inflicted by persecuting zealots in the Old World.

I should say at the outset that I side with the bulk of my fellow Americans – I don’t like the implications of the term “culture war.” But I sympathize with most of the positions advocated by social conservatives. There is still a lot of dispute and division in today’s America about “social issues” – abortion, gay marriage, multiculturalism and others. Some commentators insist that the Republican Party must abandon these issues and get back to “fundamentals” – by which they mean, economic issues. I don’t agree with that. The social issues are also fundamental. Vast numbers of people care very intensely about them. Vastly more people will be affected by how they are resolved. In the 2012 elections, only a minority of voters described themselves as “conservative” (35%) – but significantly fewer as “liberal” (25%).<sup>4</sup> There is plenty of room for continuing debate on social issues. In a longer view of American history, moreover, there is nothing new about debate on social issues. But I wouldn’t

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<sup>3</sup> That is, at any rate, supposed to be the logic of taking war as the ultimate political act. Many belligerent characters are so ready to take offense that they lack the political discipline to stay focused on the main enemy. The problem is as old as Homer’s Achilles. And still evident in Buchanan’s career as a polemicist. Even in 1992, in the midst of the election, he gave a speech defending the honor of Confederate troops in the Civil War. Some years later, he published an entire book devoted to attacking the strategic visions of Churchill and Roosevelt, in order to defend the honor of their American isolationist critics in 1940–1941. It is grossly unfair to characterize Buchanan as either a racist or a fascist sympathizer. But his impulse to continue brawling over long-ago battles did not help him win supporters for the contemporary causes he sought to champion.

<sup>4</sup> These and other references to 2012 election surveys are from the so-called “exit polls” conducted by a consortium of news organizations of voters leaving polling stations on election day. The survey did not sample voters in all states and did not, of course, sample potential voters who chose not to vote in 2012, which may have slightly skewed results toward the left, as the Obama campaign seems to have done better at getting its voters to the polls in 2012 than Republicans did.

call such debates “culture war.” My term would be “politics.” A democracy needs serious, even intense internal debate – but not conflicts so heated that they seem like a “war.” The United States had a genuine civil war in the nineteenth century. What makes it possible to continue intense debates is that everyone (or almost everyone) realizes the American public has no longing to repeat that experience.

### **Why Talk of Culture War Revived in 2012**

Three factors in the immediate background helped to bring talk of “culture war” back into political debate in 2012. The first was that the Obama campaign – and a host of supportive liberal commentators – thought such talk would help mobilize its own supporters.

Obama had come to office on a wave of optimism – “hope and change,” his seemingly vacuous campaign slogan, seemed genuinely to inspire supporters in 2008. The very fact that Obama would be the first African-American president inspired hope of transcending past divisions. By 2012, a stagnating economy and an unpopular (and intimidatingly complex) health reform law had left even Democrats somewhat dispirited. The Obama strategy, therefore, turned on discrediting the Republican challenger, Mitt Romney, by depicting him as an “out of touch” investment banker who had tied himself to extreme social conservatives.

So, for example, when Republicans criticized the Obama administration for requiring even Catholic universities to provide contraceptives to students, as part of the health care program, Democrats insinuated that Romney and Republicans might seek to prohibit the sale of birth control pills and devices altogether. Liberal commentators gleefully talked about “the return of the culture wars.” And that part of the campaign may have proved effective. Contrary to Republican expectations, unmarried women gave the same lop-sided majorities to Obama in 2012 as they had in 2008. Meanwhile, on the Republican side, the opposite challenge to Romney encouraged the same result. Romney had been elected governor of liberal Massachusetts in 2002, by reassuring voters that he was an experienced businessman but not a social conservative. He was emphatic in his support of existing liberal laws on abortion. When the state supreme court in Massachusetts ruled that same sex couples must be allowed to marry – on the basis of a rather strained reading of the state constitution, originally drafted by John Adams in 1780 – Romney criticized the result but did not do much to mobilize opposition. In seeking the Republican nomination in 2012, he was challenged by rival candidates who accused him of “flip-flopping” and having “no real convictions.” Romney made efforts to reassure voters in Republican primaries by calling himself “severely conservative” and embracing the right-to-life cause, as well as demanding stronger enforcement of immigration laws.<sup>5</sup>

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<sup>5</sup> There is no inherent reason why demand for tougher enforcement of immigration laws should be coupled with opposition to abortion or with conservative stands on other issues. Catholic bishops have urged sympathetic accommodations for illegal aliens (that is, those who entered

One other factor helped to exacerbate the political strains sometimes characterized as “culture war.” Ronald Reagan’s elections in 1980 and 1984 seemed to promise (or, from the Democratic perspective, to threaten) a long term realignment of American politics, which had been dominated by the Democratic party since the 1930s. Instead, the decades since then have regularly generated closely matched party contests. So, for example, in the two decades preceding 2012, majority control in the House of Representatives changed hands in four elections. In the four decades preceding 1994, elections had delivered a continuous Democratic majority. Clinton had won narrow majorities in his campaigns for president in the 1990s (only a plurality, in fact, in the 1992 race, where independent candidate Ross Perot did surprisingly well) and George Bush won election in 2000 with fewer overall votes than Democrat Al Gore (though Bush carried majorities in more states).

With the 2008 elections generally discounted as a fluke, both sides in 2012 tried to mobilize supporters by warning about extreme consequences from a victory of the other. Both sides tried to raise alarms about hidden agendas and secret aims among opponents, urging the need for a rallying of the party faithful on behalf of core values. Conservatives talked about the need to “take back America” – from scheming progressives. On the left, there were warnings that Republicans wanted “not only to repeal the New Deal, but to repeal the Enlightenment.”

