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# Power, Privilege, and Prayer: Christian Right Identity Politics and Mobilizing for School Prayer

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# Power, Privilege, and Prayer: Christian Right Identity Politics and Mobilizing for School Prayer

Daniel Charles Tagliarina, PhD

University of Connecticut, 2014

This dissertation is about how the political push for school prayer functions as an effort to retrench conservative social power and a conservative political worldview via identity-based politics. The New Christian Right (NCR) mobilizes secularized arguments of equality, victimhood and parental rights to advocate for school prayer. The NCR mobilizes to include religion in a unique cultural institution (public education) involved in the training of future generations of American citizens. The NCR's mobilization aims at preserving Christian social power and privilege with little-to-no attention paid to protecting religion *qua* religion—not just Christian faith—in America.

The NCR, as a social movement, demonstrates how mobilization can inadvertently strip an identity-based movement of the core of its identity. The NCR employs arguments geared towards preserving privilege and not protecting the free exercise of religion. Their political goals gain voice, while concern for religious free exercise is noticeably absent. The NCR makes arguments for the inclusion of prayer that are politically expedient for preserving their privilege, namely relying on secular free speech rights to defend prayer and religious expression in public schools. Prayer is, at its core, supposed to be a sincere intercession and conversation with the divine. But the content falling under the category of protected speech is considerably dirtier, more vulgar, and more often secular. The NCR claims that prayer is speech akin unto the category of protected speech, treating it as not about divine communion but rather mere utterances of opinion. Reliance on these arguments indicates how the political goal of having religion and prayer injected into public education is emphasized at the expense of respecting religion, even their own conservative Christian faith. For a social movement organized around a religious identity, religion and faith are surprisingly absent from

the argumentation, and political ends towards preserving social privilege are ever present. As articulated in their own words, arguments, and aims, the NCR is a movement interested in Christian privilege, not the Christian faith that led them to mobilize.

Power, Privilege, and Prayer: Christian Right Identity Politics and Mobilizing for School Prayer

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APPROVAL PAGE

Doctor of Philosophy Dissertation

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## Chapter 1

### Constructing Christian Citizens: The New Christian Right's Identity Politics for School Prayer

*"We don't have a crime problem, a gun problem or even a violence problem. What we have is a sin problem. And since we've ordered God out of our schools, and communities, the military and public conversations, you know we really shouldn't act so surprised... when all hell breaks loose."*—Mike Huckabee reacting to the Aurora, Colorado theater shooting that occurred on July 20, 2012<sup>1</sup>

*"We ask why there is violence in our schools, but we have systematically removed God from our schools. Should we be so surprised that schools would become a place of carnage?"*—Mike Huckabee reacting to the Sandy Hook Elementary School shooting that occurred in Newton, Connecticut on December 14, 2012<sup>2</sup>

In the wake of two mass shootings that occurred fewer than five months apart, Mike Huckabee connected these shootings to a lack of God in public schools. While the latter of these two shootings did occur in a public school,<sup>3</sup> the former happened at a crowded movie theater. While Huckabee does not explicitly say the shootings happened because of lack of religion in public schools, or that school prayer would have prevented these tragedies, his remarks are telling all the same.<sup>4</sup> What Huckabee's comments reveal is that at least some conservative Christians, for whom Huckabee purports to speak, believe the removal of prayer and Bible reading from public schools to be one of the defining moments in America's moral decline. It is in this context that Huckabee's comments show his sincere belief in the importance of school prayer for preventing national

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<sup>1</sup> Huckabee's remarks are from his own show, *Huckabee*, on Fox News, which aired July 21, 2012, the day after the Aurora shooting (quoted in Friar 2012; also quoted in Priscilla 2012).

<sup>2</sup> Huckabee's remarks are from his appearance on Fox News on December 14, 2012, the day of the Sandy Hook shooting (quoted in Sarlin 2012).

<sup>3</sup> Although the shooting occurred at an elementary school, the person responsible, aged 20, was not a student there, nor did he work at the school, offering distance between the shooter and what occurs in the school. Nonetheless, Huckabee sees school curricula as intricately connected to broader (im)moral behavior, and thus he draws the connections as evidenced in the poll quotes.

<sup>4</sup> Huckabee's initial comments about the Sandy Hook shooting prompted a sharp backlash. This, in turn, led to Huckabee's response explaining that he did not mean to suggest that having school prayer would have prevented this, or any, shooting. Rather, the lack of school prayer is endemic of what Huckabee diagnoses as larger problems of a society that does not properly respect and fear God (Huckabee 2012).

tragedies. This belief links a shooting at a theater, and a shooting at an elementary school, to the question of school prayer and religion's place in public education.

This dissertation is about how the political push for school prayer functions as an effort to retrench conservative social power and a conservative political worldview via identity-based politics. The New Christian Right (NCR) mobilizes secularized arguments of equality, victimhood and parental rights to advocate for school prayer. School prayer is emblematic of the NCR's political vision, in that it represents a sense of a nation unified "under God" with a proper respect for (paternal) authority. Huckabee's remarks, quoted above, capture this belief in the social power of prayer in schools. The NCR mobilizes to include religion in a unique cultural institution (public education) involved in the training of future generations of American citizens. This mobilization involves religion-based identity politics, placing emphasis on a religious identity and not on protection of religious beliefs. Consequently, the NCR's mobilization aims at preserving Christian social power and privilege with little-to-no attention paid to protecting religion *qua* religion—not just Christian faith—in America. The NCR's own arguments depict them as a group engaging in identity politics whose mobilization has made the group more about politics than about the animating religious identity that spurred their initial mobilization. Even while aiming to reclaim the idea of America as a Christian nation, the Christianity that is integrated with an American identity is more associational than it is devotional.

While mobilized as a social movement,<sup>5</sup> the NCR's efforts for school prayer highlight the potential unintended consequences for those engaging in religious-identity-based mobilization in the U.S. today. These unintended consequences arise from the conflict created by using secular rights arguments to advocate for a religious practice. The NCR engages a political system that favors secular arguments for rights (e.g., Davis 2004; Laycock 2003; Smith 2012), while also preserving a

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<sup>5</sup> E.g., Bates 1995; 2000; Bruce 1994; Conger 2010; Djupe and Conger 2012; Green, Rozell, and Wilcox 2001; Hannigan 1991; Hoover and den Dulk 2004; Klemp 2007; Wald and Corey 2002.

separate space for religion within the law delineated by the Free Exercise Clause and the Establishment Clause in the First Amendment (Davis 2004, 720; Wald and Calhoun-Brown 2007, 106). It is through mobilizing within this system, and employing arguments suffused with legal language that the NCR comes to rely upon secular arguments that treat prayer as speech.

The NCR is so concerned with preserving the *effects* of Christian privilege<sup>6</sup> that they are willing to unwittingly sacrifice the core of their identity to protect the privilege associated with holding a Christian identity in America. The NCR, as a social movement, demonstrates how mobilization can inadvertently strip an identity-based movement of the core of its identity. The NCR employs arguments geared towards preserving privilege and not protecting the free exercise of religion. Their political goals gain voice, while concern for religious free exercise is noticeably absent. The NCR makes arguments for the inclusion of prayer that are politically expedient for preserving their privilege, namely relying on secular free speech rights to defend prayer and religious expression in public schools. However, while efforts to include prayer in public schools help to reify the idea that America is a Christian nation (Jacobs and Theiss-Morse 2013), these same efforts treat prayer the same as black armbands (*Tinker v. Des Moines* 1969) or a jacket inscribed with the words “FUCK THE DRAFT. STOP THE WAR” (*Cohen v. California* 1971). Prayer is, at its core, supposed to be a sincere intercession and conversation with the divine. But the content falling under the category of protected speech is considerably dirtier, more vulgar, and more often secular. The NCR claims that prayer is speech akin unto the category of protected speech, treating it as not about divine communion but rather mere utterances of opinion. The NCR claims that prayer is merely free speech (e.g., American Center for Law and Justice 2004b), indicating how the political goal of having religion and prayer injected into public education is emphasized at the expense of respecting religion, even their own conservative Christian faith.

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<sup>6</sup> I return to the idea of Christian privilege, including a definition, in Chapter 6.

This chapter proceeds in five parts. In the next section I explain why fights over school prayer and control of public education matter, focusing on the role of schools in producing future citizens. In the second section of this chapter I define what I mean by New Christian Right to clarify who this group entails. The third section offers a literature review of studies of the NCR's involvement in public schools. In addition, in this third section I address how the concept of identity politics advances the study of the NCR and their efforts for securing school prayer. The fourth section offers a statement of the social constructivist epistemology informing this dissertation, and the methodology employed in the following chapters. The final section of this chapter provides an overview for the rest of this dissertation.

### **The Importance of Battles Over School Prayer and Public Education**

Public schools are responsible for educating 90 percent of K-12 school-aged children (National Center for Education Statistics 2012). Moreover, private school enrollment has been declining for over a decade, based on several different measures (Ewert 2013). This declining enrollment includes students who were going to faith-based private schools. While exactly where these students end up is unclear, as the largest alternative, public schools are likely absorbing at least some of these students (Ewert 2013). This suggests that the clash over religion in public schools, and specifically school prayer, is unlikely to end anytime soon as those who favor school prayer and those who favor strict separation of religion from schools have a larger pool of students over which to fight. Given the number of students educated in public schools, significant numbers of students are affected in some way by the question of prayer in public schools.

Public schools touch on so many aspects of American life that this dissertation carries significance for a wide audience. Prayer in public schools addresses questions of religion and politics,

rights, and nationalism in the United States.<sup>7</sup> These wide-ranging questions arise from the multidimensional roles public schools play in American society. Schools provide more than just academic information to students. Public schools are significant social, and socializing, institutions (Greenawalt 2005, 5-6; Hochschild and Scovronick 2003, 5). It is in schools that students learn how to interact with one another. Schools also socialize students with respect to what is politically, socially, and culturally acceptable, and what is decidedly un-American (Feldman 2005; Gutmann 1987; Hochschild and Scovronick 2003). In this way schools are locations of citizenship creation.<sup>8</sup> Schools exercise great influence over children's socialization and ideology formation, and the future of the United States that these children represent.

Public schools are an important battleground as they serve as centers for the production of future citizens. Schools perform this function as they not only educate children, but specifically educate them on what it means to be American and by stressing core democratic principles and values.<sup>9</sup> In this sense, schools instill those values necessary to create well-informed, participatory citizens, but also those values that sustain peaceful coexistence among Americans (Feldman 2005, 70; Greenawalt 2005, 24-25; Hochschild and Scovronick 2003, 14-18). Thus, moral education becomes an important factor in public education as it helps produce the attitudes and beliefs in students that continue the American way of life (Nord 2001, 151). This emphasis on proper citizenship training goes back to the origin of the common schools in the U.S., and has carried through in prominent figures such as John Dewey and Eleanor Roosevelt (Holmes 2001, 200;

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<sup>7</sup> See, e.g., Beyer and Liston 1996; Feldman 2005; Gaddy, Hall, and Marzano 1996; Hochschild and Scovronick 2003; Ravitch and Viteritti 2001.

<sup>8</sup> I am using citizenship in the abstract, not the formal legal acknowledgement by the government of one's status as "citizen." Citizenship as used in this dissertation refers to political and cultural understandings of what it means to be a proper American, and who enjoys the full panoply of rights associated with being a proper American citizen (see Passavant 2002). For scholarship on schools as producing citizens, see Binder 2002; Elshtain 2001; Greenawalt 2005; Gutmann 1987; Hochschild and Scovronick 2003; Ravitch [1974] 2000; Ravitch and Viteritti 2001; Walzer 1983; Zimmerman 2002.

<sup>9</sup> See, e.g., Feldman 2005, 70; Greenawalt 2005, 24-25; Gutmann 1987, 39; Hochschild and Scovronick 2003, 14-18; Macedo 2000, 10; Roosevelt 1930.

Roosevelt 1930). Even the Supreme Court has acknowledged that schools are crucial for their role in “educating the young for citizenship” (*West Virginia v. Barnette* 1943, 637; quoted in *Tinker v. Des Moines* 1969, 507). Given the importance of training future generations to continue the American way of life, and given the heavy role that morals- and values-based education is supposed to play in this process, the significance of control over school curriculum and what happens in public schools is clear. This importance is magnified when one considers that the public schools are state entities, and thus also act with the authority of the U.S. government in what they endorse in education.

As centers of citizen production, public schools “are our primary vehicle for forging a unified civic identity and for creating opportunities for children to transcend their parents’ economic and social status” (Greenawalt 2005, 5; see Elshtain 2001). While the view of public schools as primarily intended to shape children into proper moral citizens has given way to a view of schools as providing practical knowledge, the moral component to education has never fully disappeared (Greenawalt 2005, 16). Battles over textbook and curriculum adoption, school prayer, the teaching of evolution or intelligent design, curriculum about sex education and sexual orientation, and even segregation stress how important competing interests see public schools for shaping the beliefs of the future workers and leaders of the U.S.<sup>10</sup>

Schools shape how we view ourselves, those around us, and our government and institutions. With a captive audience of young minds to mold, public schools are seen as invaluable for those with strongly held worldviews to try to impart these worldviews on students.

Consequently, this dissertation studies one such group: the NCR. While not the only organized interest trying to influence schools (see, e.g., Beyer and Liston 1996; Binder 2002; Gaddy, Hall, and

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<sup>10</sup> See Binder 2002; Crespino 2008; Detwiler 1999; Dolbeare and Hammond 1971; Gaddy, Hall, and Marzano 1996; Herman 1994; 1996; Hunt and Carper 1997; Hunter 1991; Lakoff 2002; Lienesch 1982; Martin 1996; Miceli 2005; Moreton 2008; Morone 2003; Provenzo 1990; Sokol 2006; Spruill 2008

Marzano 1996), the NCR does represent one of the major political actors with respect to mobilization around public education.

### **Defining New Christian Right**

Throughout this dissertation I focus on the New Christian Right (NCR).<sup>11</sup> The NCR, as I define it, are conservative, largely evangelical, Christians in the United States who share a political tradition with the New Right. The New Right is commonly delineated as the conservative movement that began in opposition to the civil rights movement, gained a prominent spokesperson in the form of Barry Goldwater, was expanded nationally by Nixon, saw its perfection in Reagan, and continues to describe the mainstream of American right-wing politics. Yet, the New Right is not a monolithic, homogenous grouping of American conservatives, which makes labeling their core problematic (see Gross, Medvetz, and Russell 2011, 328-30; Himmelstein 1990; Mattson 2008; Teles 2008). The New Right consists of several strands of conservatism, ranging from social conservatives pushing back against cultural change (McCright and Dunlap 2010; Meyer and Staggenborg 1996; Skrentny 2002), to economic conservatives staunchly defending the free market (Dixon 2010; Prasad 2006; Toplin 2006), to conservatives focused on the moral challenges America faces (Brint and Schroeddel 2009; Greeley and Hout 2006; Thorne 1990).

While I use “New Christian Right” to identify the group I study, the literature and popular discourse uses other terms as well for similar groups in the U.S.<sup>12</sup> I find many of the alternative terms to be problematic in the context of the present study. The label Conservative Christians is vague, in that it does not clarify if the Christians are politically, economically, or theocratically conservative, or some combination of these. Moreover, Conservative Christians is also overly broad,

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<sup>11</sup> Although I have settled on the use of New Christian Right as my descriptor, when discussing other scholarship about this group I usually defer to using the authors’ terms where doing otherwise runs the risk of causing confusion.

<sup>12</sup> For examples of other scholars choosing to use the phrase “New Christian Right” as the relevant identifier, see Bates 1995; 2000; Brown 2002; Bruce 1990; Crespino 2008; Hopson and Smith 1999; Liebman and Wuthnow 1983; and Wilcox 1988.

suggesting a uniformity among Christians with some sort of conservative beliefs that simply misses the variegated groupings within American strains of Christianity. Using NCR, as I have defined it, avoids this overly broad problem by specifying the conservative political ideological components that unite this group.

The “Religious Right” is equally misleading for three main reasons. First, I am looking at specifically Christian groups, not all religions. Second, not all religious adherents with right-wing beliefs or ideologies fit within the groups I study in this dissertation. Some of those typically considered to be part of the Religious Right are more moderate than the groups I study, while others are far more radical, making Religious Right another overly broad category for my purposes. Third, the use of “Religious Right” to denote a subset of conservatives who identify as Christians semantically equates “religion” in the United States with *Christianity*, which is decidedly something I want to avoid doing. Treating “religion” as synonymous with “Christianity” is part of the mixing of nationalism and Christianity, as well as the majoritarian politics spinning out of this combination, that I study in this dissertation. While less commonly used than the other terms described, “fundamentalists” is an equally problematic label. Detwiler highlights the multitude of ways in which “fundamentalists” is a poor descriptor for the groups and individuals from the political right that typically receive this label (Detwiler 1999, 14).

While acknowledging the problems with grouping any set of organizations for study, using NCR is informative for this analysis as it allows for the discussion of a group of conservative Christian activists while not treating all conservatives, or all Christians, as a monolithic whole (see Feld, Rosier, and Manning 2002, 175). If an organization’s official positions are consistent with New Right ideology, and the organization explicitly identifies itself as a Christian organization, I consider it part of the NCR. This categorization allows for focusing on the roles ideology and political belief



play in shaping the NCR's political vision and their embrace of identity politics as a means of mobilizing for prayer in schools.

### **Scholarly Context**

This dissertation contributes to the understanding of the NCR and their political mobilization. Specifically I study the NCR's deployment of identity politics to advocate for prayer in schools. While the literature has not engaged the identity politics aspect of the NCR's mobilization, there is a body of important work addressing the NCR's involvement in public schools.

#### *New Christian Right and Public Schools*

The scholarly literature on the NCR and public schools consists of a loose grouping of projects that study some aspect of conservative Christian involvement in schools. These projects take a variety of approaches to a number of different, but related topics. Often times these studies do not engage or reference one another. Thus, part of my contribution is to put these related scholarly studies into conversation to address the broader question of NCR involvement in public schools.

Dolbeare and Hammond (1971) are a logical beginning place as they address school prayer, and how even Supreme Court rulings are not enough to keep prayer out of schools or settle the "school prayer question." Dolbeare and Hammond's (1971) work on the Supreme Court's school prayer decisions emphasizes the extent to which school prayer is a heated issue. The issue is so important to some that they are willing to blatantly resist Court rulings, opting instead to institute or continue prayer in schools. This resistance is not typically from organized religious groups, but tends to be more diffuse in any given community. Dolbeare and Hammond note that many school officials allow prayer in schools, not necessarily because they want it, but because a vocal group of people push for it and it is easier to allow it than to fight back and enforce the Court's rulings (1971, 5-6). Extrapolating from Dolbeare and Hammond's findings, I argue that the NCR has learned the

lesson that mobilization at a local level could be effective for reinstituting school prayer. Institutional factors play an important constraining role in local school politics that allows for a heightened chance of effective mobilization (Binder 2002). Consistent with Dolbeare and Hammond's (1971) findings, school prayer continues today despite the Supreme Court's rulings. The case study in Chapter 4 encompasses ways in which school prayer is continually practiced, both with and without formal means of implementing prayer in public schools.

Extending from Dolbeare and Hammond's work on school prayer is a larger body of literature that engages the NCR's activities related to public schools. This literature ranges in focus from efforts to shape school curriculum (Binder 2002; Chancey 2007; 2009; Detwiler 1999; Greenawalt 2005; Miceli 2005; Moen 1994), to political action to seize control of school boards (Binder 2002; Deckman 2001; Detwiler 1999), to scholarly analysis of the NCR's general attacks on public education (Binder 2002; Detwiler 1999; Greenawalt 2005; Jelen 2005). This scholarship comes from a variety of disciplines and traditions. This range of backgrounds means that the various pieces of scholarship do not always study the same aspects of public schools, of NCR involvement, or even speak to one another. Consequently, in this section I chart the scholarly trajectory of this variegated body of literature, highlighting commonalities, and indicating where my study fits within this academic discourse. The extant literature about the NCR's involvement in public schools typically focuses on curriculum and policies (Binder 2002; Miceli 2005; Moen 1994) or the efforts of various religious organizations and individuals to influence school boards (Binder 2002; 2007; Chancey 2007; Deckman 2001; Detwiler 1999).

Putting the various studies about the NCR and schools into a broader academic discourse reveals three common themes relevant to my dissertation. *First*, studies focusing on the NCR's involvement in, or critique of, school policy and curriculum depict the NCR's appeals to secular arguments, including multiculturalism and pluralism. *Second*, the literature focuses on the often

repeated NCR attacks on a “secular liberal elite’s,” frequently including school officials’, attempts to indoctrinate children into “secular humanism.” These attacks include arguments that secular humanism is a religion in its own right, and therefore represents a state establishment of religion. Finally, the *third* theme is the NCR’s emphasis on the need for cultural transformation and moral education to correct the ills in society. I review literature related to each of these themes below. These themes are not wholly discrete categories. Nonetheless, these points are separate enough to discuss them individually.

The literature discusses the NCR’s use of secular arguments and appeals to multiculturalism and pluralism. Bates explains “secularization” of arguments in this context as “... a rejection of narrow religious language and the adoption of the language of liberalism, such as ‘equal time’ for creationism alongside evolution in the public schools and ‘equal access’ for religious activities instead of school prayer” (1995, 47). The NCR’s secularized arguments involve not making appeals to religion, but rather speaking in liberal, secular terms. Primarily, this involves appeals to the notion of equality. Bates attributes the growing secularization of NCR speech to an increased mixing of religion and politics by the NCR (Bates 1995, 47).

Binder finds that creationists appeal to the value of multiculturalism in calling for creationism to be taught as a supplement to evolution (2002, 23-24). The multicultural arguments are another effort to use secularized arguments to include religion in schools. These appeals to non-religious based arguments carry through to topics beyond creationism (e.g., Bruce 1990, 480-81; Chancey 2009, 189; Greenawalt 2005, 83; Moen 1994, 352). The notion of asking for equal treatment dominates these appeals (Binder 2002, 44-45; Bruce 1990, 480-81; Moen 1994, 352). Moreover, the NCR relies on majoritarian arguments as part of its call for fair, equitable treatment (Chancey 2009, 189; Greenawalt 2005, 83). That is, if a majority within a school district wants a given (religion-based) policy, they should be allowed to enact it. Despite the majoritarian arguments,

the NCR also appeals to notions of multiculturalism and pluralism in the classroom to argue that religious teachings help to represent other viewpoints and offer diversity within the classroom (Binder 2002, 194-96; Bruce 1990, 480-81).