But the rhetoric of partisans does not always reflect the opinions of the general run of voters. Morris Fiorina, one of the leading scholars of American politics, published a book a few years ago, debunking the idea that the American electorate has actually been riven by a “culture war.”<sup>6</sup> He argues that a *closely* divided electorate need not be *intensely* divided or *culturally* polarized. He offers a great deal of evidence from opinion surveys indicating that the bulk of American voters tend toward compromise, embracing middle positions on intense social controversies such as abortion and same-sex marriage. Nor is it true, he shows, that social issues have eclipsed disputes about economic policy or more conventional scrambles over government spending, taxes and regulatory priorities. In Fiorina’s view, the rhetoric of “culture war” reflects the priorities of politicians and political activists rather than the concerns of most ordinary citizens.

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the country, usually from Mexico or Central America, in non-legal ways), without lessening their public opposition to abortion. In the past, labor unions urged tougher enforcement of restrictions on immigration without committing to conservative positions on other social issues. Calls for tighter controls on immigration have found more support from social conservatives in recent decades partly from broader concerns about multiculturalism and partly from fear that, once able to vote, immigrants would be recruited as reliable supporters of liberal candidates.

<sup>6</sup> P. Morris Fiorina, S. Abrams, J. Pope, *Culture War? The Myth of a Polarized America*, Longman 2011. The book also offers convincing evidence (from surveys) that opinion on a range of controversial social issues – such as stricter gun control, capital punishment, racial preferences, adoption by homosexual couples – is roughly the same in reliable Republican voting states as in reliable Democratic states (Ch. 3: “Red and Blue State People are Not That Different”).

If opinion polls can be trusted, there is much truth in these claims. In 2012 exit polls, for example, a majority of voters endorsed the view that abortion should be legal in some but not all cases. Only 29% endorsed access to abortion “in all cases”; only 13% favored making abortion “illegal in all cases.”

Fiorina’s assessment accords with my own perception, living and working in the Washington metropolitan area, where there are plenty of partisans on both sides. People avoid touchy subjects when they sense they will provoke a heated exchange, preferring to cooperate on the business at hand rather than bicker over national controversies. But people don’t seem to feel the need to disguise their political positions, either.<sup>7</sup> It is common for people to have relatives who hold to opposing views on social issues. Even husbands and wives sometimes take opposing sides (the sort of marriage I would not recommend, but a number of my younger colleagues have thought to undertake – evidently for love). These are not separate worlds confronting each other across a yawning gulf of ignorance and suspicion.

When he conceded defeat on election night, Romney asked his supporters at a hotel in Boston to applaud President Obama for running a successful race. They did so (on national television). An hour later, at a hotel in Chicago, President Obama asked his supporters to offer a round of applause for Romney’s campaign. They also did so (on national television). No one seemed to think this display of good sportsmanship on each side was particularly notable.

Still, it’s notable that Americans continue to debate social issues as much as they do. It is the one western country where social issues do remain a recurrent theme in national politics, because advocates of conservative views are not discouraged or marginalized. A certain form of populist conservatism remains an ongoing factor in American political life, not something that simply pops up at moments of extreme stress (as in much of post-war Europe, where respectable parties respond at such moments by joining together to squelch such outbursts of populist anger on the right).

There are two ways of explaining this aspect of “American exceptionalism.” The United States has exceptional institutional structures that allow a broader range of issues to enter into political debate. But the United States also has a somewhat exceptional political culture, which permits a wider portion of the electorate to respond sympathetically (or at least tolerantly) to appeals from social conservatives. Both these factors, I think, help explain the persistence of debate on social issues.

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<sup>7</sup> Nor did there seem to be any significant degree of racial tension in Washington. Whites, blacks and Hispanics seemed to interact in public places without any tension, as much during the election season as before. In the same election that saw Barack Obama regain the presidency, voters in Washington D.C. replaced a scandal-ridden incumbent city councilman who was black with a white reformist challenger. No one seemed to give much attention to the racial element in the local race, though it was one of the council seats chosen on an at-large basis (potentially pitting blacks in the whole city against whites in the whole city).

## How the Constitution Promotes Competition on Social Issues

Issues can be agitated in American politics even when party leaders would prefer that they be disregarded, even when a majority of voters might so prefer. I am not sure that makes the American system more democratic. But compared with other Western countries, power and authority is more diffused. There are several structural features of the system which promote that result.

First is the strength of the two party system. All systems where the president is directly elected encourage broad coalition parties, since a contender will either gain the presidency or fail to do so and there is no consolation for coming in second, let alone third or fourth. In the American system, that is also true for elections to the legislature, where candidates are chosen from individual districts (for the House of Representatives) and individual states (for the Senate) and again there is no consolation prize for coming in second. All fifty states have very similar systems, with directly elected governors and legislatures chosen by single member districts.

In consequence, it seems futile in America to try to organize distinct political constituencies (or highlight particular, narrow issues) with separate parties. It is not unlawful and it is not unheard of – New York State has long had a separate “Right-to-Life” party running its own candidates (or endorsing those fielded by major parties). Various parties of the extreme left have also tried to field candidates. But such parties rarely affect the results.

Groups with focused agendas therefore try to press them through the major parties, somewhat blurring the issue profile of each party. In Germany, support for the Green Party or the Free Democrats indicates how much priority voters really give to environmental concerns or business concerns. In America, it is easy for these groups to imagine that their priorities are more widely shared, since they are embedded in parties that win far more support than these groups could claim in their own parties. Since candidates are not chosen by a central party organization but by local primary elections, groups with local strength can mobilize support for candidates who share their priorities in states or districts where their numbers are greatest. Thus, right to life advocates have more strength in Congress than they might, if chosen by central party organizations catering to national majority sentiment.