The second theme involves the refrain that a secular liberal elite is indoctrinating children into secular humanism.<sup>13</sup> According to the NCR, schools are run by liberal elites who impose secular humanism through school curriculum (Binder 2002, 38; Bruce 1990, 480-81; Detwiler 1999, 16; Greenawalt 2005, 81; Moen 1994, 352). The NCR rarely, if ever, actually defines what they mean by secular humanism (Greenawalt 2005, 81). However, what is clear from their claims is that secular humanism is an atheistic set of beliefs that functions as a religion that is contradictory to Christian beliefs (Binder 2002, 3, 194-95; Greenawalt 2005, 81). Consequently, academic freedom dictates that religion (specifically Christianity) be offered a prominent role in education to avoid the privileging of the secular humanist faith (Chancey 2009, 189; Moen 1994, 352). The NCR advocates for explaining the role religion has played in history, especially American history, as a neutral, non-proselytizing solution to the problem of secular humanism in public education (Chancey 2009, 189).

The third theme running through scholarly studies of NCR involvement in schools is the call for cultural transformation and moral education to address societal ills. The basic idea is that America is in a state of moral (and political) decline, and that religious rejuvenation can save the body politic from itself.<sup>14</sup> For example, creationists express fear over “moral decay” in the U.S. if children do not learn about human origin as linked to God (Binder 2002, 38). The NCR offers creationism, and religion in general, as a means to foster a strong moral core in children. Where schools function as agents of social and moral change, public education becomes a prime place to

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<sup>13</sup> e.g., Binder 2002, 38; Bruce 1990, 480-81; Chancey 2009, 189; Detwiler 1999, 16, 121-29; Greenawalt 2005, 81; Moen 1994, 352.

<sup>14</sup> e.g., Bruce 1994; Chancey 2009, 189; Detwiler 1999, 16, 186; Feld, Rosier, and Manning 2002, 174; Greenawalt 2005, 81, 182. Cultural transformation is also a refrain common to New Right politics (Hunter 1991, 34, 39, 42; Lassiter 2008, 13-15; Mattson 2008, 130-31).

foster the necessary moral transformation (Miceli 2005, 592; Rozell and Wilcox 1997, 267).<sup>15</sup> An underlying claim in this literature is the call for a return to our founding religious principles and a greater emphasis on the role of religion in American history (Chancey 2007, 557; 2009, 189). This approach seeks to firmly tether a Christian identity to an American identity (Chancey 2007, 557). Part of this tethering is the explicit advocacy of Christian moral education, including prayer, in public schools (Deckman 2001, 365; Detwiler 1999, 186; see also Beyer and Liston 1996, 37).<sup>16</sup>

Taken together, these three themes capture the scholarly understanding of the NCR's involvement in public schools. This engagement typically occurs in secularized language, devoid of appeals to the Free Exercise or Establishment Clauses, as well as without acknowledging the religious faith underlying many of the expressed objections. Moreover, the NCR characterizes its actions as reactions to the efforts of a liberal elite that run the education system (and control many other avenues of political power) in American society. Consequently, the NCR frequently turns to the idea of cultural transformation, with school prayer as one of the key mechanisms of this transformation, as necessary to end America's long slide into moral depravity. Yet this literature is missing a discussion of the role that identity politics play in these attempts to bring about cultural transformation through reshaping public education. A discussion of NCR identity politics is something that my dissertation contributes to this broader conversation.

### *NCR and Identity Politics*

Since Huntington's "clash of civilizations" (1993; 1996) entered the academic discourse, scholars have expected religious-based identity politics to factor in to identity-related cultural

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<sup>15</sup> The focus on cultural transformation in response to moral decline firmly fits this literature into the broader discussions of the culture wars. Given that much of the literature stressing this theme is from the 1990s, the focus on culture wars and religion is not surprising. The culture wars fit prominently into studies of social cleavages in the 1990s, with religion being one of these cleavages. The decrease in scholarship explicitly on the culture wars could also explain some of the decline in scholarship about religion (and schools). There is enough evidence from the NCR documented in the literature that they see their goal as cultural transformation, so these connections to the culture wars are warranted.

<sup>16</sup> Huckabee's call for more prayer in schools as a means of curbing the occurrence of tragedies in the U.S. is another example of this tethering of Christian identity, American identity, and the morally upright behavior of proper American citizens.

struggles. However, much of this work on how religion is mobilized as part of identity politics is limited to religion in other, non-U.S. countries.<sup>17</sup> Religion as identity politics, and the problems endemic to these struggles, are typically treated as problems of “others,” and not of the U.S.<sup>18</sup> Thus, by viewing religion-based identity politics as something that does not happen in the U.S., scholars have missed an important way in which we can make sense of the NCR’s political mobilization for school prayer.

By identity politics, I am referring to the mobilization of a group that shares an identity for the purposes of advancing interests shared by this identity. While the idea of identity politics has existed in academic discourse for some time now, the interpretations have varied. Some scholars portray identity politics as beneficial for marginalized groups (Bernstein 2002; Kaminer 1993), while others point to the problematic essentializing of identity that comes with identity politics (e.g., Brown 1995; Crenshaw 1991; Dean 1996; McNay 2008). Some have even tried to examine when fostering a common identity benefits movements, and when deconstructing a collective identity is more beneficial for a social movement (e.g., Gamson 1995). Identity politics has been applied to women’s movements (e.g., Lister 1997; Moghadam 1993; Ryan 2001; Yuval-Davis 1997), the gay rights movement (e.g., Bernstein 2002; Gamson 1995; Miceli 2005), as well as movements arising from an alienating capitalist system (e.g., Fraser 1997; 1999; McNay 2008). What these studies tell us is that groups, especially in the face of the struggles of modern cultural existence, can feel compelled to unite around shared identities. These shared identities can create a community around commonly perceived problems or harms. This united community can then mobilize to push back against

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<sup>17</sup> See, e.g., Brown, Knight, and Morgan Guy 2013; Duijzings 2000; Güalp and Seufert 2013; Heilman and Kaiser 2002; Jaffrelot [1993] 1999; James 2011; Mitchell 2006; Selka 2007.

<sup>18</sup> For notable exceptions, see Bromley and Shupe 1984; Green, Guth, Smidt, and Kellstedt 1996; Liebman and Wuthnow 1983; Zimmerman 2002.

whatever is seen as the cause of the problem or harm. I argue that this identity-based mobilization applies to the NCR in the U.S.<sup>19</sup>

While the focus on the use of religion as identity politics in the U.S. is largely missing from the literature, some scholars have embarked on the related question of studying the NCR as a social movement. These social movement studies address the organization and political mobilization of the NCR.<sup>20</sup> These studies miss the connections between identity, belief, and argumentation that help provide a robust understanding of the NCR's efforts for prayer in schools. However, there is a precursor for studying the NCR's identity politics, which is the status politics scholarship of the 1970s and early 1980s, although the idea of status politics goes back to the 1950s and the study of right wing extremism (see, e.g., Hofstadter [1954] 2008). These studies are discussed, critiqued, and expanded with respect to the NCR by several contributors to two different edited volumes from the early 1980s (Bromley and Shupe 1984; Liebman and Wuthnow 1983). The academic study of the NCR and status politics tended to emphasize that the NCR was rallying around religion while bemoaning socio-economic changes, or that the NCR was mobilizing around status associated with a shared way of life and values apart from economics (Harper and Leicht 1984, 101-05). Harper and Leicht argue that the evidence supports the NCR's mobilizing around a "culturally coherent life-style and worldview" much more than it does the prestige and economic arguments raised by earlier scholars (1984, 104).

Similarly, Simpson argues that the 50-year trend of labeling "fundamentalists" from the 1920s to the 1970s as "radical" led the NCR to fight to improve their status rather than fight back against the loss of status (1983, 196). This is a shift in the emphasis of what it means to engage in status politics, allowing for arguments to improve status and not just maintain it. Simpson contends

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<sup>19</sup> See Chapter 2 for more on the rise of the NCR and the political and ideological origins of the NCR that help shape their use of identity politics.

<sup>20</sup> For examples of this scholarship, see Bromley and Shupe 1984; Conger 2013; Diamond 1989; Green, Rozell, and Wilcox 2000; 2001; 2003; 2006; Liebman and Wuthnow 1983; Lindsay 2007; Wilson and Burack 2012.

that the NCR emerged into the mainstream as a response to political tensions in the 1960s and 1970s that showed a nation on the brink of self-destruction (1983, 202). This turmoil includes the women's-rights and gay-rights movements that challenged traditional, conservative religious beliefs about sexuality, gender, and the family structure (Himmelstein 1983, 13-16; Simpson 1983, 202-03). These findings lead Simpson to offer an expanded view of status politics that includes fear and anxiety over lost status, but also includes "the collective efforts of devalued groups striving to enhance their sociopolitical positions" (1983, 203). Thus, the changed emphasis in status politics, and political unrest of the time, allowed the NCR to countermobilize against social justice movements to claim a position in mainstream politics. The insights from the updated status politics studies on the NCR, and Simpson's (1983) points in particular, inform my analysis of the NCR's use of religion as identity politics.

Building off of the status politics discussion, and allowing for an additional 30 years of NCR political mobilization, I argue that the NCR continues to mobilize around their religious identity. This identity, and a related conservative ideology and political vision, become the crucial factors for how the NCR self-identify. As Simpson (1983) suggests, the NCR's arguments show a concern for advancing their own position through efforts to reclaim an allegedly lost past of state-embrace of America as a Christian nation. This state-embrace provides social privilege by virtue of having one's religion acknowledged as a fundamental characteristic of being American (see Jacobs and Theiss-Morse 2013). What the social movement scholarship and status politics scholarship also adds is that the NCR arose almost entirely as a countermobilization effort against broad sociocultural changes that were seen as emblematic of a fallen nation, but also against specific social justice movements that pushed for positions inconsistent with the NCR's political vision and religious beliefs.

Thus, to understand the NCR's political mobilization, I connect the insights from identity politics with the insights of status politics to study the actual mobilization of the NCR for prayer in



public schools. The NCR's use of identity politics, along with an exploration of their political vision, explains the specifics of their mobilization, which is rooted in an institution of importance for social reproduction: public schools. To this literature I add how, despite mobilizing around a specific identity, the NCR's mobilization is characterized by political argumentation that undercuts the religious aspects of the prayer they try to integrate into public schools. In this sense, the NCR engages in what Heinz describes as "politics of lifestyles," trying to control images of the NCR and of what it means to be a proper American citizen (1985, 155-57). Here, politics, and not religious faith are emphasized. As I argue in this dissertation, in trying to establish strong connections between a Christian and an American identity the NCR treats their own faith expressions—prayer—as mere speech in order to gain, or secure, the socio-political advantages of remaining an insider group (Theiss-Morse 2009).

By studying the NCR's use of identity politics, I also add a rigorous examination of NCR's political argumentation. This dissertation tests the "received wisdom" that is largely taken for granted in the literature. As explained above, a number of scholars pick up on the secularization of the NCR's claims. However, these tend to be passing insights rather than the focus of these studies. Thus, I add both an identity-politics focus, and also an explicit examination of the arguments made as part of the NCR's mobilization around public schools. Focusing on the NCR as a social movement engaging in identity politics expands the literature by studying how a religious social movement that seeks cultural transformation can work from a relative position of privilege while claiming victimhood to expand their privilege. This mediated position between relative privilege and feeling victimized is the context in which the NCR trades on elements of its identity as it advocates for school prayer. The NCR mobilizes to gain greater inclusion for Christians, while treating prayer

as secular speech. Consequently, I contribute an analysis of a group engaging in identity politics that trades on its identity for what are ultimately little sustained gains.<sup>21</sup>

It is worth adding one final point from the literature pertaining to conservative politics and public schooling. While not about the NCR specifically, Beyer and Liston's (1996) study of New Right public school curriculum politics is informative for this dissertation. Beyer and Liston argue that the New Right's rejection of public school curriculum is not rooted in any substantive pedagogy or educational endeavors. Rather, the New Right's attack on public schools is wholly ideological, and shows little-to-no concern for the actual learning outcomes of schooling or the well-being of children in these schools (Beyer and Liston 1996, 34). Coming from people who study pedagogy and curriculum development, their critique is apt, equally applicable to the NCR's pedagogical statements, and deserves to be quoted at length:

... [T]he new right's educational vision tends to be guided more by political imperative than by educational reflection. The driving force behind their analysis is a set of convictions about the requirements for a good society that is not matched by an attention to education context and practices. Students tend to be seen as carriers of social functions and politically inscribed meanings rather than as active, independent, creative people whose interests and backgrounds need to be considered within the context of curriculum and teaching. As a result, the educational positions of the new right lack a substantial consideration of how we might bring the student and the curriculum together in a manner that is educationally defensible, an omission that undermines both their political purpose and any corresponding set of actual educational practices (Beyer and Liston 1996, 34).

As Beyer and Liston explain, New Right school critics focus on teaching only basic factual information, which is based on their own assessment of what student should know in order to be good Americans (Beyer and Liston 1996, 34). There is no emphasis on higher-order thinking, and obedience to authority is an important guiding principle. Given that I argue the NCR shares a

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<sup>21</sup> See Chapter 4 for a case study demonstrating how an effort to legally have vocalized prayer in schools was short lived, even though organized school prayer was—and still is—common in public schools despite the Supreme Court's statements to the contrary.

political ideology with the New Right, these findings are informative for understanding NCR approaches to pedagogy as well (see Binder 2002; 2007). As I explain in Chapter 5, much of the push for school prayer is about fostering a proper sense of hierarchy and authority, furthering the applicability of Beyer and Liston's assessment to the NCR. Similarly, Detwiler writes, "Since the ultimate purpose of even the public schools is to 'educate children in the fear of the Lord' (according to biblical Christians), Christian parents cannot simply abandon the public schools" (1999, 9). Detwiler's point furthers the connections between the New Right vision of proper public education and the NCR's vision. For the New Right and the NCR, public education is about producing proper moral citizens that adhere to an American morality that is rooted in Christian teachings (as interpreted by American conservatives). While the morality is identified with Christian teachings, the integration of it into American public schools is purely political.

### **Epistemological and Methodological Commitments**

I turn now to the social constructivist epistemology underlying this study and the methodology used in the following chapters. This dissertation is built on the analysis of the NCR's arguments and the cultural meaning implicit in the ideas invoked in this discourse. Cultural meanings, following from social constructivism's understandings of the world, explain social interactions and politics. The importance of cultural meanings speaks to the role of language in shaping and affecting material reality. Ewick and Silbey describe constitutive meaning construction when they write that:

... society provides us with specific opportunities for thought and action. Through language, society furnishes images of what those opportunities and resources are: how the world works, what is possible and what is not. ... It is on the basis of the enactment of these symbolic constructs that social action is largely (although not entirely) premised, and it is through the invocation or application of these schemas in particular settings and interactions that we actively make, as we make sense of, the world (1998, 39-40).

Interpretation is how we make sense of the world, and language is the raw material used in this interpretation. Language, while pliable, does not lend itself to any meaning, as Ewick and Silbey suggest in the passage quoted above. However, given the cultural importance of some ideas and values, appealing to these commonly held ideas and values can offer credence to associated arguments. The NCR, understanding the importance of cultural meaning, seeks to engage in the cultural meaning making process by telling a specific version of America's history and its present, while imparting this view upon its future through public education (see Heinz 1983). These are the symbols the NCR uses to speak to a broader American audience in terms it can understand.

Resonant discourses, those that speak to deeply held social and cultural beliefs and values, have stronger and more broadly diffused effects than other forms of discourse.<sup>22</sup> Using commonly understood symbols or images as part of one's argumentation can make it "resonate" with a broader cultural audience.<sup>23</sup> This resonance allows for the ideas and arguments expressed to be comprehensible to those otherwise not a part of the speaker's community, or who hold a different worldview (Gamson and Modigliani 1989; Snow and Benford 1988; Snow et al. 1986).

In the context of this dissertation, I argue that the NCR's identity politics makes use of arguments that resonate with a broad American audience through invocations of secularized forms of equality and tradition. The NCR root their defenses of school prayer in appeals to a shared American tradition going back to the founding of the U.S., and defend school prayer by appealing to respect for free speech. Americans, regardless of their ideology, instantly comprehend the invoked tradition and sense of equality endemic to the NCR's mobilization (Bellah et al. 1996). However, the NCR trades faith-based arguments for resonant, non-religiously-based speech arguments. This secularized, equality-based rights language resonates with a broader American audience,

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<sup>22</sup> Binder 2002, 194-5; Ellingson 1995; Feere 2003, 304-06; Gamson and Modigliani 1989, 4-6; McCammon et al. 2007, 731; McCammon, Hewitt, and Smith 2004, 537; Snow et al. 1986, 477; Steinberg 1999.

<sup>23</sup> Feere 2003; Gamson and Modigliani 1989; McCammon et al. 2007; McCammon, Hewitt, and Smith 2004; Snow and Benford 1988; Snow et al. 1986.

strengthening the potential receptivity to these appeals. However, these arguments do not offer a defense for prayer as a faith-based practice, or for the free exercise of religion more generally. Such argumentation demonstrates that the NCR's mobilization is more focused on the privileges those with a Christian identity enjoy in the U.S. rather than on the core elements of religious faith.

To capture the ways in which the NCR is mobilizing a resonant discourse, and to understand the implications of this mobilization, I employ a number of different methodologies in this dissertation. Chapter 2 offers an historical approach to explaining the rise of the NCR, and contextualizing the NCR within the political milieu against which it mobilized. This contextualizing provides the insights necessary to discern what lead the NCR to turn to politics and mobilize around their religious identity. This context also shapes the specific arguments the NCR makes through their embrace of identity politics. Chapter 3 contains a content analysis of publically available documents from NCR organizations. In this content analysis I code the arguments made regarding religion in public schools. My unit of analysis is each argument made, not the documents themselves, allowing me to characterize the arguments the NCR is making as part of its mobilization for religion in public schools. The context explored in Chapter 2 helps explain the patterns of argumentation found in Chapter 3.

Whereas Chapter 3 is an analysis of a broad overview of the arguments the NCR makes for religion in public school, Chapter 4 has a narrow focus. Chapter 4 involves my analysis of the NCR discourse around Louisiana's allowing vocalized prayer in schools. This case involves a state's attempt to return organized prayer in schools, and the school board hired one of the leaders of a prominent NCR organization to help in their defense. The NCR's involvement with defending prayer in public schools, as well as the way in which the NCR's arguments were repeated by many parties in the case makes this a good example for exploring the NCR's advocacy, and defense, of prayer in public schools. The material I analyze is primarily case documents and media coverage

surrounding the case. I employ in-depth textual analysis to further explicate the NCR's use of identity politics in their mobilization for school prayer.

Building off of my findings in Chapters 3 and 4, Chapters 5 and 6 employ cultural analysis and theory building. Chapter 5 explores the NCR's understanding of authority that emanates from their arguments for school prayer and parental rights. Chapter 5 further explicates the theory and political vision coming from the NCR's use of identity politics for prayer in schools by examining the role that appeals to parental rights play in the NCR's mobilization for school prayer. In addition, I engage in a theoretical discussion of the NCR's conception of the "proper" American citizen and rights bearer, focusing on how these right-wing populist portrayals originate in the NCR's claims of lost socio-political power and privilege. This triangulation of methods—through the use of content analysis of a broad discussion, discourse analysis around a specific case, and theory building from the NCR's own arguments—provides a rigorous, robust analysis of the NCR's use of identity politics.

## **Chapter Outlines**

As a study of the NCR's use of identity politics, this dissertation focuses on school prayer. From here it expands into the larger questions of the NCR's political vision as presented in the quest for school prayer. What this dissertation offers is the insight that the NCR uses religion-based identity politics while deploying arguments that are unconnected to this identity's core element: faith. This disconnect between identity and argumentation occurs as religion is presented in, and justified using, repeated secular arguments that deemphasize faith in favor of equality and authority. Arguments motivated by faith are used to protect a religious identity, but not to protect faith or free exercise important to religious expression.

Chapter 2 investigates the development of the NCR. In this chapter I explore the NCR's ideological roots in New Right politics. In addition, I outline how this ideological connection to the

New Right helps explain the NCR's employment of right-wing populism as part of its use of identity politics. Their ideological origins, along with their commitment to a Christian worldview, helps construct the content of their political vision. Chapter 2 explains the NCR's history, their political vision, and also what it is that makes school prayer so important. For the NCR, having school prayer is a means of having an element of religiosity in public education and lends government support to the notion that Americans are a religious (specifically, Christian) people. According to the NCR, school prayer offers students a common "American" moral core that extends from proper acknowledgment and obedience to God's authority. This moral code speaks to what the "proper" American citizen thinks about authority and what is acceptable in society. Thus, prayer offers students much needed moral guidance towards living as proper American citizens, which offers the potential of the cultural transformation that the NCR seeks to remake America in accordance with their political vision. Finally, prayer is one of the most devotional elements of faith, and thus one of the most central aspects to any religion. Prayer is where individuals or gathered collectives commune with their deity. Thus, as shared devotional ritual, prayer serves to solemnize occasions, placing things, such as education, explicitly under God's authority. School prayer functions to coerce student participation in school ritual practices that create a sense of collective identity, where an American identity is blended with an explicitly Christian identity.

Chapter 3 offers a content analysis of the NCR's public discourse about religion in schools. The purpose of the content analysis is to examine the actual arguments made as part of NCR's mobilization. This dissertation is about the mechanisms, arguments, and implications of the NCR's use of identity politics for prayer in schools. Thus, the first step is having an accurate depiction of this mobilization. The content analysis collects NCR discourse on religious expression, generally, in schools. I look beyond just school prayer to depict the full range of arguments made regarding religion in schools, as well as to provide more NCR content for analysis. My analysis finds no

substantive difference between the claims for school prayer and those for other religious expression in public schools. This lack of difference highlights that the NCR's mobilization emphasizes keeping religion in schools. However, the secularized nature of this mobilization and emphasis on claims of victimization demonstrates a concern with protecting social privilege. Absent in this mobilization is a focus on trying to protect religious expression and the free exercise of faith-based beliefs. Prayer is treated in NCR argumentation as nothing more than speech.

The content analysis in Chapter 3 unearths two main themes to the NCR's mobilization. First, the NCR appeals to equality while claiming generally applicable secular rights. These arguments ignore the religion clauses to advance religion in public schools. This finding fits with the literature reviewed above about NCR involvement in schools. However, I marshal a different body of evidence and employ different methods to confirm the findings suggested in the literature. Second, the NCR makes arguments claiming a position of victimhood that express the palpable sense of fear and anxiety over lost (or perceived lost) power and privilege (see Sears and Henry 2003).<sup>24</sup> This leads to the reactionary characteristic of their mobilization as protecting the perceived status quo while engaging in majoritarian politics endemic to right-wing populism. The content analysis and the focus on these two themes further delineate the NCR's political vision. This analysis of the NCR's political vision is offered in Chapter 2, is evident in the content analysis in Chapter 3, carries through to the case study in Chapter 4, and is further constructed in the analysis in Chapter 5. The content analysis is only part of the story, as the dissertation moves into a specific case of NCR mobilization.

Chapter 4 is a case study involving school prayer in Louisiana. In 1976 Louisiana passed a law allowing silent meditation in schools. The law was later amended in 1992 to allow silent prayer

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<sup>24</sup> While Sears and Henry (2003) focus on white anxiety over lost racial privilege, their fundamental insights regarding the social functioning of fear and anxiety over lost privilege are equally applicable to the NCR as I contend these groups' fear and anxiety manifest in comparable ways.



or meditation. Louisiana then amended the law again in 1999, this time striking the word “silent” from the law. The law allowed for vocalized prayer or meditation in public schools.<sup>25</sup> The law was quickly challenged and ruled unconstitutional. Louisiana appealed, and again the law was found unconstitutional. In this case study, I investigate the law in question, as well as media coverage of the law and subsequent legal challenges. I also study the briefs in the challenges to further study the ways in which the NCR’s mobilization has permeated battles for prayer in public schools. This case study provides further examples of the patterns of argumentation I find in the content analysis. Namely, appeals to fairness and equality are paired with the politics of victimization to advocate for the inclusion of school prayer. In addition, the case study demonstrates the ways in which the NCR’s identity politics employs right-wing populist arguments to articulate a vision of America as a Christian nation. This Christian identity, around which the NCR mobilize, justifies the inclusion of religion in public schools as moral education and acknowledgment of America’s past and traditions. Prayer is not treated as about faith, but rather as a crucial element in the proper education of future American citizens.

Chapter 5 connects the issues of school prayer and the NCR’s political vision through the parallel idea of parental rights. The issue of proper authority is central to the NCR’s push for school prayer and their political vision. The question of allowing school prayer is about who has authority over children, which comes through in the NCR’s expressed concern over the fate of parental rights. The feeling of loss of parental rights is also tied to the NCR’s expressions of fear over their perceived loss of power and privilege in society. Parental rights and social privilege, for the NCR, inherently involve broader concerns over the decline of the traditional family in the U.S. Allowing school prayer is one means of reclaiming this power and privilege through the assertion of parental

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<sup>25</sup> The 1999 amended version of the law read, “Each parish and city school board in the state shall permit the proper school authorities of each school within its jurisdiction to allow an opportunity, at the start of each school day, for those students and teachers desiring to do so to observe a brief time in prayer or meditation” (Silent Prayer or Meditation; Pledge of Allegiance 1999).

rights. Parental rights claims are articulated in many of the same ways as school prayer, and involve a related attempt by the NCR to secure control over schools as institutions of citizenship creation. Claims of parental rights are about protecting social power and privilege through control over children as the physical embodiment of the future of America. As such, parental rights are about neither equality nor victimhood, except to express the feelings of being victimized through loss of control over every aspect of the education of one's progeny.

As part of faith and acknowledgment of authority, school prayer serves to influence civic education as well. School prayer offers state sanction to a specific socio-political, and of course religious, worldview. This worldview is presented in the NCR's identity politics as "secular" and part of the American way of life. The sense of authority instilled through the school prayer favored by the NCR seeks to inculcate respect for God as respect for proper authority. Proper orientation to what the NCR sees as legitimate authority helps create ideal citizens who fear and respect God and who obey His moral code. In these ways, school prayer functions to entrench the NCR worldview into public education. Thus, Chapter 5 connects the concern for parental rights with the connections the NCR draws between prayer and authority. These connections demonstrate how school prayer, and the NCR's identity politics generally, are fundamentally about political beliefs about authority and social privilege, and do not emphasize protecting religious beliefs or practices.

Chapters 3, 4, and 5 offer a rigorous, diverse analysis of the NCR's mobilization for school prayer. These three chapters work together to provide a variety of methods, data, and modes of analysis. These different approaches illuminate the multifaceted nature of the NCR's political vision. No one approach, method, or set of data can fully depict the NCR's engagement with identity politics or their political vision. Taking a variegated approach to NCR mobilization for school prayer allows for a robust discussion of the NCR's political vision, which occurs throughout this

dissertation. Chapter 6 concludes this study of school prayer with a discussion of Christian privilege as it relates to the NCR's identity politics.

Chapter 6 serves as the conclusion to this dissertation. In this chapter I pull together the various strands of analysis in which I engage and demonstrate the value of exploring the nexus of NCR identity politics and their involvement in schools. Public schools function as instruments of socialization and citizenship production. This function makes them valuable real estate in the culture wars, as competing sides seek to control the civic training future generations of American citizens receive. In this chapter I build upon the discussion in the previous chapters to show how the NCR's political vision and identity politics are oriented around preserving Christian privilege. The NCR's mobilization and the recurrent turn to victimization arguments shed light on their underlying fear of their loss of power and privilege.<sup>26</sup> As stated earlier, the notion of authority implicit in NCR's treatment of school prayer and the argument around parental rights also highlight this fear. This fear suggests one reason why it is that religious faith and practice drop out of the NCR's identity politics to be replaced by arguments grounded in preserving social power and privilege.

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<sup>26</sup> The connections I establish in Chapter 6 are not unlike those that the NCR has come to realize themselves. In discussing the wants and needs of those in the NCR, Ralph Reed states, "Presumably, all of us want freedom to practice our religion, to enjoy the rights of free speech guaranteed by the First Amendment, and to fully participate in our duties of citizenship. Yet intolerance towards religion has reached disturbing levels, threatening civility and undermining a basic sense of fairness" (quoted in Jelen 2005, 310). Reed's points show the combination of religion, free speech, and citizenship, which I have discussed in this chapter and explicate further in the following chapters.

## **Chapter 2**

### **Moral Education: A History of School Prayer and the Development of the New Christian Right**

The New Christian Right (NCR) has evolved since their emergence in national politics in the 1960s and 1970s, yet school prayer has remained one of their core issues throughout (Ramet 2005, 432). However, to understand the role school prayer plays within NCR politics, it is informative to first step back and examine how school prayer fits within NCR ideology. To that end, this chapter investigates the development of the NCR and the evolving history of prayer within public schools.

In the first section of this chapter I address the history of prayer in public school, highlighting how school prayer has always been a contentious issue despite NCR claims to the contrary. In the next section, I offer an overview of the organizational development of the NCR. This organizational history provides the context for the formation of the NCR, explaining the socio-cultural climate that led to the NCR's engagement with politics. In the third section, I explain the ideological context in which the NCR began, linking the NCR's formation with the rise of the New Right in American politics. Both the New Right and the NCR share ideological origins in backlash against the mobilization of the historically marginalized, including the women's rights movement and gay rights movement, and general political turmoil of the 1960s and 1970s. Both groups engage in populist rhetoric as part of their political countermobilization, relevant to their shared conservative ideology. In the following section I discuss the NCR's conception of a Christian worldview. This Christian worldview, in addition to the cultural factors that led to the NCR's mobilization, shapes their political vision. This political vision, also explored in the same section below, calls for cultural transformation to address America's moral decline. Finally, in the last section, I describe why school prayer matters for the NCR, and what benefits they depict from the inclusion of prayer in public schools. Collectively, these sections provide the context and ideological

content that explains the rise and sustained mobilization of the NCR. This context and content then inform the remainder of this dissertation.

### **Public School Prayer: A Contentious History**

While many in the NCR cite the Supreme Court's decisions outlawing school prayer in the 1960s as the beginning of national decline and the societal rejection of religion (DeFattore 2004, 299; Hoover and den Dulk 2004, 10; Zimmerman 2002, 161), the fight over prayer in schools is much older. DeFattore (2004) points out that the oft-repeated claim that objections to school prayer arose for the first time in the 1960s is patently false. While almost never reaching a majority of the population, significant numbers of people have objected to the institution of school prayer for as long as school prayer has been practiced in this country (DeFattore 2004, 13). These objections come from both believers and non-believers, thus this is not a conflict of the faithful versus the faithless. School prayer is a deeply divisive issue, and has been for a long time. Nonetheless, the NCR treats the issue of objections to school prayer as if they manifested out of the ether in the 1960s, demonstrating a break from previous cultural homogeneity regarding school prayer.

Understanding the development of free public education in the U.S. is informative for understanding the arguments around school prayer. Scandinavians were the first to fully implement the common school, but the U.S. established the prototype for public schooling for English-speaking democracies (Holmes 2001, 187). The U.S. case is consequently largely unique in creating these social institutions without significant precedent or examples. The push for free public education for all began in the early 1800s (Feldman 2005, 58; Gaddy, Hall, and Marzano 1996, 10; Holmes 2001, 187). Several reasons dominated the discussion in favor of free public education: (1) education provides important social benefits for all; (2) education can serve to assimilate immigrants into an American way of life; and (3) humanitarian concerns regarding showing proper respect for

all humans and human potential require educating everyone. The elites saw education as socially beneficial, in part, as a reaction to the rise of Jacksonian democracy (Feldman 2005, 58). The educated elite supported public schools as a means of spreading education to the “masses” to preserve the republican quality of society and government without having the uneducated masses asserting themselves (Feldman 2005, 58). Within this republican argument is an element of the elites’ not wanting to live with the uneducated, so as cities like Boston and New York expanded, public education was seen as a benefit for all (Feldman 2005, 58-59).

Related to the first set of arguments, immigration served as an impetus for public education as well. With the influx of immigrants to the U.S., and the associated expanded urbanization and poverty concentrated in slums, concern over non-American others spread (Gaddy, Hall, and Marzano 1996, 10). Advocates for public education argued that having a strong education system that was free to all would help to assimilate immigrants into American culture (Gaddy, Hall, and Marzano 1996, 10). Labor leaders of the time also supported free public education as it meant a chance for social advancement, which could help combat the abysmal conditions in factories (Gaddy, Hall, and Marzano 1996, 11). Thus education and labor leaders came together under the banner of expanded assimilation to argue in favor of free public education.

In addition, a strain of humanitarianism running among some of the elites led them to advocate for free education for all as a way to respect all human beings (Gaddy, Hall, and Marzano 1996, 11). Ralph Waldo Emerson, in particular, led this humanitarian argument (Gaddy, Hall, and Marzano 11-12). For Emerson, free public education meant true respect for everyone’s potential as human beings (Gaddy, Hall, and Marzano 11-12). The humanitarian arguments for education were typically overshadowed by the more practical arguments rooted in concern for maintaining a republican spirit and for assimilating immigrants. Nonetheless, the humanitarian argument did factor in to the expansion of the common schools in the 1800s. Primarily the humanitarian arguments

focused on respecting basic human dignity, which persuaded some elites to support workers efforts for social betterment through education (Rippa 1988, 91-93).

Objections to common schools came from a number of different directions. Some espoused skeptical opinions regarding the intelligence of workers (Gaddy, Hall, and Marzano 1996, 11). Others argued that families, and not the government, should be primarily responsible for education (Gaddy, Hall, and Marzano 1996, 11). Finally, a third group feared public education would interfere with religious education (Gaddy, Hall, and Marzano 1996, 11). This last group expressed one form of religious objection to public schooling. However, given the central place the Bible was to play in the common schools, this was not the only religion-based objection to arise to public schooling.

The belief that public education must involve a strong moral component bridges the three main themes of arguments presented for schools (DeFattore 2004, 14; Feldman 2005, 58-60; Gaddy, Hall, and Marzano 1996, 11-12). In the early-to-mid-1800s, to overcome struggles in schools over which denomination to represent, there was a push to create what were considered nonsectarian schools (DeFattore 2004, 14). The rise of the common school coincided with an explosion of religious sects in the U.S., spurred by immigration and the Second Great Awakening, which made inculcating religion in common schools difficult. The solution, it turned out, was to embrace nonsectarian religion that could teach morality through religion without getting bogged down in religious denominational disputes (Feldman 2005, 60-61). These nonsectarian schools proved to be pan-Protestant schools that avoided issues that separated Protestant sects, but did not reach out to non-Protestant faiths (DeFattore 2004, 14). Although, these schools were not explicitly designed to be Protestant in orientation, they were in practice.

Horace Mann, one of the foremost educational leaders of the early common school movement, thought that schools must teach students Christian morality, though not religious dogma (Gaddy, Hall, and Marzano 1996, 11). Mann's stance was predicated upon his belief in the efficacy

of the Bible as a teaching tool for morality, and his inability to conceive of another way to teach morality (Feldman 2005, 59-60; Gaddy, Hall, and Marzano 1996, 11). He supported nonsectarian education, albeit (and seemingly unintentionally) of a specifically Protestant bent (Gaddy, Hall, and Marzano 1996, 11-12). For Mann, and other educational reformers of the 1820s and 1830s, moral education meant education in the Bible, as morality derived from religion (Feldman 2005, 59-60). Thus, religion was never meant to be anything other than firmly entrenched in free public education, albeit in a non-dogmatic, strictly moral, fashion. This brand of nonsectarianism sought to root itself in the common moral values that American Christians held, something Tocqueville had observed during his time in the U.S. (Feldman 2005, 61). The belief that all American Christians held exactly the same values builds off of the Protestant idea that the Bible contains Christian morality, and that individuals can read it and understand these teachings for themselves (Feldman 2005, 61). Religion was supposed to be used to create a moral citizenry, and for most of the educational reformers leading the common school movement, that was the extent of the intended use of religion in public education (Feldman 2005, 60-63).

The supposed nonsectarian use of the Bible angered a number of Catholics, as schools were using Protestant versions of the Bible (namely the King James Bible), claiming they were nonsectarian, and then teaching morals in a way that the Catholics considered to have a Protestant bias (Gaddy, Hall, and Marzano 1996, 12). It was not until Catholics began to publicly object to the use of the Bible in public schools that many noticed this implicit Protestant bias (Feldman 2005, 65). There was a range of levels of anti-Catholicism in many of the leaders of the common school movement, varying from doctrinal differences to full-on animosity (Ravitch 2001, 18). What is clear is that all efforts to create nonsectarian schools really just ended up with versions of schools that were nondenominational Protestant (Ravitch 2001, 18). Critics of the common school found the process of forcing parents to send their children to schools that inculcated values in opposition to



their parents' faith was inherently antidemocratic, demonstrating tensions between the stated goals of the common school movement and critical perceptions of what the schools were doing (Ravitch 2001, 18).

These conflicts regarding public schools, prayer, and the Bible were not always peaceful. In 1844 there were riots in Philadelphia over school prayer, resulting in mass property damage, countless injuries, and the deaths of more than twenty people (DeFattore 2004, 32). In light of Catholic backlash, including much less violent contests, against Protestantism in “nonsectarian” common schools, many Protestant elites became intransigent and unwilling to allow accommodations for Catholics (Feldman 2005, 66-67). These Protestant elites used the claim of Protestant bias as a rallying cry to embrace Protestant education in public schools, turning an implicit bias into an explicit one (Feldman 2005, 66-67). Catholics responded again by pushing for the removal of the Bible from the common schools, missing why it was that many wanted the schools in the first place: moral education, which was believed to be possible only through use of the Bible (Feldman 2005, 68). The Catholic efforts to remove the Bible from the common schools, in part, gave birth to the Nativists<sup>27</sup> and their expanded anti-Catholic pushes (Feldman 2005, 68-70). Nativists and Protestant school reformers painted Catholics, because of their opposition to the use of the Bible in public schools, as un-American. Protestant opponents of Catholic-led reforms viewed the Bible as containing “unsectarian” Christianity. Protestant politicians embraced the idea that the Bible was quintessentially a statement of American morality, and thus ineluctably tied to American republican values (Feldman 2005, 76-77). These politicians maintained this stance while denouncing Catholic “sectarianism” aimed at removing the Bible from public schools (Feldman 2005, 77). These

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<sup>27</sup> Nativists in the U.S. vary regarding their specific targets, but all are anti-immigrant, privileging “native”—as in lived somewhere longer, which is not to be confused with indigenous populations—citizens over recent immigrants (Higham 1955; Michaels 1995). In the 19<sup>th</sup> century much of this nativist sentiment also took on anti-Catholic positions, primarily due to increased Irish immigration. Although having a religious bias, nativists themselves were often not religiously motivated in their discrimination (Feldman 2005, 70).

connections between the Bible and America, coupled with attacks on Catholics, defined the nation as involving only certain religions.

Conflicts over religion in public education continued into the late 1800s, including the question of evolution after Darwin published *The Origin of Species* in 1859 (Gaddy, Hall, and Marzano 1996, 12). The evolution debate reached its culmination in the 20<sup>th</sup> century with the 1925 “Scopes Monkey Trial” that challenged a Tennessee law that made it illegal to teach the theory of evolution in state funded schools (Deckman 2004, 2-3; Gaddy, Hall, and Marzano 1996, 12-13). While this trial did not solve the question of evolution, creationism, and public education, the emphasis of these points in disputes over public education dissipated in the mid-1900s (Gaddy, Hall, and Marzano 13-14).

Evolution was not the only religiously-charged topic of debate in the Post-Civil War period. During this time challengers to school prayer started to argue for the exclusion of all religion, rather than just asking for exemptions for dissenting students (DelFattore 2004, 52). Members of the Protestant majority, as well as adherents of minority faiths, began challenging the practice of school prayer (DelFattore 2004, 52). While the early fights over school prayer largely boiled down to Protestant-versus-Catholic disputes, the post-Civil War context saw more groupings of like-minded individuals that crossed faith (and non-faith) borders (DelFattore 2004, 53). In addition, the post-Civil War challenges to school prayer were state and local court affairs, owing largely to the lack of incorporation at this time of the First Amendment’s Establishment and Free Exercise Clauses (DelFattore 2004, 53-55). The history of these fights has helped to shape the current manifestation of battles over prayer in public schools. The location of these battles as *public* schools is itself highly important.

While the fights over school prayer, evolution, and how—or which version of—the Bible should be used in education raged on, the common schools moved forward. These fights were

fiercely contended out of deeply held religious beliefs, but also out of the political importance of schools, going back to the arguments in favor of public education. As Feldman explains:

Yet unquestionably the fight over the curriculum in the public schools mattered so centrally because those schools, still in their infancy, were already understood as sites for the creation of American identity, with which nativists were obsessed. This was true as a practical matter, since compulsory public schooling was the only time in an American's life when one was subjected, like it or not, to the propaganda of the state. But the public schools were also centrally important symbolically, because there the government revealed what values it intended to support. Loss of control over what was taught in the schools would be evidence of lost control over the public meaning of American life (2005, 70)

Thus many of the fights over religion in schools that existed in the 19<sup>th</sup> and early 20<sup>th</sup> centuries are versions of many of the fights evidenced in the current disputes over religion in public education. The stakes are much the same as they were in the 19<sup>th</sup> century during the creation of the common school, revolving around control over institutions that help produce future citizens and control what it means to be American, or as Feldman puts it, “the public meaning of American life” (2005, 70).

### **Rise of the New Christian Right**

In this section I present a brief overview of the development of the NCR. This history helps provide context to the organizational and ideological development of the NCR. By understanding when and why the NCR organized, we can come to understand their political and ideological motivations for their mobilization, and see how these motivations play out in the context of school prayer in subsequent chapters. Writing in 1994, Moen depicts the Christian Right as having three distinct phases characterizing its evolution as a politically-involved group (1994). The three phases are: an “Expansionist Period” occurring from 1978 to 1984; a “Transition Period” from 1985-1986; and an “Institutionalization Period” from 1987 and ongoing at the time of his writing (Moen 1994, 348-53). The Expansionist Period is characterized by the rise of the early Christian Right organizations, including the National Christian Action Coalition in 1978, followed by the Moral Majority and Concerned Women for America, among other groups (Moen 1994, 348). With the

fading of some of these earlier organizations, the Transition Period marks retrenchment and a refocusing of the Christian Right activists (Moen 1994, 350). Finally, the Institutionalization Period involves an inclusion of more Christian sects in the movement, as well as a stable coalition of religious activist organizations that are adept at grassroots politics and framing issues to garner wide-based support for their positions (Moen 1994, 351-53).

Moen's categorization of the phases of NCR development serves as an informative starting point, establishing that the NCR's development has come in waves. NCR political involvement is characterized by punctuated spikes of engagement and periods of lower involvement, which have led to multiple false proclamations of the NCR's disappearance (see Conger 2009; 2010; Green, Rozell, and Wilcox 2003; 2006). These changes seem to be largely related to the broader socio-political context and what issues are prominent in public debate (Lassiter 2008, 14). Thus, the NCR's development is largely reactionary to the broader political context, especially to a sense of crisis in America (Capps 1990; Lassiter 2008, 14; Miceli 2005, 592-93).<sup>28</sup>

Many high profile Supreme Court cases in the 1960s and 1970s served as focal points around which the NCR began to organize and agitate. For instance, the Supreme Court's outlawing of school prayer and Bible readings in the 1960s provided direct cause for the NCR to organize (DeFattore 2004, 299; Hoover and den Dulk 2004, 10; Zimmerman 2002, 161).<sup>29</sup> In addition, the push for private, sometimes religious, schools in response to court-imposed desegregation was also a cause to mobilize (Boyer 2008, 36; Crespino 2008, 90-98; Sokol 2006, 175-78). The Court's ruling in *Roe v. Wade* (1973) was yet another example for the NCR of how far the Court was going to destroy the moral fabric of America (Boyer 2008, 36; Bruce 1994, 231; Hodgson 1996, 176-78; Kazin [1995]

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<sup>28</sup> American Presbyterian minister Francis Schaeffer ([1976] 2005) and Tim LaHaye (1980), Baptist minister and author of the *Left Behind* books, both serve as representative examples of NCR ministers of this reactionary response to America in crisis.

<sup>29</sup> Despite the outrage against these cases, or perhaps because of it, rulings outlawing mandatory school prayer were frequently disobeyed (Dolbeare and Hammond 1971). While focusing on state and local officials, rather than explicitly on the NCR, Dolbeare and Hammond (1971) provide insightful analysis into the reasons why these officials do not obey court rulings regarding school prayer.

1998, 247). These opinions, and cultural changes related to and reflected in these opinions, served as the NCR's clarion call to politics (Kazin [1995] 1998, 256).<sup>30</sup>

Carter's presidential run in 1976 is also one of the important developments for the NCR's political engagement (Kazin [1995] 1998, 260; Smith 2000, 1; Wilcox 1988, 667-68). Wilcox attributes this to Carter's mobilization of previously apolitical evangelicals, as well as his framing of a Christian obligation to engage in politics (1988, 667-68). Given the mobilization throughout the 1960s and 1970s it is hard to say how much of an influence Carter's campaign was on the group I call the NCR. It is worth noting that Carter's electoral rhetoric dovetails with the rise of nationwide NCR organizations. Carter was very open about his faith, considering himself an evangelical, and was also the first born-again Christian president (Kazin [1995] 1998, 260). This certainly brought faith prominently into presidential politics<sup>31</sup> and gave the NCR a candidate to rally around (Kazin [1995] 1998, 260). This excitement would not last through Carter's presidency. However, Ronald Reagan would soon take Carter's place as the NCR's political polestar.