The strong separation of powers in the American system also provides many openings for groups with more focused agendas. The president and members of Congress serve for fixed terms, regardless of whether a majority in either house agrees to support presidential priorities. That makes it hard to assert party discipline on individual legislators. And a great deal of legislative activity is actually the work of committees, because the American version of separation of powers means bills are actually crafted by legislative committees rather than executive specialists. Legislative oversight of executive policies can be quite active and probing.



On committees, the priorities of the committee chairman can loom much larger than the concerns of party leaders, even in the same chamber.<sup>8</sup>

So Congress has repeatedly been embroiled in seemingly secondary questions like what sorts of federal health spending (as for members of the military) can cover abortion, whether homosexuals can be excluded from the armed forces and how such a ban should be interpreted and applied. As the political scientist James Q. Wilson summed it up, in European parliamentary systems, policy disputes are like prize fights, with fixed rules and usually with clear winners. In America, “policy making . . . is more like a barroom brawl: Anybody can join in, the combatants fight all comers and sometimes change sides, no referee is in charge and the fight lasts not for a fixed number of rounds but indefinitely or until everybody drops from exhaustion.”<sup>9</sup>

Meanwhile, the existence of fifty states, with wide political autonomy, gives much scope for political activism at lower levels. Each state has its own criminal law. Each state has its own laws for regulating education, health care, marriage and family relations – not to mention its own tax law and laws on regulation of natural resources. In the late nineteenth century, advocates for banning the sale of alcoholic beverages started their efforts at the state level and the strength of different constituencies in different parts of the country then helped them to win enough support from both parties at the national level to entrench a national ban in the Constitution in 1919. Without federalism, the movement might never have achieved national success, since it encountered strong opposition in major states.<sup>10</sup>

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<sup>8</sup> Here are two examples from my own experience. In the summer of 2008 (when Democrats controlled the House), critics of the Iraq war persuaded the chairman of the House Judiciary Committee to hold hearings on whether George Bush should be impeached for tricking the country into war. Democratic leaders did not want to pursue this distracting claim but activists insisted there must be hearings. And activists seemed to pay close attention. When I said in my testimony that advocates for impeaching the president sounded “demented,” my cell phone began to buzz within minutes – as angry citizens sent angry emails to protest my comments, which they had seen on the cable television channel devoted to congressional hearings. They immediately tracked down my email from the Internet, then blasted out their messages of rebuke. In 2011 (when the House had reverted to Republican control), the Judiciary Committee held hearings on whether to enact legislation banning references to foreign law and Sharia law in American court rulings – something even the most conservative justices of the Supreme Court had questioned (as a legislative measure) and the American Bar Association (the professional organization for lawyers) had strongly opposed. Democrats on the Committee invoked statements of conservative Supreme Court justices to show that it was wrong to legislate restraints on judicial reasoning. Republicans on the committee dismissed such appeals to legal propriety (usually of more concern to Republicans), noting that polls showed support for confining American court rulings to American sources of law. In neither case did these hearings generate actual legislation, but in neither case was that the point: they served the purpose of reassuring activists on each side that “their” representatives were heeding their concerns.

<sup>9</sup> J. Q. Wilson, *Bureaucracy*, Basic Books 2000, pp. 299–300.

<sup>10</sup> For recent accounts stressing the local roots of the Prohibition Amendment (the 18<sup>th</sup>) and the importance of earlier control ventures in the states, see: A.-M. Szymanski, *Pathways to Prohibition: Radicals, Moderates and Social Movement Outcomes*, Duke University Press 2003; R. Hamm, *Shaping the Eighteenth Amendment: temperance reform, legal culture and the polity*,

The pattern has been repeated in recent times on controversial social issues, like same-sex marriage. Activists seeking approval for same-sex marriages have pursued their efforts on a state-by-state basis. A few state legislatures have embraced the idea (and a few state courts) but opponents have organized effective counter movements. Advocates for same sex marriage were defeated in some thirty state-wide ballots over the previous decade, but in 2012 they won state referenda in Maryland, Maine and Washington (the state in the Pacific Northwest). Defenders of traditional marriage defeated a same-sex marriage proposal in Minnesota. In 2010, they won a state referendum, entrenching the traditional definition even in California, a strongly Democratic state.

Finally, standing at a remove from electoral politics, the federal judiciary (along with some state judiciaries<sup>11</sup>) has scope for quite activist interventions in policy debates. Federal judges serve during “good behavior” – in practice, that means for as long as they like. Individuals can be appointed even to the Supreme Court with no previous judicial experience (as was true of the most recent appointee, Elena Kagan, previously a legal advisor to President Clinton). The fragmented political system has few means of imposing brakes on the judges, particularly when they invoke broad phrases in the U.S. Constitution (which is extremely cumbersome to amend).

In the 1960s and 1970s, the Supreme Court launched a whole series of initiatives that imposed national standards in areas previously left to the states – starting with prohibitions on racial segregation in southern schools, moving on to state “entanglements” with religion (such as Bible reading or prayers in public schools or financial aid to parochial schools) and culminating in the rulings against restrictions on abortion. Because of the Supreme Court, the United States has the most permissive laws on access to abortion of any Western country. It also has among the most restrictive rules on state funding for religious education and state sponsorship of religious symbols – partly for the same reason. The Supreme Court imposed policies which neither party at the time would have embraced, nor have had the strength to impose against inevitable opposition. Neither the European Court of

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*1880–1920*, University of North Carolina Press 1995. It is notable that the battles over Prohibition did not simply pit conservatives against liberals – the majority of self-identified “Progressives” (adhering to Theodore Roosevelt’s “Progressive Party” in 1912) voted in favor of the Prohibition Amendment, which received broad support from social reformers at the time, even as control of narcotics was supported by most liberals later in the Twentieth Century. Nor was it a dispute between the parties. President Wilson (a Democrat) endorsed the amendment when it was put to the states for ratification in 1917, as did the subsequent Republican candidate for President (in 1920), Warren Harding. The national Democratic party platform did not oppose Prohibition until 1928, when the party nominated New York Governor Al Smith – who went on to a crushing defeat in the subsequent election.

<sup>11</sup> In many states, judges are elected for limited terms. In others, they are subject to recall if enough citizens sign petitions demanding such a test of voter support. Many states also provide that the state constitution can be amended by direct vote of the citizens. These factors exert some constraint on activist rulings by state judges, but they don’t apply in all states.



Human Rights nor any national constitutional court in any Western country has taken such extreme stands on these issues.

The Court overestimated public support for its liberalizing ventures in the 1960s and early 1970s. It had seen massive resistance to its earlier rulings against racial segregation in southern schools, then seen that resistance ebb, finally seen it almost entirely vanish, as overwhelming national majorities gave emphatic support to the general line of the Court’s rulings. Liberal activist groups had organized litigation campaigns on new issues – on behalf of women, immigrants and poor people – and it seemed plausible that opposition could be overcome on new controversies, as well. Instead, the Supreme Court became an issue in national politics.

Republican presidents (Nixon, Ford, Reagan, both Bushes) made a point of selecting more conservative (or at least, more cautious) judges. Conservatives organized their own advocacy groups to urge competing positions (or advocate for their positions on new issues). Courts have, in fact, shown sympathy for a range of conservative claims since the 1980s – such as imposing new restrictions on racial preferences for affirmative action, requiring equal access to funding for religious groups at universities, and requiring that religious groups be allowed equal access to public school facilities in after-school programs.

Where the majority was strongly with them, conservatives gained more substantial and resonant victories. In the early 1970s, for example, the Supreme Court questioned the validity of capital punishment, on the grounds that juries seemed increasingly disinclined to impose this ultimate punishment. In the midst of larger debates about rising crime, advocates for reinstating the death penalty rallied state legislatures in most states and persuaded the Supreme Court to accept the practice with some procedural adjustments in jury deliberations. The United States is now the only Western country that still has capital punishment – because determined majorities are not easily sidetracked in America, as they have been in most other Western countries.

On some issues, however, advocates who once had majority support, at least within their own states, have been decisively repudiated. Advocates for racial segregation of schools abandoned their efforts by the late 1960s, as voters, even in the Deep South, recognized that the matter had already been settled against them by national law and wasn’t going to change. Advocates for extreme measures to achieve statistical integration of public schools – who had demanded busing of students from different neighborhoods so that schools would reflect a level of racial diversity not found in individual neighborhoods – largely gave up on their efforts in the 1980s, recognizing that the tide of national opinion (as of Supreme Court rulings) was running strongly and irrevocably against them.

One might have expected intense social issues, like abortion, to fade from active political debate in a similar way. That is probably what liberals on the Supreme Court expected in 1973, when they first brought the issue to national politics by announcing a right to abortion in the federal Constitution. That is certainly what

liberals in 1992 hoped, when the Supreme Court insisted that the 1973 precedent must stand, but should be interpreted to allow more scope for state regulation. In fact, a quite active debate continues and polls suggest young people are today somewhat more sympathetic to restraints on abortion than their counterparts twenty years ago. There is still much room for debate at the state level on protective measures and at the federal level, on whether (or in what circumstances) abortion will be funded by federal health programs. Issues which were almost invisible twenty years ago – such as the definition of marriage – have stirred new debates.

These debates seem to be much more prominent in American politics than in other western countries. To put the point more simply, advocates for cultural conservative positions seem to have more opportunity in America than in other western countries.<sup>12</sup> Some of this difference may be explained by different institutional arrangements. But some of it seems to reflect a different background culture.

### **How American Culture Supports Political Conflict on Social Issues**

Three “cultural” factors (in this sense) seem particularly important in explaining why American politics is able to sustain these conflicts. First, religion has a different status in the United States than in other Western countries. That makes it hard to isolate and stigmatize advocates for culturally conservative views as agents of a threatening religious authority, angling to oppress the suspicious or distrustful majority.

America has always been a religiously diverse nation – more so than any other Western country. Before the American revolution, there were religious establishments in many American states, but they were different and somewhat distrustful of each other (Calvinists in New England, Anglicans in the South – churches which had been on opposite sides of the English Civil War in the 17<sup>th</sup> Century). There were many smaller groups which loomed large in particular colonies, like Quakers in Pennsylvania and Catholics in Maryland. No one thought the United States could sustain a national church.

While Protestants have remained the majority since the founding, they have become more and more splintered among competing denominations. The majority of American Protestants are now affiliated denominations which were never established churches, even in Europe. Catholics and Jews were added to the mix in the 19<sup>th</sup> and early 20<sup>th</sup> Centuries, which did generate some tensions but never to the point of challenging the claims of new minorities to participate in public life. America is therefore accustomed to religious competition. That makes it hard to

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<sup>12</sup> For a recent work emphasizing American distinctiveness on this score – and lauding it as a contribution to American political health – see: J. Bell, *The Case for Polarized Politics: Why America Needs Social Conservatism*, Encounter 2012, esp. ch. 9 on smothering of patriotic and religious expression in European politics since the 1960s.

stigmatize conservatives as frightening avatars of oppression. It's not that the left doesn't try to depict conservatives as oppressive, but that the majority of voters are not easily spooked by such warning. The majority does not find religion inherently threatening.