Despite having "their candidate," in the form of Ronald Reagan, in the White House, the NCR began to fade away in the mid-1980s (Moen 1994). Organizations like Moral Majority and American Coalition for Traditional Values disbanded during this period (Moen 1994, 350). While the NCR at the organizational level faded in the 1980s, their policy preferences enjoyed wide support (Moen 1994, 349; Wilcox 1988, 670). This suggests a restructuring within the NCR, not any significant decline in the motivating animus behind NCR politics (e.g., Moen 1994, 350). The late 1980s and 1990s saw what Ralph Reed deemed "stealth campaigns," where religious adherents were

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<sup>30</sup> The key figures taking up this call in the rise to prominence of the NCR were James Robison and his organizations LIFE Outreach and LIFE Today, Pat Robertson and his Christian Broadcasting Network, and Jerry Falwell and the Moral Majority (Bruce 1990, 478-79; Kazin [1995] 1998, 257).

<sup>31</sup> This invigoration could be part of the reason why Pat Robertson was able to declare his candidacy for president in 1987. While he did not have widespread support, even among conservative and religious groups, he was able to raise substantial funds for his candidacy (Wilcox 1988, 671). He did find success in caucuses, but not in ballot-based primaries (Wilcox 1988, 672). Moreover, as is directly related to the topic of this dissertation, his platform included calling for the elimination of secular humanism from the public schools, as well as the end of teaching the theory of evolution (Wilcox 1988, 672).

encouraged to run for government office, without mentioning their religious beliefs, and then try to enact policies around these beliefs once in office (Binder 2002, 160-61). The idea was to infiltrate positions of power and to influence policy to reflect a specific type of conservative Christian morality, all without acknowledging that was what was happening. Such attempts became early battle grounds in the so-called “culture wars” in the 1990s (Green et al. 1996; Hunter 1991; Morone 2003).

Political mobilization is only one part of the NCR story. The NCR’s long-standing concern with education and education policy is also central to understanding the NCR (Crespino 2008). Going back to the 1950s, the nascent NCR organizations and eventual-NCR leaders expressed grave concerns over sex education in public schools (Wilcox 1988, 675). In addition, the NCR was swept into fights against teaching evolution in schools during the 1950s and 1960s (Wilcox 1988, 675). The 1960s and 1970s saw challenges, including the removal of tax-exempt status, to racially unbalanced religious private schools in the South (Crespino 2008, 90-92). Some of these targeted schools included private Christian schools, enraging many would-be NCR activists (Crespino 2008, 90-92). Nascent NCR organizations saw the IRS challenges as emblematic of government hostility to religion and as intentional discrimination based on faith (Crespino 2008; Liebman and Wuthnow 1983). According to Crespino, NCR leaders at the time attribute the IRS challenges to the tax-exempt status of racially imbalanced religious private schools in the South as the key element in their political awakening and mobilization (2008, 90-91). The IRS controversy firmly entrenched the “siege mentality” within the NCR that portrays them as the victims of government oppression at the hands of irreligious, illegitimate government bureaucrats (Crespino 2008, 90-91). It is worth noting that the decision to remove tax-exempt status from private schools that engage in racially discriminatory practices was made in 1970 under the Nixon administration (Crespino 2008, 103).

However, it is Carter, who would not be in office until the latter part of the decade, and “secular liberals” who bear the brunt of the attacks for these decisions (Crespino 2008, 103-05).<sup>32</sup>

In the 1980s and 1990s, while evolution and sex education remained points of contention, the NCR also mobilized against the teaching of “secular humanism” as a religion in public schools (Wilcox 1988, 675). While many “fundamentalist” religious schools were set up at this time, many NCR activists also took to challenging public school policies, often at the local level, to try to gain greater representation of their religious beliefs in their local public schools (Wilcox 1988, 675). In the 1990s in particular, these efforts manifested as attempts to place conservative Christians on local school boards to influence school policy (Binder 2002; Deckman 2001; Detwiler 1999). This education-based activism, regardless of how fleeting its victories tended to be, was incredibly influential and well-organized (Binder 2002, 6; Wilcox 1988, 675).

There is an extant body of literature that addresses the changing legal strategies employed by the NCR.<sup>33</sup> According to this scholarship, the NCR made a strategic shift from arguments originating in a narrow view of Christian morality to arguments about protecting the religious from discrimination and encouraging proper moral choices (Feld, Rosier, and Manning 2002; Moen 1992; 1996). This scholarship places a heavy emphasis on the strategic rationale underlying what arguments the NCR makes publically. While important for context, this scholarship is parallel to the present dissertation as I do not address potential strategic reasons why the NCR makes the arguments that they do. Rather, I contribute to the literature on social movements, identity politics, and the NCR by examining how the NCR’s identity politics employ arguments for prayer in public

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<sup>32</sup> For an excellent analysis of this controversy, see Crespino (2007; 2008). Bob Jones University’s loss of tax exempt status for its racially discriminatory policies, although occurring slightly later, is another of these galvanizing moments. Haberman (2005) provides a thoughtful analysis of the NCR and the Bob Jones case.

<sup>33</sup> For representative examples, see Bates 2000; Binder 2002, 219; Feld, Rosier, and Manning 2002, 175; Moen 1992; 1996; Wilcox, Rozell, and Gunn 1996; Wolfe 1998.

schools that aim to preserve socio-political privilege, rather than religious expression or the free exercise of religion.

This context explains the NCR's development towards mobilizing religion as identity politics, and the use of legal discourse, to advance their positions. The embrace of rights talk was slow coming, as there was a decidedly apolitical streak to conservative Christians in the 1950s and 1960s. This professed apoliticism included Jerry Falwell, among other conservative evangelical leaders, who publically chastised Martin Luther King, Jr. and other clergy members for their political engagement with the Civil Rights Movement (Boyer 2008, 34-35; Hadden and Swan 1981, 160; Martin 1996, 68-72; Zimmerman 2002, 176-78).<sup>34</sup> Falwell went so far as to argue that "Preachers are not called to be political but to be soul winners" (quoted in Hadden and Swan 1981, 160). However, as the cultural landscape continued to shift during the 1960s and 1970s, many of these formerly apolitical ministers began organizing and engaging in politics (Boyer 2008, 34-35; Lassiter 2008, 22-24; Zimmerman 2002, 176-78). Jerry Falwell formed the Moral Majority in 1979 and Pat Robertson formed the Christian Coalition of America in 1989 (Moen 1994, 348).<sup>35</sup> While these groups were politically involved, the turn to legal discourse and identity politics came later.

This slow embrace of the law was partially influenced by the Warren Court's presentation of rights as a liberal bastion for protecting vulnerable minorities (Glendon 1991, 4-7). Rights were presented as something for the powerless, not something that could be mobilized by the majority. However, the slow turn was also influenced by the open defiance to the school prayer decisions and other similar cases. It is hard to take up the mantle of legal order while simultaneously flouting court

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<sup>34</sup> Falwell's (in)famous sermon "Ministers and Marches" contains his critique of politically active preachers and offers what many have taken to be a defense of segregation. This sermon was delivered in 1964, and thus is not the impetus for King's "Letter from Birmingham Jail" ([1963] 2001). In this letter King responds to a published statement jointly authored by eight clergymen of varying faiths from Alabama in response to the direct action campaigns in Alabama that occurred as part of the Civil Rights Movement. Falwell was not one of these eight clergymen, but his remarks are similar to those of the clergymen to which King responded.

<sup>35</sup> Additional NCR groups formed at this time include: The National Christian Action Coalition (the first national NCR organization) in 1978; Religious Roundtable, Christian Voice, Moral Majority, and Concerned Women for America in 1979; Freedom Council in 1981; and American Coalition for Traditional Values in 1983 (Moen 1994, 348).



rulings. However, with the increasing feeling of victimization, even as politicians claimed support for NCR causes, the path to employing legal discourses became easier.<sup>36</sup> Moreover, as the NCR continued to warn against the collapse of American morality and the society it upholds, legal discourse became an invaluable tool for saving the American nation. This is especially true when the legal discourse is used to define who counts as legitimate Americans (Passavant 2002). None of this is to say that the NCR did not employ legal discourse earlier than the 1980s and 1990s (see Zimmerman 2002, 180), but rather the systematic use of legal discourse as part of presenting NCR positions was a gradually developing process that took several decades (Feld, Rosier, and Manning 2002, 175). Thus, the development of the NCR shows that a fear of moral decline in America, linked to specific socio-cultural changes, spurred the NCR into political action. This action was characterized by powerful organizational abilities and the slow embrace of legal discourse, which gave way to mobilizing religion as identity politics. We turn now from the organizational development to the NCR's ideological development, as this provides insight into the NCR's political vision that underlies their mobilization and identity politics.

### **New Right, NCR, and Populism**

As I discussed in Chapter 1, the NCR shares ideological roots with the New Right. Thus, to understand the components of the NCR's political vision (discussed in the next section), we must first understand the New Right's political vision and the ideological connections between the New Right and the NCR. These ideological connections include both groups' embrace of populism. The New Right's political vision is "a defining feature of modern American society" driving much of the current political climate (Dudas 2008, xi). This vision involves frequent claims of a nation "under siege," by moral threats, with the American way of life hanging in the balance.<sup>37</sup> Much of the New

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<sup>36</sup> See Chapters 3, 4, and 5 for a discussion of the NCR's use of legal discourse, including an explanation of the content of these discourses.

<sup>37</sup> Binder 2002, 3, 38, 196; Capps 1990; Lakoff 2002; Lassiter 2008; Mattson 2008, 104, 117; McCright and Dunlap 2010.

Right's political vision involves more than just electoral success—it calls for cultural transformation (Lassiter 2008, 13-15; Mattson 2008, 130-31). The NCR and New Right share this focus on cultural transformation and perceived moral threats to the American way of life.

Where the NCR, in my account, differs from the New Right is the explicit integration of Christianity into the NCR's worldview and politics (explored at length in the next section). This Christian component sometimes puts the NCR at odds with the New Right,<sup>38</sup> as the groups share a common ideology but not always the same goals. This shared past involves conservative backlash against the civil rights movement, abortion rulings, and questions of school choice throughout the 1950s, 60s, and 70s that gave rise to the New Right *and* the NCR (Ramet 2005, 432; Shields 2011, 650; Wilson and Burack 2012, 180). Often this conservative backlash employed populist rhetoric.

Kazin defines populism, at its most basic, as “a language whose speakers conceive of ordinary people as a noble assemblage not bounded narrowly by class, view their elite opponents as self-serving and undemocratic, and seek to mobilize the former against the latter” ([1995] 1998, 1). Throughout the two-century long history of populist rhetoric in America, this rhetoric has always portrayed some segment of “ordinary Americans” as virtuous and deserving (Kazin [1995] 1998, 1). This portrayal, of course, comes with the related rendering of some Americans as undeserving and illegitimate benefactors of a corrupt system (Kazin [1995] 1998, 1-2). Not surprisingly, populism in the U.S. involves the use of us-versus-them rhetoric in fights over the “meaning of Americanism itself” (Kazin [1995] 1998, 2; Lindsay 2007, 219). This us-versus-them nature of populism galvanizes those who embrace it, and marks the targets of this rhetoric as illegitimate. As an assault on the

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<sup>38</sup> See, for example, the ruling in *Employment Division v. Smith* (1990) and the political fallout that followed. In *Smith*, the Supreme Court heard a challenge to Oregon's denial of unemployment benefits to two men who were fired for drug use. The men in question ingested peyote as part of a ritual in celebration of their Native American faith. The New Right supported Oregon's actions as part of national anti-drug policy, whereas the NCR wanted a religious exemption to be made. Ultimately the Court ruled in favor of Oregon, allowing generally applicable drug laws to trump religious expression. The fallout from this case includes Congress's passage in 1993 of the Religious Freedom Restoration Act (RFRA) (1993) that sought to undue a portion of the *Smith* ruling. In *City of Boerne v. Flores* (1997), the Court invalidated a portion of the RFRA. This ruling supported states over federal intrusion, but in the process prevented a church from expanding to meet the needs of its growing congregation. See also Greenhouse 2007.

inappropriate use of power by the cultural and political elites, populism entails a dual nature that unites the masses while simultaneously drawing divisions within the American populace (Kazin [1995] 1998, 2).<sup>39</sup>

Exploring the New Right's development and use of populist rhetoric serves to contextualize the NCR's use of right-wing populist rhetoric. Kazin argues the rightward shift in populism in the U.S. started with the red scare beginning in the late 1940s ([1995] 1998, 4). However, it was not until the 1960s in the context of domestic politics that conservatives come to fully embrace populist rhetoric (Kazin [1995] 1998, 4-5). While coalescing later, the New Right has its roots in this same populist-infused post-World War II period (Mattson 2008, 18; Schulman and Zelizer 2008a, 3). Extremism in the face of the Cold War threat that communism posed served to incite the embryonic New Right into action (Mattson 2008, 29). While the Cold War created the background for the rise of the New Right, it was the question of government power embodied in the form of the Civil Rights Movement, expansion of the welfare state, and an "activist Court" that truly reified the New Right (Keck 2004, 179-81; Sokol 2006, 166-70).

The 1960s saw a mass conservative rebranding as politicians and activists began using populist rhetoric to advance their positions as protecting the (silent) majority (Kazin [1995] 1998, 246; Mattson 2008, 92-93). This burgeoning New Right found its first paragon in the form of Barry Goldwater (Perlstein 2001). However, with Goldwater's crushing 1964 defeat, it was not long before the New Right moved on to a new favorite son, Richard Nixon. Guided by Kevin Phillips, Nixon gave a full-throated defense to New Right ideals, and the populism underlying them (Kazin [1995] 1998, 250-51; Mattson 2008, 93). This New Right brand of right-wing populism is characterized by a number of common themes: (1) anger directed against the system (regardless of how much power

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<sup>39</sup> Kazin does not argue, nor do I, that everyone that we study are, in fact, populists ([1995] 1998, 3). Rather, the argument is that the people Kazin studies, and the NCR that I study, employ populist rhetoric as part of their argumentation (Kazin [1995] 1998, 3).

they have); (2) caustic attacks against their opponents; (3) distrust of intellectuals and cultural elites; (4) an embrace of power while claiming a position of victimhood; and (5) a spirit of rebellion (Mattson 2008, 3). While the 1960s saw the rise of the New Right, it is in the 1970s that the New Right, along with the NCR, enjoy their key organizational period (Schulman and Zelizer 2008b).

From the mid-1970s on, the New Right's political and moral vision is steeped in populist rhetoric (Kazin [1995] 1998, 247). This vision focuses on the "traditional" values of the middle class and finds large support among evangelical Protestants (Kazin [1995] 1998, 247). In particular, evangelical Protestants mobilize against government policies and social practices that differ from their "biblical code of sexual self-discipline, patriarchal families, and a Calvinist type of producer ethic" (Kazin [1995] 1998, 247). The shared embrace of traditional family values and anti-government sentiment helps solidify the ideological ties between the New Right and NCR.<sup>40</sup>

It is the use of populist rhetoric by the New Right and the NCR, firmly embraced by both groups in the 1970s, that really pushed forward the cultural politics that become emblematic of the culture wars in the 1980s and 1990s (Crespino 2008, 105; Kazin [1995] 1998, 247-48; Lassiter 2008, 20-24). Lassiter explains the connections to the culture wars as these fights are about "who should have the power to define family values, and in what ways government policies should influence the domestic sphere" (Lassiter 2008, 24). Economic explanations were repeatedly downplayed or ignored, instead focusing on cultural explanations for the crisis in the 1970s (Lassiter 2008, 15). The mainstream news media, in particular, is responsible for propagating the "cultural" explanation for American social crisis (Lassiter 2008, 15). The focus on culture dovetailed with the arguments coming from the NCR, thus giving them more prominence and their critiques more resonance

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<sup>40</sup> As Kazin notes, that the NCR uses this populist rhetoric not to repress people, but rather to free them from what they see as the liberal elites' government oppression inconsistent with God's plans ([1995] 1998, 247). That is, the NCR's explicit goal is to protect their community, not to harm others. Scholars have studied how the NCR's self-defense creates harmful imposition on others, regardless of the NCR's stated goals (see Herman 1996; 1997; Miceli 2005).

(Kazin [1995] 1998, 247; Lassiter 2008, 15). Moreover, these arguments combine the fate of the American family structure with the fate of the American nation.

The joint mobilization of the New Right and NCR in the 1970s marked the first time since prohibition that conservative religion and conservative politics cooperated (Kazin [1995] 1998, 256). Kazin explains that the NCR was motivated by a strong desire to reverse the cultural decline that was leading to the downfall of America:

A consuming desire to cleanse sinful institutions led them [NCR activists] to chastise judges who forbade school prayer but authorized abortions, television executives whose productions smashed sexual taboos, and school authorities who promoted an agnostic stance toward moral questions. Activists on the religious Right were spearheading a traditionalist backlash against cultural changes they identified with the stylish professionals of “the new class” who allegedly controlled the mass media, the educational system, and the federal government. ... [T]he Christian Right had a coherent, albeit nostalgic, vision of what needed defending: the family headed by the father, a moral code based on the Bible, and an economic order that favored the self-reliant entrepreneur and worker ([1995] 1998, 256).

Kazin depicts the ways in which the NCR mobilized populist rhetoric to defend traditional American values and the religious beliefs and practices of the majority. This defense was a shared goal of the New Right, but something they had trouble mobilizing on their own. The NCR introduces the notion of “spiritual self-defense,” which entails engaging in politics to defend faith and protect the soul of the nation (Kazin [1995] 1998, 258). Spiritual self-defense justifies the NCR’s embrace of populism and politics in defense of their deeply held religious convictions. Spiritual self-defense bolstered the New Right’s political agenda, strengthening its moral core and allowing the groups to work towards shared political goals. The ability to appeal to the NCR’s moral core aided the New Right, whose politics was grounded in economic concerns and backlash against the mobilization of the historically disadvantaged (Boyer 2008; Crespino 2007; Dudas 2008; Hunter 1991)

The New Right and NCR further united and worked together on pro-family politics in their rejection of a permissive approach to abortion, gay rights, the Equal Rights Amendment, and government involvement in schools from school prayer to busing (Kazin [1995] 1998, 258-59). These threats came from every direction, including legislation Congress passed, which Nixon vetoed, establishing a national day care system (Lassiter 2008, 17). Nixon argued the program would compromise parental authority as it would take emphasis away from parent-led households and instead instill a community child-care ethos (Lassiter 2008, 17).<sup>41</sup> The New Right struck a public stance for the pro-nuclear family led by a male wage-earner. The NCR's positions, although similar, were not always so. Initially, the NCR tried to take an internally-focused approach to family issues in the 1950s (Lassiter 2008, 14). This internal approach hinged on protecting Christian families and households from cultural threats (Boggs 1983). Effectively, this was a position of isolationism. However, this inwardly-focused orientation did not last, and the NCR turned to politics (Lassiter 2008, 21). While engaging in political action, the NCR activists insisted that they were just defending their families and that they were not trying to force their religion on anyone (Lassiter 2008, 25-26).

However much the NCR and the New Right overlap, they are decidedly different, albeit related, entities. The NCR's focus on religious identity makes it a body unto itself. For example, the NCR began to chafe under Reagan when he gave way to more traditional politics and did not come out strong for their preferred laws and amendments (Kazin [1995] 1998, 265). In addition, while the "Republican Revolution" of 1994 banked heavily on NCR support, many of the New Right politicians involved did not share the NCR's religious convictions, favoring economic policies instead (Kazin [1995] 1998, 275). The faith underlying the NCR's political mobilization is crucial to this group's identity, and thus warrants the careful separation from the New Right. While the New

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<sup>41</sup> Nixon's arguments here parallel arguments made by the NCR invoking parental rights to control the public education system. See Chapter 5 for a discussion of the NCR's use of parental rights claims.

Right and NCR share much of their political ideology, the Christian identity inherent to the NCR provides a significant distinction.

### **Christian Worldview and NCR Political Vision**

Having outlined the NCR's historical development, with a focus on their ideological development and the context in which they mobilized, I now turn to how the NCR views the world. By outlining what the NCR depicts as a Christian worldview, the connections between this worldview and the aforementioned ideological development give way to the NCR's political vision. This political vision is crucial to understanding the NCR's diagnosis of what is wrong with the contemporary U.S., what its prescriptions are for fixing these problems, and the specifically political solutions needed to bring about the necessary changes.

#### *NCR Worldview*

The NCR's worldview, according to Focus on the Family, is directly connected to the word of God, understood to be contained in the Bible (Tackett n.d.). Similarly, Family Research Council (FRC) presents a Christian worldview as “a set of presuppositions, beliefs, and convictions shaped by our relationship with Christ and defined by Scripture” (Family Research Council. n.d.a, 2). They go on to refine this worldview, borrowing from religious researcher and author George Barna, as involving:

- “Belief that absolute moral truths exist
- “Belief that such truth is defined by the Bible
- “Belief in six specific religious views:
  - o “Jesus Christ lived a sinless life
  - o “God is the all-powerful and all-knowing Creator of the universe and He stills rules it today
  - o “Salvation is a gift from God and cannot be earned
  - o “Satan is real
  - o “A Christian has a responsibility to share their faith in Christ with other people
  - o “The Bible is accurate in all of its teachings” (Family Research Council. n.d.a, 2).

What comes through in both the Focus on the Family and the FRC portrayal is that Christian teachings should control every aspect of one's life (see Noebel n.d.). Moreover, the NCR argue that every aspect of our lives has impacts that reverberate through society and thus should be undertaken with great care.

In explaining why a Christian worldview matters, Tackett for Focus on the Family explains:

Because we live in a selfish, fallen world, these [nonbiblical worldview] ideas seductively appeal to the desires of our flesh, and we often end up incorporating them into our personal worldview. Sadly, we often do this without even knowing it. ... However, by diligently learning, applying and trusting God's truths in every area of our lives—whether it's watching a movie, communicating with our spouses, raising our children or working at the office—we can begin to develop a deep comprehensive faith that will stand against the unrelenting tide of our culture's nonbiblical ideas. If we capture and embrace more of God's worldview and trust it with unwavering faith, then we begin to make the right decisions and form the appropriate responses to questions on abortion, same-sex marriage, cloning, stem-cell research and even media choices. Because, in the end, it is our decisions and actions that reveal what we really believe (Tackett n.d.).

This expression of the importance of a Christian worldview gives context for how the NCR frames their political battles. Notice it is important for individuals to embrace God's teachings in their everyday lives. It is also crucial that people reach the "appropriate response" on moral questions. Many of the moral questions Tackett provides as examples are also political questions as they raise questions about appropriate laws and state action. These questions must be answered in accordance with the word of God, and the law can (and *should*) be used to enforce this NCR worldview. Moral choices matter for personal character, and people cannot be trusted to make the right decisions. Temptation is everywhere, and it is strong. Moral legislation and moral education can go a long way in aiding people to live up to God's teachings, which are encapsulated in the NCR worldview.