Religion is not associated with an oppressive former regime. It is associated with the founding regime – certainly, in the principle of respect for religious freedom. There are churches or religious communities that tend toward conservative views – and many that emphasize concerns (peace, support for the poor, equality) more associated with the left. Religious leaders have been prominent in current debates about abortion and same-sex marriage, but religious leaders also played prominent roles in the civil rights movements of the 1960s and the peace movements of the 1970s and 1980s.

The country does not seem to be intensely polarized around religion. In exit polls during the 2012 elections, only 17% of voters claimed they “never” attend religious services, while 55% claimed to attend at least a few times each month, 42% at least once a week. The more church-going, the more likely to support Romney – but even among once-a-week church-goers, 42% voted Obama (while even among those claiming “never” to attend religious services, 34% supported Romney).

It is hard in America, even today, to make a successful career in national politics on a platform of open hostility to religion. Republicans arranged for Cardinal Timothy Dolan of New York to give a public benediction at their national convention in 2012. After a bit of hesitation, Democrats decided they must accept his offer to do the same at their convention. The Democrats were criticized for offering a party platform in 2012 omitting any mention of God or of Jerusalem as the capital of Israel, as past platforms had. These defects were promptly rectified – in full view of television audiences by open vote of the members.<sup>13</sup>

In the second place, America is a country that welcomes entrepreneurial energy – by simultaneously promoting respect for individual judgment and populist distrust of authority. That has often been an advantage for start-up business. Henry Ford and the Wright Brothers had no special training and no ties to established industrialists. That did not stop them from launching whole new industries. They had many counterparts in their day – as Steve Jobs (Apple) and Mark Zuckerberg (Facebook) have had in ours.

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<sup>13</sup> Those who watched the moment on television could doubt that the required majority supported the change, since the decision was taken by voice vote in a crowded hall. The chairman, Antonio Villaraigosa, asked for a second vote when the relative strength of ayes and nays seemed inconclusive. When shouts on each side seemed as evenly matched on the second call, he simply ruled from the chair in favor of the changes – clearly the preferred result for Obama strategists. Activists who influenced the text of the platform might have been disappointed. They did not make a fuss. A Gallup Poll released a few months earlier (Mar. 2) found favorable views toward Israel among 80% of Republican voters, 65% of Democrats; favorable views of the Palestinian Authority among 15% of Republicans, 22% of Democrats. Whatever the spiritual, cultural or moral implications of support for Israel, it is not an issue that divides the two main parties in today's America.

The openness to individual or local initiative appears in the political realm. In the early 19<sup>th</sup> Century, Tocqueville marveled at how quick Americans were to form voluntary associations to advocate for public projects or to organize them privately.<sup>14</sup> In the 20<sup>th</sup> Century, local groups have mobilized to advocate for a vast range of causes. Not endorsed by government? Not sponsored by or affiliated with a major political party? Not a problem. So the left gets advocates more extreme or more shrill than Democratic party leaders might like – evident in some of the extreme rhetoric, for example, of the anti-war movement (jeering at the highly respected General David Petraeus as “General Betray-us,” while opposing his plan for a “surge” of additional troops to Iraq in 2007). Conservative activists who wanted to displace incumbents (or otherwise leading contenders) with more hard-edged advocates got their chance in a number of Senate races in 2010 and 2012 – and often lost general election races in consequence.<sup>15</sup>

One of the most notable things about social conservative movements in the United States in recent decades is how protean they have been. Catholics have taken the lead in protesting against abortion, but have done well in drawing Evangelicals into such groups as Americans United for Life. In the 1980s, a Baptist minister formed “the Moral Majority” to campaign for conservative causes – making a special point of trying to recruit conservative Catholics and religious Jews to gather under the same tent. The failure of that effort led to a different effort in the 1990s, “the Christian Coalition,” whose director candidly conceded, “We know that we are *not* the majority.”<sup>16</sup> In many states, religious conservatives were drawn into politics to participate in focused campaigns on specific social issues, but then continued to be engaged in political campaigns, even when their initial organizations (like the Christian Coalition) faded.<sup>17</sup> That seems to have helped the latest broad-based

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<sup>14</sup> *Democracy in America*, Vol. 2, Part 2, Ch. 5.

<sup>15</sup> Candidates backed by the Tea Party (against more moderate or established opponents in Republican primaries) went down to defeat in Delaware and Nevada in 2010 and in Missouri and Indiana in 2012 – all states where Republicans had good prospects to hold or retake seats. But conservative insurgents who captured nominations against candidates supported by national Republican support groups) went on to win notable Republican races in Florida (Marco Rubio), New Hampshire (Kelly Ayotte) and Kentucky (Rand Paul) in 2010, then in Arizona (Jeff Flake) and Texas (Ted Cruz) in 2012.

<sup>16</sup> Statement attributed to Ralph Reed, first Executive Director of the Christian Coalition (1989–1997), associated with the Evangelical broadcaster, Pat Robertson. Robertson failed to win a single primary when he sought the Republican presidential nomination in 1988. Reed was rejected by Republican voters in Georgia in 2006, when he sought their nomination to run for Lieutenant Governor. In 2009, he organized the “Faith and Freedom Coalition,” which was active, in 2012, in trying to mobilize Evangelical support for the Romney campaign.

<sup>17</sup> See: J. A. Shields, *The Democratic Virtues of the Christian Right*, Princeton University Press 2009, esp. Ch. 5, for an account of how the experience of political advocacy for particular issues helped many Evangelical Christians to embrace more conventional forms of participation in election campaigns. One regular survey, for example, found that between 1972 and 2004, the percentage of conservative Evangelicals who claimed they had engaged in efforts to persuade others to vote climbed from 23% to 49%. By 2004, conservative Evangelicals had the same level of participation in campaigns as other Americans. Three decades earlier they had been much less likely to participate in campaign efforts (as by displaying signs, buttons or bumper stickers) (at p. 126).

conservative movement, the so-called “Tea Party.” The Tea Party – not, in fact, a party but a loose network of local advocacy groups – arose quite spontaneously in 2010 in opposition to Obama spending and borrowing policies and the new health care law. Though the Tea Party groups emphasized economic concerns, quite a lot of energy from earlier social conservative efforts flowed into Tea Party groups, particularly at local levels and in mobilizations for local primary races in the spring of 2012. Many of their candidates failed. But the energy behind them will probably find new outlets. It may have been a net help to Romney in 2012. While exit polls found only 21% of voters described themselves as “supporters” of the Tea Party, compared with 30% who said they opposed it, the plurality (42%) described themselves as “neutral” and they went decisively (57%) for Romney (along with 87% of self-described Tea Party supporters).

Finally, it seems helpful that America has an unusual level of constitutional continuity. The Constitution is generally revered and very rarely amended.<sup>18</sup> It is nearly impossible to sell voters on major constitutional changes, such as tampering with the electoral college scheme for electing the president (where votes are counted by state, in proportion to population, rather than by direct national aggregates) or varying the equal representation of states in the Senate.

In a somewhat paradoxical way, the background of constitutional stability may be somewhat liberating for advocacy groups – no groups bear the burden of challenging the whole system (to be “extremist” one must be genuinely extreme) and most groups can claim some portion of the country’s constitutional heritage to enhance the status of their own agenda. President Obama started his 2012 campaign in a Kansas town where Theodore Roosevelt launched his own campaign a century earlier. Right-to-life groups often try to associate their cause with heroes of the civil rights movement of the 1960s or opponents of slavery in the nineteenth century. It is notable – though rarely noted, in fact – that the most broad-based conservative movement in the 2012 election cycle associated itself with revolutiona-

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<sup>18</sup> Republicans in the House decided to commemorate their recapturing the majority in 2010 by undertaking a line-by-line public reading of the Constitution, with successive provisions read by different individual members. The point may have been to indicate sympathy for Tea Party concerns about a federal government exceeding the powers originally allocated to it in the Constitution. But almost all House Democrats took part in the ceremony. In the 1980s, conservatives organized a society of law students and lawyers, named for the party that sponsored the Constitution in 1787 – “The Federalist Society.” It has chapters in over 300 law schools (including every major law school) in all large cities and regularly recruits Supreme Court justices and other distinguished jurists to speak at its conferences. Liberals eventually organized a left-leaning counterpart. Refusing to cede the prestige of the national charter, they called their rival organization “the American Constitution Society.” The Federalist Society (like a number of conservative groups) distributes pocket-sized editions of the Constitution. The ACS distributes its own pocket-sized edition of the Constitution, but adds to it Abraham Lincoln’s Gettysburg Address. Someone perhaps imagined that this would be seen as a rebuke to extreme states-rights advocates (or Confederate sympathizers) on the right. But no Republican ever got in trouble for quoting the first president elected from the Republican party – Abraham Lincoln.

ries.<sup>19</sup> A stable constitutional system has great tolerance for the rhetoric of populist revolt. That can be helpful to populists of both parties.

### Prospects in Historical Perspective

Liberal commentators in America saw the 2012 election as a vindication of their hopes – that a changing America was changing their way. Democrats won solid majorities of women voters, young voters and overwhelming majorities of black and Hispanic voters. Republicans won the votes of older white males – a declining share of the electorate. Their shrill complaints against Obama could not deliver them a majority even after four years of high unemployment and continuing economic stagnation. So, according to this view, Republicans must repudiate (or muzzle) social conservative voices in their midst, if they hope to make themselves competitive in future elections.

I am skeptical of this view. Romney proved to be a poor candidate for the conditions of 2012. As a former Republican governor in the very Democratic state of Massachusetts, he was inclined to conciliatory, vague rhetoric – which he sometimes abandoned in his Republican primary contests in the spring of 2012 (against more conservative candidates) and then sounded unconvincing when he returned to such rhetoric in the general election. Having made a career in investment banking, he was an all too easy target for Democratic warnings that reckless and greedy bankers were the cause of the country’s economic problems. Having sponsored a state law requiring citizens to buy health insurance, he was not in a good position to attack Obama’s national health care law, though it remained unpopular.<sup>20</sup>

Apart from Romney’s personal flaws, turning out an incumbent president is hard to do. Only three presidents have lost bids for reelection in the past century. Hoover (1932) and Carter (1976) presided over much more severe economic distress and George H.W. Bush (1992) faced the challenge of the first serious third-party candidate in decades. Obama won re-election in 2012 by about the same margin as George W. Bush in 2004. Some Democrats worried in 2004 that they would never reclaim the White House if they couldn’t defeat an inarticulate bumbler who had led the country into two unpopular wars. Predictions about Republi-

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<sup>19</sup> Participants in the original Tea Party in 1773 seized shipments of tea from the British East India Company and threw them into Boston Harbor. They organized this “reception” (it was a “party” in the sense of a social occasion, not an electoral mobilization) to protest the British Parliament’s effort to impose a tax on tea, without the consent of American colonists. It was one of the celebrated incidents that helped to set off the American Revolution. It was condemned at the time by such leading patriots as George Washington – since it started with an attack on private property. It was certainly criminal. The participants dressed as Indians and painted their faces to avoid being identified. They would not be the last renegades to be celebrated in American lore.