The NCR worldview also involves aspects of dominionism. Dominionism involves the belief that Christians must hold all positions of secular authority and power, coming from God's grant of dominion in the Book of Genesis to humans over all living creatures (Diamond 1989, 138; Martin



1996, 353). Although dominionism (also referred to as Dominion Theology or Christian Reconstructionism) does not directly conform with the theological beliefs (primarily regarding eschatology and the specific nature of the second coming of Christ) of many within the NCR, prominent NCR leaders from James Dobson to Ralph Reed<sup>42</sup> have embraced these teachings (Diamond 1989, 138-39; Martin 1996, 353-55). Diamond goes so far as to state that “the concept that Christians are Biblically mandated to ‘occupy’ all secular institutions has become the *central unifying ideology* for the Christian Right (1989, 138 emphasis in original). This focus on dominionism, even by those whose theology presents a different eschatology, suggests strong political urgings contained within the NCR’s version of a Christian worldview.<sup>43</sup> Dominionism factors into the NCR’s efforts to remake not just laws, but the bulk of American culture to conform to a Christian worldview (Family Research Council. n.d.a, 3-5; Martin 1996, 353; Noebel n.d.).

#### *NCR Political Vision*

I follow Sheldon Wolin ([1960] 2004) in my use of “political vision.” Wolin explains that “vision” involves understanding political phenomena from one’s point of view, while also suggesting the “imaginative” element of an ideal ([1960] 2004, 12-18). A political vision provides a perspective from which we analyze society (Wolin [1960] 2004, 19-20). In addition, a political vision, as a conceptualized ideal, provides remedies for the problems perceived (Wolin [1960] 2004, 20). Consequently, when I speak of the NCR’s political vision, I mean their conception of American political life as it is and as it should be. The ideals embodied in the normative portion of this vision guide the sought after political change. Both the diagnosis and prescription, offered in political terms in the NCR mobilization, derive from the NCR’s understanding of a Christian worldview.

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<sup>42</sup> Gary North, Bob Mumford, and R.J. Rushdoony are the names most prominently associated with fervent advocacy of dominionism, where other NCR leaders have given passing endorsement of these views in their political quests for a Christian transformation of American culture (Diamond 1989, 138-39; Martin 1996, 353-55).

<sup>43</sup> In the glossary she provides, Diamond defines “dominion theology” thusly: “Like the term ‘kingdom theology,’ the term is used informally by politically-minded born-again Christians of a variety of ‘eschatological’ positions to add a biblical veneer to their quest to Christianize social institutions in the areas of politics, education, law, media and entertainment, business and the military” (1989, 238).

In looking at the problems the NCR identifies as most crucial in the U.S., several issues are repeated across organizations. These issues tend to be abortion and contraception; sex- and gender-based issues including same-sex marriage, the blurring of traditional gender roles, high divorce rates, and sexual education in schools; and the loss of religious expression in public life, which also manifests as religious discrimination against Christians.<sup>44</sup> These issues are presented as indicative of the cultural and moral decline America has suffered at least since the 1960s. The NCR attributes many of these social ills to the actions of the secular liberal elite that undermine American morality (see, e.g., Fuller n.d.). According to the NCR, this secular liberal elite espouses secular humanist views that do not stress that there are moral rights and wrongs, that good and evil exist as objective categories, and that people are created in God's image to fulfil specific, gender-based roles that help maintain a healthy society (Focus on the Family 2008). Thus, the NCR must take action to rectify these wrongs that are harming all of America.

Comments such as those by former Republican presidential candidate and Fox News commentator Mike Huckabee, which opened my first chapter, reflect the larger pattern by which the NCR seeks to address issues of moral decline in relation to school prayer. In clarifying his initial reactions to two mass shootings, Huckabee explains that he did not mean to suggest that having school prayer would have prevented either the Aurora theater shooting or the Sandy Hook shooting. Rather, the lack of school prayer is emblematic of what Huckabee, along with much of the NCR, diagnose as larger cultural problems. Huckabee states:

We dismiss the notion of natural law and the notion that there are moral absolutes and seemed amazed when some kids make it their own morality to kill innocent children. ... And we don't teach them there is a Creator God who sets immutable rules, a God who is knowable, and to whom we are ultimately responsible. Instead we teach that God was not involved in our origins, that our very lives are biological happenstances and in fact are disposable should they be inconvenient to us, and that any outrageous behaviors are not sin, but disorders for which we should be excused

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<sup>44</sup> See, e.g., American Family Association n.d.; Christian Coalition of America n.d.; Family Research Council. n.d.b; n.d.d; Ramet 2005, 432; Wilson and Burack 2012, 185-86.

and accommodated. ... But when we as a nation feared God, we didn't fear that a 20 year old with a high powered rifle would gun down our children in their schoolrooms (Huckabee 2012).

Huckabee identifies a number of the cultural failings that he believes led to the Sandy Hook shooting. These failings include (1) moral relativism, or at least the lack of an embrace of a Christian morality, (2) the lack of explicit teachings about a God that is to be feared and obeyed lest we be punished for our transgressions, (3) the teaching of evolution as opposed to creationism, (4) the allowance of abortion, (5) an overabundance of technology (this point is not reflected in the quoted materials, but it is in his response), (6) tolerance of LGBT families (another point in the response that is not quoted above), and (7) the lack of emphasis on sin in favor of using a mental health model of disorders. While school prayer would not reverse this trend on its own, he intimates, it certainly would help reverse the cultural decline that produces tragedies such as Sandy Hook. Thus Huckabee captures how the NCR's Christian worldview that calls for an embrace of God in all aspects of life identifies a number of cultural failings with the contemporary U.S. As the NCR mobilizes to combat these problems, their prescriptions also come from their worldview. Along these lines, the FRC's mission statement explicitly states their goal as shaping policy and culture in terms of a Christian worldview (Family Research Council. n.d.e). These prescriptions, put into political argumentation, constitute the core of the NCR's political vision for remaking the moral core of America.

Given the stated worldview and diagnosed problems, the NCR political vision involves reclaiming American culture and institutions to reflect the tradition of public (Christian) faith. Proper education, with an emphasis on shared American—which are depicted as fundamentally Christian—values can instill proper morals (American Family Association n.d.; Burlein 2002, 134, 151). The NCR argues that these morals will lead people to make appropriate choices that benefit all. Furthermore, they contend that these moral sentiments can help to soothe divides

within America as Americans unite around shared morals. In articulating the NCR's position, Feldman explains, "... the best way to hold the United States together as a nation, not just a country, is for us to know what value we really hold and to stand up for them. Convergence on true, traditional values is the key to unity and strength" (2005, 7-8). This unity helps, not only by ending many divisions in society, but also because, as the Alliance Defending Freedom reminds us, our constitutional republic is premised upon moral, God-fearing people, and cannot function with any other sort of populous (Theriot 2010).

Thus, the NCR's political vision is characterized by an embrace of the identity of America as a Christian nation, allowing free religious expression in public forums (including schools), so long as the government does not get involved to dictate people's beliefs (American Family Association n.d.; Family Research Council n.d.; Ramet 2005, 434, 440; Smith 2000, 51-53; Theriot 2010). This Christian identity as American identity means establishing policies and laws that guide people to make the "right" moral decisions while also reversing the cultural changes that have fostered sin, disunity, and a lack of self-control within a large number of Americans (American Family Association n.d.; Wilson and Burack 2012, 185-86). In this sense, the NCR political vision mirrors the New Right's with respect to the profession of moral decline, call for cultural transformation, and the backlash to previous cultural changes.<sup>45</sup> This backlash, in particular to the women's movement, the gay rights movement, and efforts to remove prayer and religion from public schools and other public forums, motivates the NCR's push for reclaiming America as a Christian nation. Re-implementing school prayer is one way to move towards this needed cultural change.

### **School Prayer and the NCR Political Vision**

School prayer itself does important work for advancing the NCR's political vision, offering four main benefits towards this end. First, school prayer directly injects elements of religiosity into

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<sup>45</sup> See, e.g., Binder 2002, 3, 38, 196; Capps 1990; Dudas 2008; Lakoff 2002; Lassiter 2008, 13-15; Mattson 2008, 104, 117, 130-31; McCright and Dunlap 2010.

public schools as prayer is an act of devotional faith. Second, prayer in schools offers governmental support for the idea of Americans as a religious people and America as a Christian nation. Third, school prayer offers a common set of American morals and values upon which students can unite. Fourth, prayer in schools involves acknowledging God's authority over all, which also works as instruction in respect for proper authority. Collectively, these four benefits from school prayer work towards creating the possible conditions for the cultural transformation at the core of the NCR's political vision. The importance of school prayer for the NCR vision is tied to the fact that the loss of school prayer is linked in NCR discourse with significant moral and cultural decline in the 1960s and 1970s, and thus is one of the NCR's core perennial issues (Gaddy, Hall, and Marzano 1996, 192; Martin 1996, 77-78, 232; Ramet 2005, 432).

Prayer is recognized by many religions as the act by which individuals, or groups, commune with their deity or deities. We are told that "Prayer is a relationship, wherein we humbly communicate, worship, and sincerely seek God's face, knowing that He hears us, loves us and will respond, though not always in a manner we may expect or desire" (Velarde 2008b). Thus, prayer is an exercise of faith that is inextricably linked with religion, in general, but almost certainly a specific religion or set of beliefs. This means that any inclusion of prayer in public schools involves an inclusion of religion in schools, showing state support for religion.<sup>46</sup> This endorsement allows faith-based expressions into schools where students are a captive audience, and when students do not share the expressed beliefs they are marked as being other and outside of the group (Feldman 2005, 70; Jacobs and Theiss-Morse 2013, 374-76).

One of the central points within NCR mobilization of religion as identity politics is that America is a Christian nation (Chancey 2009; Jacobs and Theiss-Morse 2013). By integrating prayer into public schools, the NCR seeks out government endorsement, at least tacitly, for the idea that

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<sup>46</sup> See *Abington School District v. Schempp* 1963; *Engel v. Vitale* 1962; *Lee v. Weisman* 1992; *Santa Fe Independent School District v. Doe* 2000.

America is a Christian nation. This support comes from the fact that public schools are state entities, and having prayer in schools involves at least tacit endorsement for prayer and religion (see *Lee v. Weisman* 1992; *Santa Fe Independent School District v. Doe* 2000). This governmental support helps to further blend an American identity with a Christian identity (see Gaddy, Hall, and Marzano 1996, 192; Jacobs and Theiss-Morse 2013). Through appeals to the long tradition of school prayer, and government supported prayer in public in general, the NCR argues that this country is a Christian nation founded on Christian principles (Chancey 2009, 192; Smith 2000, 26-37). As such, prayer belongs in schools when it is not compulsory, and especially when it is supported by a majority of Americans (Beard et al. 2013; Feldman 2005). These arguments root prayer in American tradition and shared public life. Moreover, and more importantly for this dissertation, these arguments intimate that Americans are people who come together, pray Christian prayers, and this is simply a fact that the government has acknowledged since the founding. Thus, school prayer gives state support to the notion that America is a Christian nation, a position both religious and non-religious Americans hold implicitly (Jacobs and Theiss-Morse 2013).

One of the constant criticisms from the NCR towards public education since the Supreme Court's removal of school sponsored prayer has been the loss of moral education in schools (Chancey 2009, 187; Feld, Rosier, and Manning 2002, 174). NCR activists claim that as prayer has been removed, so have any teachings related to absolute moral standards. For the NCR, this moral relativism is part of the liberal elite's embrace of secular humanism and other relativistic theories (Liberty Institute 2013, 3; Greenawalt 2005, 81, 83). School prayer offers a chance to reintroduce moral education and absolute moral standards into public education (Detwiler 1999, 186; Fuller n.d.). In this sense, the arguments for the benefit of school prayer start to mirror the arguments put forth for why Biblical education must be a part of the original common schools. As outlined earlier in this chapter, common schools were designed to impart proper moral training to make better

citizens. The NCR echoes these arguments, and in so doing harken back to the founding of public education in the U.S.

While the connections between school prayer and NCR conceptions of authority are explored in more depth in Chapter 5, I offer a brief discussion of how school prayer instantiates the NCR conception of authority. In explaining “Prayer and the Difference it Makes,” Velarde links understanding prayer to an explanation of God’s nature, claiming, “God is supremely in charge of everything that happens in His universe. Nothing takes Him by surprise and nothing happens in our lives without the knowledge of God, even though we may not always understand His actions” (2008b). God’s sovereignty means that prayers are a chance to ask God for guidance while acknowledging that we cannot change God’s mind and that God will do what He has already decided to do (Velarde 2008b; 2008c). In addition, Jesus’s prayer life also conveys that “God is in charge,” marking one of the most important lessons Jesus taught about prayer (Verlarde 2008a). Thus, the Bible tells us God is sovereign, and Jesus stresses that God is in charge of all, which is consistent with His omnipresence, omniscience, and omnibenevolence (Velarde 2008b). In that the prayer the NCR advocates is decidedly Christian, even if occasionally non-denominationally Christian, this lesson of God’s sovereignty comes through in the NCR’s mobilization for prayer. God is the ultimate authority, putting obedience to God above obedience to the state or any government established by humans (Liberty Institute 2013, i; Scalia 2002, 18-19). This means that the school prayer the NCR wants instructs students that their first obligations are to God, and then to their country. Moreover, as prayer teaches morality and proper self-discipline, these teachings carry over to secular institutions as well. Students are taught to obey governmental authority consistent with their religious beliefs, and in so doing to become proper Christian citizens.

Given these main benefits, school prayer continues to be a focus of the NCR’s political mobilization. The institution of school prayer works to inculcate a Christian worldview within future

citizens while offering moral instruction that is invaluable for reversing America's cultural and moral decline. School prayer offers the means to implement the NCR's political vision as it helps address the identified socio-cultural problems while also working towards their proffered solutions. In this way school prayer is integral to the NCR's political vision, and thus an apt topic for studying the NCR's political mobilization and the use of religion as a focus of identity politics.

### **Conclusion**

This chapter studies the historical and ideological development of the NCR. This history stresses that the NCR organized against socio-cultural changes in the 1960s and 1970s that they saw as damaging to the American way of life. A further investigation of the NCR's political vision shows that this socio-cultural context has influenced the nature of NCR mobilization, with an emphasis on a religious identity at the core of a U.S. identity. For the NCR, recapturing the U.S.'s Christian past can help guarantee the U.S.'s future. The NCR presents school prayer as one means to work towards this end.

School prayer has been a contentious issue in the U.S since the founding of free public education. This quarrelsome past continues to shape the contemporary struggles around efforts to reintroduce prayer into public schools. Despite this troubled past, the NCR presents school prayer as offering a calming, moralizing, unifying force in society. This presentation of school prayer as unifying misses the significant portion of Americans who do not support prayer in public schools, and also suggests how the NCR's political vision offers a narrow view of what it means to be American. The next three chapters explicate how the NCR's identity politics involves using school prayer to try to realize their political vision.



### Chapter 3

#### The Secular and the Profane: Religion-Free Mobilization for Religion in Public Schools

In this chapter I study the arguments the New Christian Right (NCR) use as part of their mobilization for the inclusion of religion, including school prayer, in public education. One of the striking findings is the frequent appeal to secular rights to defend religion and often downplay the unique faith-based characteristics of religion and religious beliefs (Binder 2002; 2007; Crespino 2008; Davies 1999; 2002). These religious conservative activists advocate for religion by treating it as any other idea with respect to the law. These groups mobilize secular rights arguments, appeal to equality, and claim victimization to argue why religion belongs in public schools.

Alan Sears, president of Alliance Defending Freedom (ADF), while discussing school vouchers manages to exemplify the main findings in this chapter. The ACLU were involved in challenging Cleveland's voucher program as a violation of the Establishment Clause as students could attend private religious schools with public funding (*Zelman v. Simmons-Harris* 2002). While vouchers involve public support for private religious schools, and not religion in public schools, Sears's statements serve as illustrative examples of the same arguments that are used for religion in public schools. Sears begins, "But how about equal protection for those who take the Bible seriously? And to think the ACLU wants us to believe it objects to profiling religious people. Oops! Apparently it's okay to profile Christians and Jews" (2002). Sears explicitly invokes equality in calling for "equal protection" for the religious. Equal protection also invokes notions of victimization, as equal protection has historically involved vulnerable minorities' legal battles for equality.

Sears continues:

Now that the Cleveland voucher program has been declared constitutional, some school children will be able to read Hebrew history in the Old Testament and learn the facts about David and Goliath. The ACLU tries to position itself as David, but that's bogus. The school children will see for themselves that people of faith are always in David's camp, and bullies like the ACLU are on the side of Goliath. Maybe it's the smooth stone of truth, carefully aimed, that's causing panic and rage about school choice in the ranks of the ACLU Philistines (2002).

Sears further expresses victimization in how the “Goliath” ACLU is targeting the religious for discrimination. However, despite the ACLU’s improper use of power, just like David the religious are ready to fight back with the “smooth stone” of “truth.” But the ADF is not willing to stay in their expressed position of victimhood. Instead, they will fight back against the overwhelming, Goliath-like forces acting against them. Sears elaborates more on the nature of fighting back:

That smooth stone is parental rights. More than anyone else, parents know what education their children need. With vouchers, parents regain some of their lost authority, while the self-proclaimed elites lose power they never should have had (2002).

Not just truth, but also parental rights will help defeat the ACLU. Invoking parental rights involves appealing to a secular rights argument, albeit one consistent with a conservative Christian worldview (Murray 2009; NeJaime 2009). Claims on parental rights are not claims of religious rights, furthering the appeal to secular and not religious rights.

Sears concludes his argument by further explaining the forces against Christian parents and explaining how Christian parents can prevail. Sears states:

The real problem for the politically correct is that their power ebbs when parental authority flows. Do parents know what’s best for their children, or do the elites? If parents think religious schools will provide the best education for their children, why shouldn’t they be able to make that choice? Is the main reason because anti-faith bigotry stretching from the 19th century into today forbids it? An anti-faith bigotry that did not originate with the framers of our national constitution, and which is clearly against America’s founding principles? Or is the main reason because the ACLU and the NEA think parents know less than those organizations do about what’s good for their own children? (2002).

Through effectively mobilizing, Sears argues, religion can resume its proper place in education.

Parents can control their children’s education, and in so doing, control the training of the future generation of American citizens. This training will presumably reorient America towards traditional, founding principles as it is “anti-faith bigotry”—which we are told is inconsistent with these founding principles—that currently prevents proper religious education. All of these ideas are

represented in the content analysis discussed in this chapter, making Sears's positions emblematic of the NCR arguments made for religion in schools.

This dissertation is a study of the NCR's use of identity politics for prayer in public schools. The content analysis in this chapter provides empirical material for analyzing the arguments made as part of this mobilization. The results reveal the arguments the NCR mobilizes for religion in schools, how they present their cause, and how they portray these battles. This content analysis gives flesh to the bones of the NCR's political vision. By examining the NCR's mobilization, and the animating impulses underlying their mobilization, we can see the political manifestation of the NCR's political vision described in the previous chapter.

The NCR's argumentation consists of two primary types of arguments. First, the NCR claims free speech rights, and other vague non-religiously-based rights, to protect a position of equality for religion in society (see Binder 2002; Delfattore 2004). Second, the NCR relies on arguments claiming victimhood at the hands of anti-religious discrimination (see Binder 2002; Zimmerman 2002). These patterns emerge through a study of the NCR, as well as New Right, activist organizations regarding the question of religion's place in public schools.<sup>47</sup> I do not find any significant differences between the NCR's and the New Right's argumentation. Thus, I focus on the NCR in this chapter. The New Right is included to show the commonality between the two groups that I posit in Chapter 2. The similarity in patterns of argumentation further supports the shared ideological connections between the New Right and the NCR.

The rest of this chapter proceeds in several parts. I begin by explaining the content analysis performed for this chapter. The content analysis studies NCR mobilization for religion specifically in the context of education. The main themes within NCR mobilization are: (1) appeals to equality and equal rights through making secular rights arguments; and (2) arguments from a position of

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<sup>47</sup> Although almost all of the documents focus on K-12 education, a handful of documents (under 10%) are about religion on college campuses, normally in the context of Christian organizations.

victimhood expressing a perceived loss of social power and privilege. These themes also inform the school prayer case study in the next chapter. Next, I discuss the use of parental rights arguments within the NCR's mobilization, which I return to in Chapter 5. Finally, I explore the use of right-wing populist arguments within the NCR's mobilization. The right-wing populism present in NCR arguments functions as an articulation of the political vision animating the NCR's mobilization. The two main themes of equality and victimization dovetail with the embrace of right-wing populism that defines who counts as proper, virtuous American citizens.

### **Content Analysis**

For the content analysis in this chapter I collected over 300 documents from 16 different national conservative organizations.<sup>48</sup> I use publically available documents to see how these organizations present themselves, their issues, and their arguments to a public audience (see Dudas 2008, 48-9). The goal is to study conservatives' own words, arguments, and claims to depict their concerns as they express them. In this chapter I am not making assertions regarding their intent in making these arguments, but rather explaining and categorizing the arguments they make.

The collected documents were selected based on the topic covered, not based on the arguments included within. Thus, the documents included in this study are those that primarily addressed an issue regarding religion and education. The topics covered include questions of religion in education that go beyond school prayer. Although this dissertation focuses on school prayer, this content analysis is more broadly about religion in education for several reasons. The main reason is simple availability of material. While NCR organizations stress the importance of school prayer, none of the organizations focus solely on school prayer. Thus, they have far more documents regarding other issues involving religion and education than more narrowly on school prayer. School prayer serves as a subset of mobilization within public education (see Binder 2002; Delfattore 2004;

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<sup>48</sup> See Appendix A for a more detailed explanation of the sources used in this content analysis.

Gaddy, Hall, and Marzano 1996; Kniker 1997; Zimmerman 2002). Given the relatively small number of documents focusing just on school prayer, I broadened the content analysis to capture a wider depiction of the NCR's mobilization for religion in public schools. This broader approach allows for a more robust analysis by virtue of having more documents to analyze. More documents allows for the detection of patterns of argumentation without running the risk of over generalizing from a small sample of material.

Studying the organizational level captures how activists mobilize rights and rights language made available to any and all interested parties. The documents range from news stories and newsletters to copies of letters sent to school officials. As public discourse, these documents reflect the public, and generally accessible, arguments employed by the groups studied here. These documents are available to all who visit these organizations' websites, indicating intention to share these with a general audience. The arguments I coded are these organizations' and activists' public presentation of their positions. These documents were not constructed merely for public presentation, but they are all made available by these organizations. My dissertation focuses on the NCR's use of identity politics, which inherently involves public discussions of identity, difference, inclusion, and exclusion (Brown 1995; Butler [1990] 1999; Connolly 1991; Herman 1997; Passavant 2002). Given the central role public discourse plays in identity politics, the public presentation of rights claims and victimization is more important than private communications in which these activists might engage (see Dudas 2008, 48-49).