<sup>20</sup> Accordingly to exit polls, 49% of voters wanted to “repeal some” or “all” of the Obama health care law; 44% wanted to “expand it or leave it as is.”



can prospects in 2016 (when there will be no incumbent in the race) are no better grounded.

The long-term demographic trends may now seem to favor Democrats but not to an extent that prevents Republicans from competing. Today’s young voters will grow up – and probably trend toward the right as older voters do now. A lot of unmarried women will eventually marry and married women trend Republican. Neither young people nor unmarried women are, per se, a growing portion of the electorate. Hispanic voters are the fastest growing portion of the electorate and they gave 70 per cent of their votes to the Obama campaign in 2012. The Democrats have been better at recruiting immigrant voters since large waves of Irish immigrants started appearing in the United States in the 1830s. But some Republicans have done better at appealing to Hispanics – George Bush, both in races for governor in Texas and in his presidential races, is a notable example.

And historic patterns change over time. Immigrants and their children and grandchildren voted overwhelmingly for Democrats in the nineteenth century and most of the twentieth. Since the 1980s, the (non-Hispanic) Catholic vote has been trending toward Republicans and Romney continued the trend, winning a solid majority of that category. Meanwhile, voters in southern states, reliable Democrats for over a century after the Civil War, have become reliable Republican voters in the past generation (apart from black voters and voters in states like Florida and Virginia, with many migrants from outside). What keeps the parties competitive is that in the Northeast and Midwest, historic Republican voters (from older Protestant denominations) have shifted their allegiance to Democrats. People can change their priorities and allegiances over time.

There are certainly long-term trends that are worrisome for a conservative party. In America, as in other Western countries, young people are delaying or abandoning marriage. There are more children born outside of marriage but fewer children overall. These are worrying trends for a party that has emphasized “family values.” But the trends are not good news for the party that emphasizes government assistance to the poor. Family breakdown is a well established path to poverty, while low birthrates spell fewer future taxpayers to finance government assistance programs in the future.

There are, of course, ongoing disputes about the role of government in the economy. And disputes about social issues don’t map neatly onto disputes about economic policy. You might be strongly opposed to abortion and same sex marriage but favor higher taxes on business and more generous government spending to help the poor and the middle class. Of voters who favor restrictions on abortion in all or most cases, fully a fifth voted for Obama in 2012 (according to exit polls). As recently as the 1980s, the Catholic Bishops Conference in the United States seemed more a critic than an ally to the Reagan administration (which the bishops criticized for deploying a new generation of nuclear missiles while constraining spending for

the poor).<sup>21</sup> Many Hispanic voters – and many black voters, for that matter – embrace conservative views on social issues, while still voting for liberal Democrats based on economic policy.

The conflicts can work in both directions. Voters who sympathize with the aims of large government programs don't necessarily sympathize with all their consequences. When the Obama administration tried to extend the obligation of employers to cover contraceptives in their health insurance plans, Catholic bishops protested – and gained enough public sympathy that the Obama administration announced a compromise, designed to allow employers (such as Catholic hospitals or Catholic universities) to claim that insurance companies were actually paying for such benefits rather than the entities purchasing their insurance policies. The Church did not accept this compromise and the matter will go to the courts. It will certainly not be the only issue to find its way into courts – or into public debate.

The nightmare of conservatives is that as the central state takes on more and more responsibilities, it will use its authority to crush the independence of religious institutions. That was the aim of the original *kulturkampf* – the one launched by German Chancellor Otto von Bismarck in the 1870s. Among other things, Bismarck's "reforms" (in Prussia, with its Protestant majority) prohibited Catholic priests from administering the sacraments without certification from the government and approved training in German universities. The Liberal party was among the strongest backers of the project, though it was also supported by conservative Lutherans in Prussia. The idea was not to convert Catholics into Protestants or free-thinkers, but to prevent them from forming a separate party in German political life.

This project was not so alien to American thinking as people now assume. The capital of an American state (North Dakota) was named for the Iron Chancellor at the very moment when the *kulturkampf* was getting under way in Germany. In 1876, while the political battles continued in Germany, U.S. President Grant proposed a constitutional amendment requiring taxes to be imposed on church property and forbidding public money to be allocated to religious schools – measures aimed squarely at limiting the resources available to the Catholic Church, at a time when Protestants and liberals feared the Church would form immigrant children into separate voting blocks. The proposal for a federal constitutional amendment failed, but a number of states (including New York) did entrench similar provisions (regarding aid to parochial schools) in their state constitutions.<sup>22</sup>

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<sup>21</sup> D. W. Hudson, *Onward Christian Soldiers: The Growing Political Power of Catholics and Evangelicals in the United States*, Threshold 2008, esp. pp. 238–241 (subchapter entitled, "Not the Bishops' President," concluding: "By pursuing agendas directly opposed to Reagan, who had the visible support of John Paul II, the Bishops Conference and the Catholic Conference made it obvious that they were closely aligned with the left wing of the Democratic Party. The Catholics who identified with the emerging movement of religious conservatives had found their leadership and it wasn't at the Catholic Conference. He was in the White House." – \*\*at 241\*\*).