### *Set Up*

I randomly sampled 100 documents from those collected. I coded these documents for five categories of arguments made as part of the NCR's and New Right's mobilization. I coded both the NCR and the New Right separately to see if there are any significant differences in argumentation

regarding religion in public schools. In that I found no significant differences, my analysis focuses specifically on the NCR.<sup>49</sup>

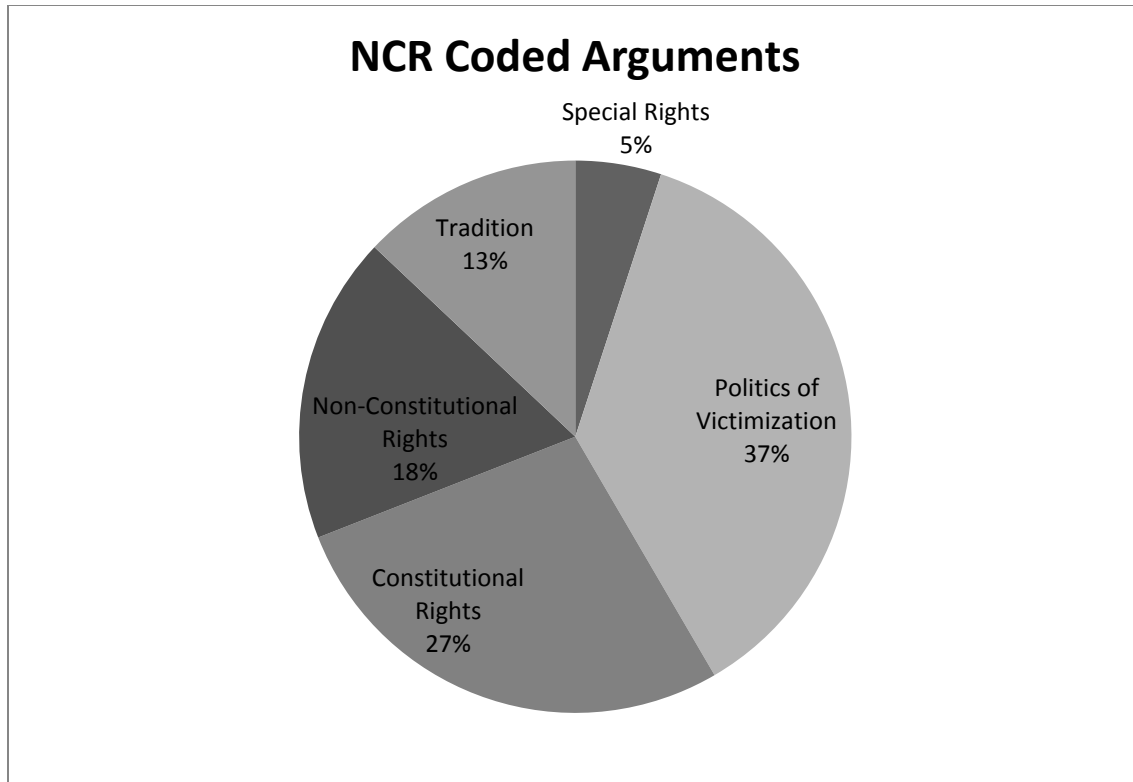
I coded for the following categories: special rights, politics of victimization, constitutional rights, non-constitutional rights, and tradition. I derived these five categories from an initial reading of the documents. This process ensures that I accurately describe the range of arguments present within these documents. This inductive approach enables me to present the most common arguments made in the documents that I coded. While I chose the categories inductively, they reflect ideas common to conservative argumentation.<sup>50</sup> I coded for each instance of an argument that falls within one of these categories, allowing for multiple codes within each document. The unit of analysis is each argument made.

Each of the five main categories is further subdivided into relevant subcategories, reflecting component parts of the arguments. Coding for subcategories permits more detailed explanation regarding the nature of the NCR's mobilization. As is evident in the results discussed below, two of the main categories of arguments (politics of victimization and constitutional rights) dominate the NCR's argumentation. Thus, I primarily focus on these two main categories of arguments, and relevant subcategories in this chapter. An explanation of the main categories and a list of subcategories can be found in Appendix A.

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<sup>49</sup> Appendix A contains a comparison of the New Right's and NCR's arguments, demonstrating how similar they are. Where appropriate, data on the New Right are presented in this chapter as well.

<sup>50</sup> See Brown 2002; Dudas 2008; Goldberg-Hiller and Milner 2003; Haltom and McCann 2004; Herman 1997; Hopson and Smith 1999; Mattson 2008. This similarity is consistent with my presentation of the ideological connections between the New Right and the NCR discussed in Chapter 2.



**Figure 3.1: Prevalence of 5 Categories of Arguments within NCR Documents**

Figure 3.1 depicts the incidence of each of the five main categories of arguments made in NCR documents. There is a clear pattern for the NCR where their most commonly used category of argument is politics of victimization. The second most commonly used category of argument is constitutional rights claims. These two categories greatly outnumber the other three, accounting for 64% of the NCR's arguments.<sup>51</sup>

The NCR portray themselves as the victims of anti-Christian or anticonservative discrimination within the school context (Binder 2002; Zimmerman 2002). Moreover, these organizations assert that they have constitutional rights that should protect them from the discrimination they are facing. For example:

<sup>51</sup> Similarly, 65% of the arguments made by the New Right fall into the politics of victimization and constitutional rights codes. Combined, 64% of the total number of arguments coded are politics of victimization or constitutional rights arguments.

The panel threw out the district court's injunction, which for nine years protected the right of religious groups to meet for worship services in New York City public schools on the same terms and conditions as other community groups. The panel ruled that the city's public schools can single out religious services for exclusion when deciding what kinds of activities may or may not take place in otherwise empty school facilities during the weekend—a decision that runs contrary to established U.S. Supreme Court precedent (*Alliance Defending Freedom* 2011).

The ADF argues that the court in question, and the school policy it upheld, specifically targets religious organizations for discrimination despite nine years in which these religious organizations enjoyed the right of access to public school facilities.

To better parse the arguments, I discuss the relevant subcategories used in this study. Of the “politics of victimization” subcategories, I focus here on religious discrimination and social engineering arguments. The subcategory of “social engineering” includes those arguments that assert that politicians, teachers, or school boards are trying to “brainwash” or “indoctrinate” children into beliefs that contradict Christian teachings. These arguments include an element that those being accused of social engineering are engaging in their practices to intentionally drive students from their religious convictions. For example:

“It’s just the latest in a disturbing trend in the courts concerning parental rights. The school district is attempting to change the beliefs of students without their parents’ consent,” Theriot said. ... “In essence, the only option the court’s ruling has allowed is for parents to accept public school indoctrination or take a hike,” Theriot explained. “... Rulings like these disproportionately impact the poor by institutionalizing them in what are quickly becoming re-education camps rather than places of learning” (*Alliance Defending Freedom* 2006b, quoting ADF Senior Legal Counsel Kevin Theriot).

Theriot’s arguments accuse school districts of trying to “change the beliefs of students,” as well as referring to this process as “indoctrination.” Theriot goes so far as to call schools “re-education camps,” emphasizing the extent to which schools are being used to control students.



	Selected Subcategories as a Percentage of the Main Code		Selected Subcategories as a Percentage of Each Group's Total Arguments	
	New Right	New Christian Right	New Right	New Christian Right
<b>Politics of Victimization</b>				
Religious Discrimination	53.8%	56.1%	19.4%	20.5%
Social Engineering	27.9%	29.6%	10.0%	10.8%
Political Correctness	17.3%	11.1%	6.2%	4.1%
<b>Constitutional Rights Claims</b>				
Free Speech	24.1%	32.4%	6.9%	8.9%
Vague 1st Amendment Claims	26.5%	18.3%	7.6%	5.0%
Hybrid Claims <sup>52</sup>	4.8%	14.8%	1.4%	4.1%
<b>Non-Constitutional Rights Claims</b>				
Religious Liberty/ Freedom	59.0%	63.4%	12.5%	11.4%
Parental Rights	26.2%	22.6%	5.5%	4.1%
<b>Tradition</b>				
America as Christian Nation	32.3%	40.3%	3.5%	5.2%
"Equal" not "Special" Rights Sought	58.1%	35.8%	6.2%	4.6%

Table 3.1: Most Common NCR Subcategories as a Percentage of the Relevant Code and Each Group's Total Arguments

Table 3.1 presents the ten most commonly used subcategories of arguments for the NCR as a percentage of all of their coded arguments. The data shows the percentage each subcategory

<sup>52</sup> For this content analysis, “hybrid claims” involve a claim that blends First Amendment rights. Instead of claiming free speech or free exercise rights, or both of these rights, these hybrid arguments assert, for instance, a religious right to free speech that controls group membership. The “hybrid” part connects a notion of religious liberty with a non-religious portion of the First Amendment. For example, “Rather than being a First Amendment orphan as some would have it, religious speech is at the apex of protected speech under the First Amendment” (Sekulow 2004). The claim here is for a religious right to free speech creating protections for “religious speech.” It is this blending of rights into one claim that I code as “hybrid.” It is worth clarifying that I did not code claiming both a religious and non-religious right at the same time as “hybrid.” Rather, only those arguments that explicitly blend religious and non-religious rights were coded as “hybrid.”

consists of within its main code, as well as among all of the coded arguments for the New Right and NCR, respectively. As Table 3.1 indicates, the NCR makes frequent claims of discrimination. They argue that religion in general, and Christianity specifically, is being intentionally targeted for discrimination and unfavorable treatment within schools. For example:

The Fifth Circuit Court of Appeals will hear oral arguments today [May 23, 2011] in *Morgan v. Swanson*. The case demonstrates just how badly political correctness has corrupted our public schools and illustrates the extremes to which radical school administrators will go to impose their ideological, anti-religious views on our children. ... Moreover, the schools ban all “references to and symbols of the Christian religion and the celebration of the Christian religious holiday, Christmas,” at the winter-break parties (Spakovsky 2011).

These NCR arguments depict religion as being actively chased out of public schools. This “religious discrimination” subcategory, when paired with the commonly made social engineering arguments, is informative. Here the NCR argues that religion is not just discriminated against in general, but that there is a concerted effort from a group of “secular liberal elites” who are driving this discrimination. In the name of political correctness and a liberal vision, the NCR activists argue, religion is being driven out of schools. Even worse, public schools are actively trying to “brainwash” children into rejecting religious values and adopting a secular viewpoint.<sup>53</sup> These arguments suggest a cultural landscape where the religious are political and social outcasts (Zimmerman 2002). The fear is that they are being driven out, or already have been driven out, of the public realm and are not having their rights respected. This fear is palpable in the NCR activists’ push for their rights and representation of their positions within public schools. As cradles of citizenship production, the NCR asserts, public schools need to be open to religion and free of liberal indoctrination. The NCR’s concern justifies the attention they pay to guaranteeing the place of religious beliefs and religious organizations within public schools.

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<sup>53</sup> Binder’s (2002; 2007) work studying creationism and intelligent design finds a similar use of claims of victimization, including the attempts by educators to indoctrinate religious students into secular ways that question the students’ faith.

Figure 3.1 shows that the NCR also relies substantially upon constitutional rights claims arguments. As seen in Table 3.1, the NCR's most commonly asserted constitutional rights claims are free speech rights. Separating the NCR and New Right indicates that the NCR's most common constitutional rights claims arguments are free speech arguments (24% for the New Right), whereas the New Rights' most common arguments are free association (33% for the New Right, but only 7% for the NCR). This divergence could be a product of the NCR's emphasis on being able to share Christian beliefs, argued for as protected speech, and the New Right's emphasis on the ability of the faithful to exclude non-conformers, expressed as claims of the right to free association. The extent to which this is an entrenched difference, and the extent to which it is a product of random sampling, is unclear. What is clear is that both groups' most common arguments within the constitutional rights claims category are non-religious rights claims. This is the only place, out of all subcategories, where the rank order (and percentage of arguments) differed substantially between the NCR and the New Right.

Rather than invoking the religion clauses of the First Amendment to advance their claims, the NCR turns to other parts of the First Amendment to defend the inclusion of religion in public schools. The NCR uses free speech arguments to advocate for their ability to express religious messages in public schools without facing speech-based discrimination. The NCR's pattern of argumentation suggests they are particularly worried about the religious discrimination they believe they face. For example, in discussing a court case upholding a public school program that requires students to go through diversity training sessions about respecting LGBT individuals, lawyers for the ADF argue, "Students have the right to discuss their view that homosexual behavior is wrong," said ADF Senior Legal Counsel Kevin Theriot" (Alliance Defending Freedom 2006b). The ADF appeals to a right to discuss viewpoints, not a right to follow one's faith as it relates to education. The implications are that the expression of a religious belief should be protected, but the claim is framed

in terms of free speech and discussion, not religious expression. Here religious belief is presented the same as any student sharing any other viewpoint, making the emphasis on speech, not religious speech.

“Religious liberty or religious freedom,” a subcategory of the non-constitutional rights arguments, are the NCR’s second most often asserted subcategory of argument. As one of the subcategories of non-constitutional rights claims, “religious liberty or religious freedom” arguments constitute those that assert a religious freedom to engage in a certain practice or a religious liberty that should protect a group from discrimination based on religion. For example, “The institute, based in Plano, Tex., told the justices in its brief that it was gravely concerned that the religious freedom of students in public schools will be damaged if the court rules for the school board” (Greenhouse 2007). There is a reference to religious freedom, but no specifics are given to ground this claim. Religious liberty serves as a vague form of rights talk that invokes the idea of rights, without directly invoking a right.<sup>54</sup> Apart from the appeal to free speech rights, much of the NCR’s rights talk involves this vague notion of rights that protect the NCR.

Finally, it is worth considering arguments that were not often made, as doing so indicates which arguments the NCR privileges at the expense of which other arguments. There are a few of the subcategories I discuss further here. These subcategories are free exercise and establishment arguments (the religion clauses), freedom of conscience or right to conscience arguments, and finally children’s rights or students’ rights.

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<sup>54</sup> Furthering this notion of a vague, non-rights specific rights talk, an additional 5% of all of the NCR’s arguments fall into the category of “Vague First Amendment Claims.” This category captures arguments that assert protections under the First Amendment, generally. No specific portion (or portions) of the First Amendment is specified, making it unclear exactly what right is being claimed.

	Selected Subcategories as a Percentage of the Main Code		Selected Subcategories as a Percentage of Each Group's Total Arguments	
<b>Constitutional Rights Claims</b>	<b>New Right</b>	<b>New Christian Right</b>	<b>New Right</b>	<b>New Christian Right</b>
Free Exercise	2.4%	8.5%	0.7%	2.3%
Establishment	6.0%	9.2%	1.7%	2.5%
<b>Non-Constitutional Rights Claims</b>	<b>New Right</b>	<b>New Christian Right</b>	<b>New Right</b>	<b>New Christian Right</b>
Freedom of Conscience	8.2%	0.0%	1.7%	0.0%
Children's/ Students' Rights	6.6%	14.0%	1.4%	2.5%

Table 3.2: Selected Seldom Used Subcategories of Arguments

I have briefly touched on the lack of use of the religion clauses earlier. However, when studying rights mobilization for religion in schools, this absence is conspicuous and demands attention. For the NCR (as well as for the New Right), there is a marked hesitancy to use the religion clauses to argue for religion in public schools. What is clear is that the religion clauses play a minor role in the NCR's argumentation. I contend that the dedication to a notion of equality explains the limited emphasis given to the religion clauses and the larger emphasis given to generally applicable rights. I discuss this point in more depth later in this chapter.

Freedom of conscience or right to conscience arguments are similarly rarely asserted. The New Right occasionally makes freedom of conscience arguments, and when they do so, it is in a list of other claimed violations (e.g., Kafer 2002). The NCR, however, did not make a single freedom of conscience argument in the sampled documents. For the NCR, religion in schools is not about protecting conscience. Thus, for example, the NCR does not portray tolerance programs and sex education programs as an issue of conscience. The objections raised, and rights asserted, focus on

other areas that are not centered in the right to have one's conscience, and faith, protected from discrimination or undue influences.<sup>55</sup>

The subcategory of children's or students' rights presents a fascinating story. Schools are where children go to be educated. Yet, only 14% of the NCR's non-constitutional rights claims arguments (and 2.5% of all of their arguments) invoke rights for the children, as students, involved in whatever issue is being discussed. For the New Right, 7% of their non-constitutional rights claims arguments (and 1.4% of all of their arguments) address the rights of the students involved. Although the NCR is more likely than the New Right to appeal to children's or students' rights, the NCR is still not all that likely to invoke such rights claims. When they do, it is in incredibly vague, generic terms. Close to half of the NCR's children's or students' rights arguments are vague, nondescript assertions of students' rights. For example, quoting Liberty Institute's CEO Kelly Shackelford, Mesko writes, "Certainly the court thought it was very serious that they were arguing to take away the rights of all elementary school students,' he said. 'They realized how outrageous and how dangerous that would be'" (Mesko 2011). Shackelford argues that students have rights, and they are being taken away, but there is no real content to the assertion of victimization and of the rights that should protect students in this case. These blank assertions typically have an air of permissiveness, in the sense that the arguments claim that students should be allowed to do certain things, and that the vague rights asserted provide permission for the behavior in question.

The NCR also links student rights explicitly to parental rights, indicating a focus on parents and not just the students involved. For example:

"It's just the latest in a disturbing trend in the courts concerning parental rights. The school district is attempting to change the beliefs of students without their parents' consent," [ADF Senior Legal Counsel Kevin] Theriot said. "The provisions of any settlement arrangement must respect the constitutional rights of students" (Alliance Defending Freedom 2006a).

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<sup>55</sup> As I argue later in the chapter when discussing parental rights, it could be that conscience is not emphasized because it is *parents'* consciences that are the focus of NCR mobilization and not those of the children in schools.

For Theriot, students have constitutional rights. However, students' rights are implicated as part of an affront on parental rights. Even though it is allegedly the students whose views are being manipulated, and even though both parents and students have claims to rights, the parents are presented as the party harmed.

It is worth adding that when taking the codes for references to *Tinker v. Des Moines* (1969)<sup>56</sup> in conjunction with any reference to children's or students' rights, these numbers increase, but not substantially. References to *Tinker* and children's or students' rights comprise a combined 5.2% of all of the NCR's arguments, and 2.4% of all of the New Right's arguments. For a comparison, 4.1% of all of the NCR's arguments, and 5.5% of the New Right's arguments, assert parental rights. Other arguments and assertions take precedence over an explicitly stated concern for the children's rights, despite the veneer of talking about the children involved in the educational process. While not the point of this content analysis, these findings lend further support to Beyer and Liston's (1996) argument that the New Right's attempts to control school curricula shows little concern for education and students' needs and is more grounded in the New Right's adults' concerns for their own ideological positions.

## Discussion

The content analysis above helps clarify the NCR's argumentation regarding religion in schools. Extending from this content analysis, a number of important points emerge. First, the NCR's arguments are characterized by two main themes: (1) appeals to equality while claiming generally applicable secular rights, and (2) arguments claiming a position of victimhood that express the palpable sense of fear and anxiety over lost (or perceived lost) power and privilege. Second,

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<sup>56</sup> *Tinker v. Des Moines* involved students' rights to expressive speech. The students at the heart of *Tinker* wore armbands protesting the Vietnam War. Ultimately, the Supreme Court upheld this act as part of the students' right to free speech as guaranteed by the First Amendment. Famously, Justice Fortas wrote that "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate" (*Tinker v. Des Moines* 1969, 506). This quote is the way in which *Tinker* is most often invoked as part of the arguments about the place of religion and religious expression in schools.

although not a substantial part of their coded arguments,<sup>57</sup> parental rights plays an important role in explaining the NCR's mobilization for religion in schools. The emphasis on parental rights often comes at the expense of focusing on the alleged violations against students. Finally, the NCR's arguments make consistent populist appeals, which further explain the two emergent themes in their arguments.

### *Argumentative Themes*

#### *Equality*

The idea of equality is part of the American psyche (Bellah et al. 1996; Greenhouse, Yngvesson, and Engel 1994; Haltom and McCann 2004). That is, to the extent that there is a core American ideology, the idea of equality among all citizens occupies a cherished place in this ideology. For this reason, it should not be surprising to see themes of equality running throughout most of the rights mobilization contained within the coded documents. In addition, given how often special rights is a part of conservative rhetoric, it is not surprising to see conservatives, perhaps preemptively, deploying the rhetoric of equality to avoid similar accusations about their own claims (Dudas 2008; Goldberg-Hiller and Milner 2003; Mattson 2008). But this invocation of equality is more deeply entrenched than just engaging in a strategy to avoid counter arguments. Rather, the appeal to equality is also about appealing to a common understanding of appropriate law use.<sup>58</sup> It is about claiming a position in the American mainstream equal to all others. To be equal is to be American (Jacobs and Theiss-Morse 2013; Passavant 2002). To be equal is to be part of the community at large and to have an equal say in the community (Greenhouse, Yngvesson, and Engel 1994). Hence in many ways, equality is what is being claimed.

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<sup>57</sup> At 4.1% of all of the NCR's coded arguments, parental rights ties with political correctness arguments and hybrid rights claims as the 8<sup>th</sup> most commonly used subcategories of arguments in the documents coded.

<sup>58</sup> See Dudas 2008; Glendon 1991; Greenhouse, Yngvesson, and Engel 1994; Haltom and McCann 2004; Passavant 2002.



In the content analysis, the religion clauses take a noticeable backseat to arguments that assert rights that are not specifically about religion (namely free speech and vague First Amendment rights). Nearly one-third of the NCR's invocations of constitutional rights protections claim free speech rights, which are not specifically about religion. Conversely, the religion clauses combine for 18% (9% for both the free exercise and the establishment clauses) of the NCR's constitutional rights claims arguments. This means that fewer than one out of every five arguments claiming constitutional rights actually involves one of the two specific clauses of the First Amendment that address religion. Moreover, free speech claims are about 9% of all of the NCR's coded arguments, while combined the religion clauses count for just under 5% of all of the NCR's coded arguments. The NCR infrequently turns to the religion clauses to defend religion in schools.

In discussing mobilization for including religion in schools, it seems like the religion clauses would be an obvious appeal to make. Two clauses within the First Amendment explicitly address religion, providing for its protection from government interference. This means that the Constitution acknowledges a protected place for religion in society, treating religion as a special case (Wald and Calhoun-Brown 2007, 106). Nonetheless, arguments asserting rights from these clauses are limited.

Acknowledging that there are specific protections for religion in the constitution and various statutes runs the risk of labeling religion as special. Thus, these places that acknowledge religion as different, and protected, are often downplayed or ignored. Instead, appeals are made to secular—those not specifically about religion—rights that apply to everyone equally. This focus on equality could explain the lack of an emphasis placed on, or use of, the religion clauses.<sup>59</sup> To claim equal

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<sup>59</sup> There is another possibility, albeit one that requires analysis far beyond the goals of the present content analysis. This alternative explanation is that the NCR is engaging in a strategic rights-based approach that tries to make the most effective arguments, regardless of which rights provide the avenue to success. Those who make such arguments, while speculating as to causal mechanisms regarding legal strategies, root their analysis in the confusion within the common law surrounding the First Amendment's religion clauses. For analysis of the state of First Amendment religious clause jurisprudence, see Graves 2010; Laycock 2003; Smith 2012; Witte 2003.

rights, and the rights that are available to all Americans, is to claim an equal place at the American table. This equal place comes with acknowledgement of one's Americanness as well (Passavant 2002).

These claims of equality also imply that religion itself is equal to the other ideas, thoughts, and opinions covered by free speech. Based on equality, rights protecting religion are also equal to other non-religious rights that the conservatives claim. In this way, religion is treated as not special or different in the eyes of the law, but similar to other forms of protected speech. In that conservatives, especially from the NCR, are prone to argue against certain protected forms of speech, such as obscenity and vulgarity, this comparison is ironic. Unwittingly, the NCR has argued that religion is equal to, and not meaningfully different than, pornography as speech. I do not mean to suggest that these ideas are the same, or that the NCR makes this argument. Rather, by positioning religion as equal to other ideas and not-distinct by not using the religion clauses, religious speech is legally no different—and equally as protected—as obscenities and vulgarities (Davis 2004, 720; Wald and Calhoun-Brown 2007, 106). For example, in arguing for First Amendment speech protections for religious expression, the American Center for Law and Justice (ACLJ) decries, “Unfortunately, there are many who would extend greater First Amendment protection to those who engage in pornographic speech than to those who engage in religious speech” (American Center for Law and Justice 2004b). By secularizing religious speech in appealing to generally applicable free speech protections, the NCR activists have done what they bemoan. While religion is not less protected than pornography, they are now on equal legal footing with respect to free speech (Davis 2004, 720; Wald and Calhoun-Brown 2007, 106).

By appealing to notions of equality, the NCR activists I study here argue that the religious just want the same rights as everyone else. What is claimed is an allegedly-denied equal right to include Christianity in public schools in accordance with tradition (Deckman 2004; DeFattore 2004;

Feldman 2005; Gaddy, Hall, and Marzano 1996). Equality and tradition protect rights for the religious, not the free exercise of religious faith. It is a sense of equality, and the same rights to speech that all Americans enjoy that justify keeping religion in public schools. Moreover, as religion is a part of American heritage, it is something all Americans are a part of regardless of one's own beliefs.<sup>60</sup> To deny the rights of inclusion to religion is, in essence, to act against America (see Engel and Munger 2003; Jacobs and Theiss-Morse 2013; Passavant 2002). This connection between America and Christianity supports treating Christianity equal to all other publicly espoused ideals related to American values and what it means to be American. For the NCR, religion is a basic part of American law and life and must be respected, not as “special” but as “normal” everyday American life.

### *Victimhood*

In the content analysis, the NCR's most frequently used type of arguments is politics of victimization arguments, accounting for 37% of their coded arguments. The NCR portray themselves, and the religiously devout individuals that these activists represent, as the victims of socio-cultural forces that are aimed against religion. These forces discriminate against religion and actively plot to strip religion from schools. NCR activists argue that religion is being oppressed in the name of a secular liberal orthodoxy that embraces political correctness at the expense of sincere belief. Liberty Counsel asserts this is what happened to a 15-year-old high school student whose article “supporting natural mother-father adoption” was “censored” after it was already printed in the school and local papers (Liberty Counsel 2012). The school also issued an apology for the views expressed in the op-ed. Liberty Counsel spoke out in defense of the student, stating:

The school claimed that the censored article created a “negative environment.” Liberty Counsel believes that school officials have violated the First Amendment protections of both free expression and religious freedom. It is

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<sup>60</sup> In the content analysis, 5.2% of all of the NCR's arguments assert that America is a Christian nation, and that this historical fact should guide the treatment of religion in public schools.

acceptable for school officials to render entire topics off limits, but once they allow a topic to be addressed, they may not dictate which opinions are allowed and which are not. For the school to apologize for and censor just one side of the argument sends a clear and biased message in favor of the other side. The school has thus sacrificed constitutional freedoms on the altar of political correctness. ...

Steve Crampton, Vice President of Legal Affairs and General Counsel for Liberty Counsel, commented: "When you censor one side of the debate and allow the other side to fully present their case, you have hopelessly skewed the argument and effectively endorsed one side. [The high school's] actions were not only unconstitutional, but were also the highest form of educational hypocrisy. This is not education, it is indoctrination. The school should apologize – not for the student's viewpoint, but for its shameful censorship" (Liberty Counsel 2012).

The high school's actions are depicted as unconstitutional attacks on religious liberty made in the name of political correctness. The school objected both to what it saw as an unpopular argument (the student's op-ed argued against homosexuality while favoring adoption by married heterosexual couples only) as well as the use of the Bible (which the student quoted) to support the unpopular opinion. Thus the censorship is presented as based on the use of a religious text to express religious ideas, which the high school, apparently, is trying to remove from education.

Religion is portrayed as equal to other modes of expression and social interaction, and thus robbed of its uniqueness as a form of expression based on faith. The arguments appealing to equality capture this focus on secular speech over religious expression. However, religion is also being targeted for insidious forms of discrimination, based on the arguments engaging in the politics of victimization. These two main themes within the NCR's arguments are in tension with each other. The tension in the arguments around equality and the arguments around victimhood illuminate the nature of the victimhood that is expressed. There is no necessary contradiction when victims of societal oppression ask for equal treatment, which includes ending this oppression. However, this remains true only when the oppressed truly are in a position of having little-to-no social power. While the NCR activists' feelings of victimization are most likely sincere, their

expression of victimization does not come from a position of social weakness.<sup>61</sup> The NCR's own arguments clarify this point. Their arguments do not emphasize damage to faith and religion, but rather a loss, or fear of loss, of power and privilege. These NCR activists claim to be victims while simultaneously voicing distress over losing the power and privilege that has historically come with the dominance of Christianity in American politics (Binder 2002; Zimmerman 2002). The loss of privilege given to Christianity, or at least the perception of a loss of privilege, is enough to trigger arguments about victimization in these conservative activists. This is especially true when the privilege is "unseen" (McIntosh 1990), and what is experienced is loss, not the move towards a broader social equilibrium.

The loss, or fear of the loss, of power and privilege explains why the NCR activists rely heavily on frames of equality and victimhood while simultaneously deemphasizing the religion clauses. The religion clauses are not seen as protecting religion, but rather as the mechanism for placing limitations on religion (e.g., Hasson 1997). This fixation is evidenced by the NCR's concern over the actions and make-up of the Supreme Court and the myriad of ways in which the Court has "gotten it wrong" with respect to religion in public schools. The Court's errors are just one more way in which the NCR expresses that they have been victimized.

### *Parental Rights*

While Chapter 5 involves an in-depth look at parental rights and the NCR, it is worth spending some time briefly examining the role of parental rights arguments in the content analysis. How the NCR situates parents, and the rights they claim these parents have, with respect to education helps explain the NCR's mobilization.

The example presented in the introduction to this chapter provides a good place to start this discussion. Sears (2002) writes, "More than anyone else, parents know what education their children

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<sup>61</sup> See Chapter 6 for a longer discussion of the NCR's social position and the issue of Christian privilege.

need. ... The real problem for the politically correct is that their power ebbs when parental authority flows. Do parents know what's best for their children, or do the elites?" As Sears expresses, parental rights, and implicit notions of parental authority, are necessary to combat an out-of-control elite. Parents should control every aspect of their children's upbringing, and that includes what these children learn in school. In that public schools are not teaching Christian morality—through prayer, the Bible, or other means—parents must assert their rights to ensure children receive an appropriate education (Lugg 1996, 13-16; Myers 2010, 272-74). Notice that the focus is on what the parents want, with only passing concern given to what "children need" (Beyer and Liston 1996, 34). In the content analysis above, the NCR uses parental rights arguments far more often than either arguments for students' or children's rights, or arguing for protections for the freedom of conscience. The focus is often on parents, and not the students who are actually in the classrooms.

In discussing a federal district court ruling that has implications for student speech, as well as whether students can opt out of certain lessons, the ADF quickly conflates students' rights with parental rights. The discussion of student speech gives way to concern over parental rights and how the speech and opt-out rulings affect parents. The ADF states:

On Feb. 17 in the case *Morrison v. Board of Education of Boyd County*, a federal judge refused to protect the free speech rights of students in Boyd County schools. The court also held that students have no right to opt out of the school district's diversity training sessions that came about as the result of the settlement of another lawsuit filed against the Boyd County Board of Education by the Boyd County High School Gay-Straight Alliance, represented by the American Civil Liberties Union.

"It's just the latest in a disturbing trend in the courts concerning parental rights. The school district is attempting to change the beliefs of students without their parents' consent," Theriot said. "The provisions of any settlement arrangement must respect the constitutional rights of students."

"In essence, the only option the court's ruling has allowed is for parents to accept public school indoctrination or take a hike," Theriot explained. "This is no option at all for a great number of parents who do not possess the means to home school and cannot afford private education. Rulings like these disproportionately impact the poor by institutionalizing them in what are quickly becoming re-education camps rather than places of learning" (Alliance Defending Freedom 2006b, quoting ADF Senior Legal Counsel Kevin Theriot).

The case presents the issue as about what students may say, and the opt-out provision is about when students can opt out of lessons.<sup>62</sup> Nonetheless, the discussion of the students involved quickly swings to mentioning parental rights. The rights for the students involved are subsumed into discussing the implications for the parents. Students' inability to fully express their faith in public school is an attack on parental rights, according to the NCR. The logic used here is that if students are presented with arguments or opinions that contradict their parents' faith, this is an attack on the students' parents. Losing control over what children learn harms their parents. This harm is made worse when the lessons actively contradict what the parents believe. Even when the ADF is expressing that the ruling will harm the poor, the focus is entirely on the parents. Parents are the ones who have to accept public school indoctrination, parents are the ones who cannot afford alternative educational arrangements, and parents have to handle children who have been through public school "re-education camps." Moreover, students are treated as doing little more than voicing their parents' religion, not necessarily their own beliefs, and thus parents are the ones silenced when their children cannot make religiously-based statements in schools.

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<sup>62</sup> While *Morrison v. Board of Education of Boyd County* (2006; 2008) is narrowly about student free speech, the history leading to the case is far more complex. The controversy began in 2002 when students petitioned the school to form a Gay Straight Alliance group as an effort to combat rampant homophobia, sexual-orientation-based discrimination, and bullying. In addition to many other instances of bullying, in October of 2002 a number of students remarked during an English class that "they needed to take all the fucking faggots out in the back woods and kill them" (*Boyd County High School Gay Straight Alliance v. Board of Education of Boyd County* 2003, 671n1). This and similar instances led to the school's eventual approval of the GSA student group. However, as hostilities continued, the school banned the GSA after two months, and purportedly banned other student organizations. The GSA filed suit against the school district, leading to a consent decree that allowed the group to function in the school (*Morrison v. Board of Education of Boyd County* 2008, 605-07). The consent decree included an anti-harassment policy that covers, among other categories, actual or perceived sexual orientation. The decree also requires anti-harassment training. It was a combination of the anti-harassment policy and training that lead parents to sue the school board, fearing "that the training would discourage, and the policies would prohibit, their children from speaking about their religious beliefs regarding homosexuality" (*Morrison v. Board of Education of Boyd County* 2008, 606). It is the district court's ruling in *Morrison* (2006) to which the ADF responds above. The parents eventually appealed to the 6<sup>th</sup> Circuit, where the circuit court upheld the district court's ruling granting summary judgment to the school board (*Morrison v. Board of Education of Boyd County* 2008). While the specific student involved in *Morrison* is not clearly tied to the earlier events around the GSA, it is speech related to the threats to kill all homosexuals that is what, in part, is defended along with much more benign statements of one's religious beliefs regarding homosexuality. Ultimately the school board amended the policy to allow faith-based statements regarding homosexuality, so long as they did not arise to the level of "serious" sexual-orientation-based discrimination.

One final example, this time from the ACLJ, builds on these earlier points. In a “Memorandum of Law” specifically addressing parents’ rights to opt children out of “Objectionable School Curricula,” the ACLJ presents the legal basis for parental rights for opting children out of school lessons (American Center for Law and Justice 2004a). The memorandum covers parental rights, free speech rights, and free exercise rights. In discussing both free speech and free exercise rights, the ACLJ makes both of these issues reflective of parents’ rights, not of the rights of the students. The ACLJ explains:

When the challenged activity involves coercion, the First Amendment Free Speech Clause may offer the strongest argument against it. Whenever a student is forced to participate in a classroom activity or to embrace an opinion contrary to that student’s **or his parents’ religious beliefs**, constitutional issues immediately arise. ...

The Free Exercise Clause provides another ground upon which **parents can challenge** not only coercion, but the mere exposure of school children to classroom instruction, material or activity that is **hostile to their faith**. Indeed, a strong argument can be made that exposure to offensive material, as opposed to forced participation in an activity, is simply a more subtle variety of coercion. The free exercise argument asserts that the school’s choice of certain instructional materials **effectively indoctrinates school children with values and beliefs hostile to the family’s religious faith**. ...

Suppose, for example, that an English teacher requires a child to read Hustler magazine, or an art teacher requires a student to study Robert Maplethorpe’s homoerotic art. Hopefully, no one would dispute that forcing a child to read pornography in school would be coercion in violation of religious liberty. Yet, by rejecting the argument that forcing a child to read other materials **hostile to his parents’ religious beliefs** is coercive, school administrators are merely substituting their beliefs about what is objectionable on religious grounds. In other words, a requirement is coercive only if the school is sympathetic to the parents’ objection to the requirement (American Center for Law and Justice 2004a, emphasis added).

These examples in this section show how NCR activists perceive schools’ actions as harms not only against students but also, and perhaps primarily, against parents and the families they lead. Again it is school officials’ attempts at indoctrination that violate parents’ faith, as well as these parents’ control over their children. Expressed within these examples are claims of victimhood at the perceived loss of power and privilege. This power and privilege comes in the form of influence over American culture, but primarily as control over the nation’s children. Also present are concerns regarding who



has proper authority over children, as well as the teaching of appropriate authority structures.<sup>63</sup>

These issues are central to the analysis in Chapter 5 and are expressions of the NCR's political vision as explained in Chapter 2. What the parental rights claims in this content analysis show are that often times student rights are presented as rights to express their parents' religion. Also, when students cannot exercise their parents' religion in schools, the NCR argues that the parents are harmed just as much, if not more, than the students themselves.

### *Right-Wing Populism*

Right-wing populism involves a number of defining elements. Right-wing populism relies heavily upon anti-elite arguments, especially where the elite is pitted against the virtuous majority of Americans. For the NCR, this virtuous majority is typically characterized by their Christian beliefs. The NCR and the virtuous majority are at odds with an anti-democratic elite that uses its ill-begotten political power for illegitimate ends. For example:

There is no issue on which public opinion is more affirmative than the desire for a moment of prayer every day in the public schools. Nonetheless, the powerful minority of people who want no scheduled prayer in the schools insists on preventing it (Novak 1999).

For Novak, the elite are threatened by prayer, and thus use their power, illegitimately for the NCR, to drive prayer out of public schools. Frequently the Supreme Court, or other activist judges, and educators fill the role of this elite in NCR arguments. As Blackwell and Klukowski explain:

The radical secularization initiated by the Warren Court is bearing fruit, as for the first time those who entered elementary schools after the Court had sanitized those schools of Judeo-Christian references and moral absolutism are now mature adults in positions of power to act upon what their earlier experiences taught them was normal. Many millions of Americans now expect and demand that they not be exposed to any sort of religious expression in public, creating tension with many

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<sup>63</sup> The code for parental rights claims misses another way in which parental concerns are expressed. As the code captures assertions of where parents have rights that are implicated in what happens in schools, it does not code references to parental authority, generally speaking. These references come up in a number of different ways that are important, but fall short of arguments counting for the content analysis. Parental authority, in addition to parental rights, is explored in greater depth in Chapter 5 of this dissertation.

millions of other Americans who observe and value the United States' moral and religious heritage (Blackwell and Klukowski n.d.).

For Blackwell and Klukowski, the Warren Court and those who do not want any religion in public are part of the secular liberal elite that are against the virtuous middle-class, God-fearing Americans. Whereas Novak's elite are antidemocratic through their disproportionate political power, Blackwell and Klukowski's elite is antidemocratic by virtue of being unelected judges who are working to thwart the majority's will. This us-versus-them approach rallies support to fight against the elite in order to "save" America, and is evidenced in both of the above quotes.

In addition, right-wing populist arguments frequently and fervently defend what is depicted as traditional, middle-class family values. Returning to Blackwell and Klukowski, they write:

Effective restoration of the proper place of faith and religion in our society will require remediation of the Supreme Court's Establishment Clause jurisprudence. ... Only then will expressions of faith in the divine, along with predicate concepts of absolute truth, personal accountability and transcendent reality, and consequent concepts of virtue and morality, be able to again exercise a formative (and reformatory) influence on American society. Only then will people of faith—especially adherents of the various denominations of Christianity that still propound normative behavior derived from moral principles decreed by a transcendent deity who has revealed himself to humanity—again enjoy the liberty originally enshrined in the Constitution (Blackwell and Klukowski n.d.).

As presented, middle-class family values are clearly Christian values, and Christian families are held to be the apogee of a positive influence on American culture. Support for the nuclear family and strong emphasis on self-discipline are keys for right-wing populists (Morone 2003). This "pro-family" stance involves a large focus on cultural politics as well. Right-wing populists often target culture, and the cultural elite who produce mass culture, as sources of America's moral decline (Mattson 2008). Cultural politics involves fights over who gets to define what constitutes a family, and how this definition factors in to what it means to be American (Herman 1997; Morone 2003;

Theiss-Morse 2009). As stated in Chapter 2, the NCR brings the element of “spiritual self-defense” to the culture wars, fueling the fight to save America by reclaiming her heart and soul.

After attacking the powerful minority that is out to remove prayer from public schools, Novak argues:

The prayers that were once a part of our public education reflected a generic, majority vision—a vision with deep roots in the nation’s founding principles.

Indeed, the constitutions of most states—Massachusetts, for example—not only permitted prayer in the schools but mandated religious instruction, and mandated it so strongly that the state supplied financial aid for those schools that could not afford it. In 1780, some in Massachusetts protested that this provision trespassed on their consciences. Not at all, John Adams replied. You don’t have to believe anything you don’t want to believe. But if you benefit from the good morals and sound public order that (experience shows) will result, you must help to pay for it (Novak 1999).

According to Novak, prayer benefits all Americans (a sentiment attributed back to John Adams) and those who oppose prayer, and religion generally, are destroying America by contributing to cultural decline. Everyone benefits from a moral citizenry, and prayer helps to foster this moral populous.<sup>64</sup> Novak embraces “spiritual self-defense” by urging action to end the cultural erosion by returning prayer and religion to public schools.

The NCR’s two main themes of equality and victimization also evince the NCR’s use of right-wing populist arguments. The use of arguments claiming equality and secular rights fits in with right-wing populism as the emphasis on equality stresses the NCR’s claim on being part of the majority. That is, the NCR present themselves as not seeking special treatment, but merely to be treated the same as all other Americans.<sup>65</sup> They want the same rights all other Americans have. Moreover, the second theme of victimization dovetails with right-wing populists’ focus on arguing against the socio-cultural power of an illegitimate (for the NCR, also secular) elite. As this elite uses

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<sup>64</sup> Detwiler 1999, 186; Fuller n.d.; Gaddy, Hall, and Marzano 1996, 192; Martin 1996, 77-78, 232; Ramet 2005, 432.

<sup>65</sup> In the content analysis, 4.6% of all of the NCR’s arguments were coded as defining the rights sought as “equal” rights, rather than “special” rights. This suggests a conscious effort to keep their arguments in the mainstream of equal, generally applicable rights.

its power against the majority, the NCR expresses that secular elites are harming the religious rights of all Americans (American Family Association n.d.). For the NCR this is especially true for the discriminated against Christian community in the U.S. Moreover, the expression of fear over the loss of power and privilege fits with right-wing populism's focus on traditional American values and also the sense of cultural decline (see Hertzke 1993, 242-43).

The use of populist themes with the NCR's mobilization leads to the use of reactionary rhetoric and arguments. These arguments contain a general sense of social and moral decline that comes with the loss of religion in schools. In addition, the reactionary component of the NCR's mobilization, as evidenced by the heavy emphasis placed on politics of victimization arguments, comes in response to perceived discrimination. As a historically dominant group in American politics, the perceived discrimination is not just a threat to specific moments of religious expression. Rather, this discrimination is a threat to the entrenched power and privilege that Christianity has had in America, as the NCR is quick to remind everyone, since the founding. It is this loss of power and privilege, or even the idea that Christianity could suffer a loss of power and privilege that underlies the specific form of reactionary arguments evidenced in the content analysis. In defending this power and privilege, the NCR activists studied in this chapter deploy arguments justifying their position within American society by appealing to a Christian past and Christian founding.

These arguments, as a reaction to perceived loss of power and privilege, characterize the NCR activists' mobilization as part of the countersubversive tradition common to much modern American conservative mobilization (Dudas 2008; Mattson 2008; Rogin 1987). The NCR mobilizes religion in an effort to fight for the hearts and minds of America. This fight largely takes place in efforts to gain or maintain control of, and influence over, the next generation of American citizens.<sup>66</sup>

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<sup>66</sup> Feldman 2005, 70; Greenawalt 2005, 24-25; Hochschild and Scovronick 2003, 14-18; Holmes 2001, 200; Nord 2001, 151.

This effort to influence the future of American society by maintaining access to the upbringing of the future citizens of America is what makes schools primary battlegrounds for these endeavors.

### **Conclusion**

As I have asserted in this chapter, the conservative activists I study employ argumentation that does not rely on the specific First Amendment protections of religion. The NCR ground their arguments in claims of discrimination and assertions of a vague “religious liberty” and the non-religious protections of the First Amendment. Instead of constitutional legal protections for religion, the NCR mobilizes arguments claiming victimhood and calling for equality. This mobilization demonstrates a clear pattern of right-wing populism running throughout as well. By examining how these patterns carry out in a specific battle over school prayer, the next chapter furthers this exploration of NCR mobilization and identity politics.

In the next chapter I offer a case study to further investigate the nature of NCR mobilization regarding prayer in schools. Chapter 4 involves the controversy around the changes to a Louisiana silent prayer law. The Louisiana legislature amended a moment-of-silence law to allow vocalized prayer in schools. This law was quickly overturned in court. I study the NCR’s mobilization around this law and the subsequent court battle. I investigate how the argumentative patterns unearthed in the content analysis in this chapter occur in the case study specifically about school prayer as well. This case study further shows the embrace of secular argument and right-wing populism while mobilizing around a Christian identity to interject prayer into public schools. As with the findings in this chapter, the case study involves political mobilization that describes prayer as speech that is protected by American traditions, demarcating who counts as proper American citizens.