<sup>22</sup> P. Hamburger, *Separation of Church and State*, Harvard University Press 2002, Ch. 11.

But even Bismarck, who owed office to the Kaiser rather than the Reichstag, abandoned most of the *kulturkampf* policies within a few years. They failed to thwart the emergence of a strong Catholic party in German politics and had meanwhile begun to disturb many Protestants. Bismarck preferred to court Catholic support for his tariff policy than continue to rely on priorities of doctrinaire liberals.<sup>23</sup> Contemporary America, a more tolerant and diverse country, with a much stronger tradition of religious freedom, offers far less potential for a successful culture war. American politicians would be even quicker than Bismarck to defect from projects that put them in direct, bitter confrontation with religious conservatives, even if the latter remain a distinct minority.

There are, among other things, too many ways for conservatives to challenge government policies. Last year, the Obama Justice Department pursued a case to the Supreme Court on behalf of a teacher at a Lutheran school, who claimed her dismissal was contrary to federal employment law. A conservative advocacy group (Beckett Fund – named for the medieval English martyr for the Church’s independence) invoked the First Amendment guarantee of religious liberty in defense of the school. All nine of the Court’s justices ended up endorsing the religious liberty claim, including the two justices appointed by President Obama.<sup>24</sup> The ruling generated satisfaction among religious conservatives but not much complaint on the left. Today’s American “progressives” do not have much appetite for direct confrontations with religion. It is bad politics.

This does not mean there will not be future collisions between state authorities and religious (or social or cultural or independent-minded) conservatives. Certainly there will be, so long as conservatives do not become too demoralized to keep up their end in these battles – and I see no reason to expect that will happen. Conservatives retain regional strongholds and a districting system that allowed Republicans to retain control of the House in 2012, despite an adverse electoral tide, overall.<sup>25</sup>

Conservatives may lose important battles and have to settle for painful (or confused) compromises. But the trend in the past generation has not been relentlessly adverse to conservative positions. Advocates for the right of citizens to own

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<sup>23</sup> R. Ross, *The Failure of Bismarck’s Kulturkampf*, Catholic University of America Press 1998, documents another difficulty which earlier historians had overlooked: Prussian administration did not have the organizational capacity to enforce such ambitious control measures at local levels, so the campaign against Catholic authority did more to offend and provoke than actually to coerce local churches – though many bishops and prominent priests were, for a time, driven into exile. I do not think today’s U.S. federal administration could be (particularly on touchy social issues) at all more effective than Prussian officialdom.

<sup>24</sup> *Hosanna-Tabor Evangelical Lutheran Church and School v. U.S. Equal Employment Opportunity Commission* (2012).

<sup>25</sup> Slightly more votes were cast for Democratic than Republican candidates in House races in 2012, but advantageous drawing of district lines helped Republicans to hold on to seats in close contests. Republicans now control governorships in 30 of 50 states. The party will not fade into irrelevance any time soon and many constituencies will keep pressing it to embrace conservative stands, even on social issues.

guns have won two important decisions from the Supreme Court, acknowledging that gun rights are protected by the federal Constitution.<sup>26</sup> Advocates for home schooling have had continued success in gaining legal recognition in most states. They have nurtured a supportive network to assist parents who want to educate their children at home.<sup>27</sup> Nor has the trend always been toward allowing the more permissive position in disputed social policies. In the 1990s, physician-assisted suicide seemed to many observers likely to gain momentum with or even without endorsement from courts. It has not been endorsed by courts and amidst much debate has been rejected by most state legislatures.

Some confrontations might be defused by allowing different states to adopt different policies, as we currently do on such issues as same-sex marriage and assisted suicide and on many aspects of policy on abortion. The more conservative justices of the Supreme Court have shown more sympathy for federalism in the past decade. Most recently, in the ruling on the Obama health care law, five justices endorsed limits on the power of Congress to “regulate commerce” and seven justices endorsed limits on the power of Congress to force states to comply with costly new mandates on existing programs.<sup>28</sup>

It seems to me quite unlikely that a tyrannical majority – or a relentless federal bureaucracy – could disregard all concerns of religious conservatives in a heedless rush to force conformity with centralized agendas. A big, diverse country, with traditions of tolerance and personal independence and still a great deal of background respect for religion, is not going in that direction. There will be many opportunities for conservatives to fight back. And to win important battles and renew their strength in future elections. But they won’t be engaged in war. They will have more success persuading fellow citizens if they don’t indulge in overly belligerent rhetoric.

### **„Wojna kulturowa” będzie się toczyć – bo nie jest wojną**

Autor dowodzi, że tzw. wojny kulturowe mają w istocie charakter zwykłych konfliktów na temat definiowania istoty i celów wspólnoty politycznej. Nie stanowią więc konfliktu, który wyróżniałby się na tle wielu podobnych konfliktów w amerykańskiej historii.

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<sup>26</sup> *District of Columbia v. Heller* (2008, holding Second Amendment established a personal right to own guns against federal controls); *McDonald v. City of Chicago* (2010, holding Fourteenth Amendment made the same right applicable against state and local controls).

<sup>27</sup> In 2007, when the most recent national survey was conducted, over 1.5 million students were being educated at home – with the majority of parents involved saying they had chosen this option to provide religious and moral instruction of a kind not found in public schools. That number was nearly twice what it had been a decade earlier. It is still only about 3% of the school-age population but no longer an isolated or freakish phenomenon. Home schoolers have gone on to secure advanced degrees at many leading universities.

<sup>28</sup> *National Federation of Independent Business v. Sibelius* (2012).