## **Chapter 4**

### **Prayer, Populism, and Politics: Advocating for School Prayer the New Christian Right Way, A Case Study**

This chapter involves a case study as a specific exploration of the push for prayer in schools. The content analysis in the previous chapter highlights the claims made by the New Christian Right (NCR) as part of their mobilization for prayer in schools. This mobilization focuses primarily on a religious identity, and not on preserving or protecting religious faith. This focus was captured in the NCR's claims of victimization, as well as mobilizing appeals to equality. In this chapter I study the events surrounding Louisiana's 1999 law that allowed vocalized prayer in schools. This chapter provides a concrete case example of mobilization for school prayer that emphasizes a religious identity over the devotional, faith-based aspects of prayer. The argumentative patterns from the previous chapter are on display throughout this case study. These common argumentative patterns demonstrate the breadth of NCR mobilization, as individuals explicitly identifying with the NCR join up with those not clearly associated with any NCR institutions. Collectively these individuals further the NCR's brand of identity politics steeped in right-wing populism. This case study provides an example of NCR's political engagement, and how these politics bleed into a wider audience when it comes to the issue of school prayer.

The case study, although from events in 1999, is relevant as part of a sustained effort in Louisiana to put prayer, or some form of religion, in public schools. While this case is not Louisiana's first effort to integrate prayer into schools, it is one of the earliest examples of the most recent push for prayer in Louisiana's public schools. Moreover, it is an important case for viewing the specific mechanisms, tied to the NCR's identity politics, which are used in efforts to enact school prayer. Finally, it is important to investigate earlier attempts at implementing school prayer to understand the later political efforts to implement school prayer. As detailed in Appendix B,

Louisiana has throughout the years since this case continued different efforts to protect school prayer and Christian social privilege.

Studying this case demonstrates the many ways in which the NCR's version of right-wing populism and identity politics suffuse the events discussed in this chapter. While not all of the Louisiana legislators, Ouachita Parish School Board officials, or other parties involved can be said to be part of the NCR, their actions and arguments are still relevant to a study of the NCR for several reasons. First, some of these actors do espouse an ideology consistent with the NCR's political vision. Second, and building off of the first point, some of these actors are explicitly part of the NCR movement. For example, the school board hired Mat Staver, founder of Liberty Counsel, to help represent them in this case.<sup>67</sup> Third, as the topic of school prayer is central to the NCR's political vision and worldview, we can expect to see—and find—arguments consistent with the NCR's right-wing populism, especially in Southern Baptist-dominated Northern Louisiana. Finally, evidence of the NCR's right-wing populism in the political mobilization around school prayer is suggestive of the resonance of the NCR's political vision and their specific brand of identity politics. By finding examples consistent with the NCR's right-wing populism in this case study, there are suggestions that the NCR's identity politics is resonating with a wider audience. This resonance indicates the diffusion of the NCR's discourse and mobilization, albeit still limited here to questions of school prayer.

The rest of this chapter looks in-depth at school prayer within two schools in Ouachita Parish, Louisiana. After Louisiana voted to allow vocalized prayer in schools, the ACLU of Louisiana and Americans United for the Separation of Church and State (subsequently, “Americans United”) helped two families challenge the practices of intercom prayers at their children's schools.

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<sup>67</sup> Liberty Counsel is a “nonprofit litigation, education, and policy organization dedicated to advancing religious freedom, the sanctity of life, and the family since 1989, by providing pro bono assistance and representation on these and related topics” (Liberty Counsel n.d.a).

The next section provides a background on the area of Louisiana in which the case occurs, as well as a brief history of the development of the law in question. Then I detail the events in the schools leading to the legal challenge, the defense offered for school prayer, and the courts' rulings at the district and appellate level. After that I chronicle the variegated ways in which the NCR's brand of right-wing populism and identity politics run throughout this case study. The patterns from the content analysis are contained in this case study as well. Moreover, the school board's response to the case and the legal defenses offered are consistent with the NCR's political vision, right-wing populism, and identity politics. I conclude by discussing three ways in which the case study demonstrates the NCR's identity politics. These ways are: through the NCR's argumentation regarding victimization and equality, where the religious are innocent victims who just want fair treatment; through the lack of defense of faith and religious expression, while instead emphasizing and defending the discriminated against religious individuals who are standing up for traditional practices; and, finally, through the ways in which the defendants blend a Christian identity with an American identity, where the majority embraces traditional school prayer as supported by the Founders.

### **Socio-Legal Context**

#### *Locating the Case*

Located in Northeast Louisiana, Ouachita Parish rests roughly at a right angle between Little Rock, AK and Jackson, MS. This 633-square-mile parish is served by two school districts. Monroe City Schools covers schools within the city of Monroe, while the Ouachita Parish School Board governs the rest of the schools in the parish. In 2000, the Ouachita Parish School District served 94,170 students coming from the 26,330 households with at least one child under the age of 18 in the school district's area (National Center for Education Statistics 2000a).



In 2000, 58.6% of the Ouachita Parish population identified as adherents of the Southern Baptist Convention (Jones et al. 2002, 218). The Southern Baptist Convention is a mainstay of the NCR (Ammerran 1991; Lewis 2011). Southern Baptists are the largest religious group in Ouachita Parish, having over five times as many adherents as the second largest denomination, the United Methodist Church, representing 10.9% of the parish population (Jones et al. 2002, 218). Catholics constitute an additional 9.3% of the parish population, with the remaining 21% of the parish population identifying with another, or no, congregation (Jones et al. 2002, 218). Figure 4.1 and Table 4.1 provide a more detailed depiction of the religious breakdown within Ouachita Parish.<sup>68</sup>

**Table 4.1: Ouachita Parish Religious Denominations in 2000**

<b>Denomination</b>	<b>Percent of Adherents in Ouachita Parish</b>	<b>Percent of Population in Ouachita Parish</b>
Southern Baptist Convention	58.6%	33.4%
United Methodist Church	10.9%	6.2%
Catholic Church	9.3%	5.3%
Churches of Christ	3.6%	2.1%
Assemblies of God	3.3%	1.9%
Church of God (Cleveland, TN)	3.2%	1.8%
Episcopal Church	2.6%	1.5%
Presbyterian Church (USA)	1.4%	0.8%
LDS (Mormon) Church	1.0%	0.6%
American Baptist Association	0.7%	0.4%
Muslim	0.7%	0.4%
Christian Church (Disciples of Christ)	0.7%	0.4%
Seventh-Day Adventist Church	0.6%	0.4%
Jewish	0.5%	0.3%
Other Religious Affiliation	2.7%	1.5%

Table 4.1: Denominational representation as percentage of Ouachita Parish's religious adherents and total population in 2000 (Jones et al. 2002, 218).

<sup>68</sup> See Appendix B for even more demographic data on Ouachita Parish.

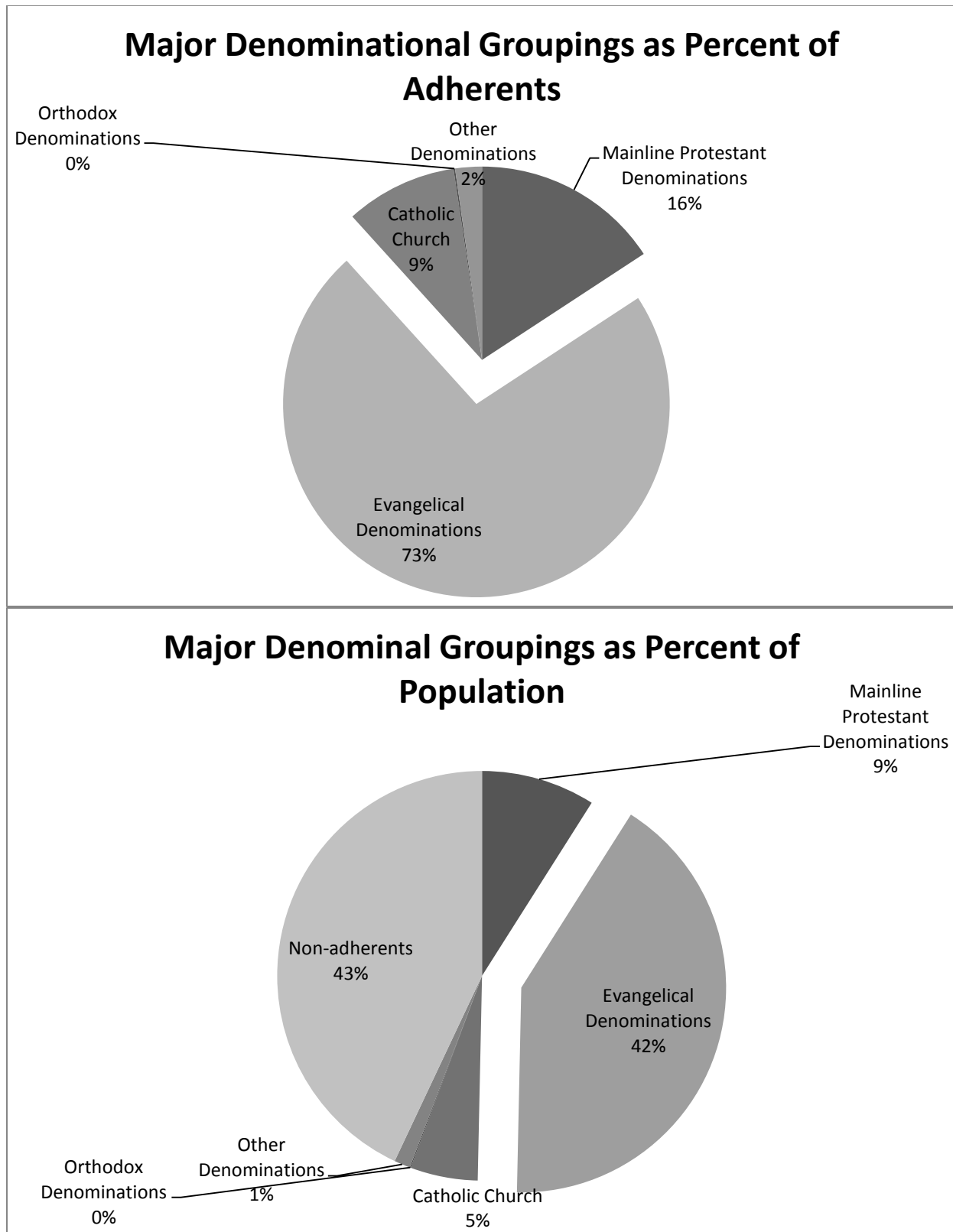


Figure 4.2: Denominational grouping breakdown of Ouachita Parish population by and adherents in 2000 (Jones et al. 2002, 218).

*Legal History*

The legal history of the development of the prayer in schools statute in Louisiana provides the background necessary for a full evaluation of the events in Ouachita Parish relevant to this chapter. In 1976 the Louisiana State Legislature passed a law allowing for “a moment of silent meditation” in public schools (Silent Meditation; Prohibition 1976). This law was seen as a reaction to the Supreme Court’s 1962 ruling in *Engel v. Vitale* that barred school-sanctioned vocalized prayer (Times Wire Reports 2001). Similar laws in the wake of the Supreme Court’s school prayer decisions were common (Kniker 1997, 37-42). Also common was blatant refusal to follow the Court’s rulings and ban organized, vocalized school prayer (see Dolbeare and Hammond 1971).

In 1980 Louisiana amended its law, adding a new subsection that gave school boards permission to have teachers ask if students wanted to volunteer to offer a prayer (Plaintiff Complaint 1999, 3-4; Silent Meditation; Prayer 1980).<sup>69</sup> If no one volunteers, the teacher was allowed to lead prayer for a period of up to 5 minutes (Plaintiff Complaint 1999, 3-4).<sup>70</sup> While the district court found no violation contained within the law, the Fifth Circuit ruled that the law lacked a legitimate secular purpose, and thus violates the Establishment Clause contained within the First Amendment (*Karen B. v. Treen* 1981). A year later the Supreme Court affirmed, without opinion, the Fifth Circuit’s ruling (*Karen B. v. Treen* 1982). At the end of the case, the new section was struck down, but the core of the 1976 law remained untouched. The Louisiana legislature passed a law in 1989 that officially reenacted the 1976 law while also adding a component informing school authorities that they could allow for the daily recitation of the Pledge of Allegiance (Silent Meditation; Pledge of Allegiance 1989). At this point, Louisiana allowed for a brief time of silent

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<sup>69</sup> The 1980 amendment made the 1976 law section A of the new law. Section B was added at this time, containing the new provisions. Only section B was challenged in the *Karen B. v. Treen* (1981) case.

<sup>70</sup> The plaintiffs in *Doe v. Ouachita Parish School Board* (2000) detailed this law and the subsequent challenge in both their first complaint (Plaintiff Complaint 1999) and their amended complaint (Plaintiff Amended Complaint 1999). Neither the district court nor the Fifth Circuit included the 1980 law, or the 1981 case, in their legislative history of the legal development leading to *Doe v. Ouachita Parish* (2000, 1-2; 2001, 291).

mediation at the start of the school day. Although the change was ultimately short lived, the 1980 law and subsequent challenge were an attempt earlier than 1999 to institute legal, organized school prayer.

In 1992 the statute was amended again. This time, the changes allowed not only for silent mediation, but also silent prayer. The new law read:

Each parish and city school board in the state shall permit the proper school authorities of each school within its jurisdiction to allow an opportunity, at the start of each school day, for those students and teachers desiring to do so to observe a brief time in silent prayer or meditation. The allowance of a brief time for silent prayer or meditation shall not be intended nor interpreted as state support of or interference with religion, nor shall such time allowance be promoted as a religious exercise and the implementation of this Section shall remain neutral toward religion (Silent Prayer or Meditation; Pledge of Allegiance 1992).

The 1992 Amendments reflects an effort to expand the practice from just meditation to explicitly include prayer. However, at this time, the law still required *silent* prayer or meditation.

In 1999 the law was amended yet again, leading to the case that sits at the core of this chapter. By a vote of 100-0<sup>71</sup> in the state House (3 representatives were absent), and 30-4 in the state Senate (5 members were absent), the Louisiana Legislature approved, and the governor subsequently signed, a law that removed the word “silent” from the 1992 legislation (Prayer or Meditation; Pledge of Allegiance 1999). Now, by law, the state of Louisiana authorized vocalized prayer (and meditation) in public schools. This act is in direct contradiction to the 1962 Supreme Court ruling *Engel v. Vitale* (1962; see also *Wallace v. Jaffree* 1985). Nothing else changed in the 1999 amendment to the 1992 law other than the deletion of the word “silent” where it previously appeared. While the law now allowed vocalized prayer, many accounts attest that organized, vocalized prayer in Ouachita Parish schools, as well as other parts of Louisiana, was common for many years before the 1999 law

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<sup>71</sup> Of these 100 representatives, 73 had signed on as authors on the bill (Prayer or Meditation; Pledge of Allegiance 1999).

was passed (Boston 2000; Times-Picayune 2001; Governor's Motion to Reply 2000, 4). The bill's primary author, and other backers, directly stated at various times that the bill was about returning vocalized prayer to public schools (Americans United 1999; Boston 2000; *Doe v. Ouachita Parish School Board* 2001, 294; Plaintiff Complaint 1999, 4-5). These changes were made despite congressional testimony from an attorney warning the legislators that the proposed law was unconstitutional (Associated Press 2001).

### **The Trials and Tribulations of Louisiana's School Prayer**

#### *Events at Ouachita Parish Public Schools*

Following passage of the 1999 law, West Monroe High School, one of five public high schools in the Ouachita Parish school district, began the practice of having prayers read over the school's intercom (Plaintiff Complaint 1999, 5; Plaintiff Amended Complaint 1999, 5-7). These prayers were read as part of the announcements every Monday. West Monroe High School's principle, Ernest Reed, would conclude his announcements by saying, "Please stand for the prayer and the pledge," followed by a student from the Fellowship of Christian Students who would recite a Christian (and typically "fundamentalist" or "evangelical" Christian) prayer (Boston 2000; Plaintiff Complaint 1999, 5; Plaintiff Amended Complaint 1999, 5-6). This same student would then read the Pledge of Allegiance immediately following the prayer (Plaintiff Complaint 1999, 5; Plaintiff Amended Complaint 1999, 5-7). Similar events took place at West Monroe Junior High School. Every Monday teachers at the Junior High told their classes to stand for the prayer and pledge. Over the intercom a student from the Junior High would say a "Christian Prayer" and the Pledge of Allegiance (Plaintiff Amended Complaint 1999, 7). Afterward, the Junior High Principal would deliver school-related messages (Plaintiff Amended Complaint 1999, 7).

Jane Doe, on behalf of her son David Doe, who was a student at West Monroe High School, challenged these practices, as well as the authorizing statute, as violations of the

Establishment Clause in both the Constitution's First Amendment, as well as in Louisiana's constitution (Plaintiff Complaint 1999, 7-8).<sup>72</sup> Susan and John Doe, parents of Janet Doe, a student at West Monroe Junior High, ultimately raised the same challenges against the state law and the related practices at the junior high (Plaintiff Amended Complaint 1999, 8-9).<sup>73</sup> All of the Does in this case are anonymous, as they feared community reprisals if they proceeded under their real names (Plaintiffs' Sur-Reply 2000). During the course of discovery it came to light that intercom prayer was occurring on Monday mornings at two other high schools (Sterling High School and Ouachita Parish High School), and one other junior high (Ouachita Parish Junior High School), in the Ouachita Parish School District (Plaintiffs' Reply to School Board's Second Opposition 2000, 10). The plaintiffs argue that "the recent amendments to LSA La. R.S. §17:2115 [the school prayer law], constitute unlawful advancement and endorsement of religion" that cause students to "feel unwelcome at the school," and that the school's practice of intercom prayer places "coercive pressure" on students "to conform to others' religious beliefs" (Plaintiff Complaint 1999, 6-7; Plaintiff Amended Complaint 1999, 8).

### *Defending School Prayer*

In the course of defending the school practice and state law, the defendants relied upon a number of different arguments. One of the early and repeated points the defense attacked was the anonymity of the plaintiffs. The plaintiffs began the case by filing anonymously, skipping any procedural declaration of a right to proceed anonymously and instead offering to retroactively

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<sup>72</sup> The plaintiffs originally also included complaints of bullying in response to David Doe's non-participation in school prayer, as well as allegations of prayer circles occurring within classes, but these claims were voluntarily dismissed by the plaintiffs during the course of the district court case (Plaintiff Complaint 1999, 5-6; *removed in* Plaintiff's Notice of Withdrawal 2000, 1). Jane Doe also alleged that she was met with "hostile comments" when she called the superintendent's office to report her complaint regarding prayer over the intercom at West Monroe High School, but this, too, was dropped from the official complaint (Plaintiff Complaint 1999, 6; *removed in* Plaintiff's Notice of Withdrawal 2000, 1).

<sup>73</sup> Susan and John Doe joined onto the case with the filing of the amended complaint (Plaintiff Amended Complaint 1999), were voluntarily dismissed to follow the same actions separately later (Plaintiff's Motion for Voluntary Dismissal 2000), and the district and circuit court judges effectively ruled on the cases together (*Doe v. Ouachita Parish School Board* 2000; 2001).

provide such motions and evidence as necessary (Plaintiff Amended Complaint 1999, 2n1). The defendants responded with a motion to dismiss that relied entirely on questioning the plaintiffs' choice to proceed anonymously (School Board Motion to Dismiss 2000).<sup>74</sup> The defendants go so far as to question whether there are any real parties in this case, or whether the case is merely a manifestation of the political agenda of the ACLU of Louisiana and Americans United (School Board Motion to Dismiss 2000, 2, 6-7). Both groups were representing the anonymous plaintiffs and do not have standing *qua* organizations to challenge the state law and school practices central to this case (School Board Motion to Dismiss 2000, 2, 4-7). The defendants continue to portray the attempt to proceed anonymously as against "basic fairness" (see School Board Motion to Dismiss 2000, 7). The defendants, throughout the course of their motion, use variations of the word "unfair," as well as invoking "basic fairness" and "principles of fairness" (School Board Motion to Dismiss 2000, 6-7). The district court granted anonymity for the case, but required disclosure of the plaintiffs' identities to all named defendants, one representative of the school board, and defense counsel (Ruling Denying Defense Motions to Dismiss 2000, 3).

In further attempts to have the lawsuit dismissed, the defendants argued that the plaintiffs lacked standing. This standing argument was premised upon inconsistencies in the high school plaintiffs' depositions regarding where they actually lived. It seems that Jane and David Doe might have used an address other than their primary residence to enroll David at West Monroe High School as opposed to at one of the schools in the Monroe City School System (Reply Memorandum 2000b, 2-3). The court records do not indicate official findings of wrong-doing on the part of the Does, but there were definite inconsistencies presented regarding the Does' residence. Nevertheless,

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<sup>74</sup> In this section I talk about the "defendants," jointly. However, the school board took the lead with the motion to dismiss (School Board Motion to Dismiss 2000), and the governor subsequently filed a motion to dismiss that declares that the state is in complete agreement with the school board and that it moves for dismissal for the same reasons given by the school board (Governor's Motion to Dismiss 2000). Because of this agreement between the two defending parties, I simply refer to the defendants here.

the defendants sought to dismiss the case because if David was not properly a student in the Ouachita Parish school system, he and his mother lack standing to challenge events that occurred at the school. In the end, the district and appellate courts found that the Does have standing to challenge the Louisiana law and practice of school prayer.

### *Case Rulings*

The district court granted the plaintiffs' motion for summary judgment, ruling that the Louisiana law is unconstitutional (*Doe v. Ouachita Parish School Board* 2000). The district court did not rule directly on the events in the school, instead ruling that the law is unconstitutional and thus so is vocalized prayer in public schools. The court, following Fifth Circuit Establishment Clause precedent applies three separate tests: (1) the *Lemon* test, (2) the coercion test, and (3) the endorsement test (*Doe v. Ouachita Parish School Board* 2000, 2). Failing any of these three tests, including any of the three prongs of the *Lemon* test, renders the law unconstitutional. The district court ruled that the law violates all three prongs of the *Lemon* test, as well as both the coercion test and the endorsement test (*Doe v. Ouachita Parish School Board* 2000, 7). By taking the time to detail how the law violates every possible aspect of Establishment Clause tests, the district court drives home the point that the state law was in no way constitutional.<sup>75</sup>

The district court ruling did not end the case, or even settle all of the issues at the district level. After the district court granted, in part, the plaintiffs' motion for summary judgment, the school board and the plaintiffs reached an agreement. The school board agreed to stop school

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<sup>75</sup> Albeit coincidentally, the Supreme Court helped to emphasize and support the district court's ruling. Five days after the district court ruled on the motion for summary judgment (*Doe v. Ouachita Parish School Board* 2000), the Supreme Court issued its ruling in *Santa Fe Independent School District v. Doe* (2000). In this case the Court ruled that Santa Fe Independent School District's policy of allowing student-led prayer over the loudspeakers at high school football games violates the First Amendment's Establishment Clause. This was another verbal "school prayer" case, even if the prayer occurred outside of the school building. Despite the Court's ruling in *Santa Fe*, the governor still appealed the district court's grant of summary judgment.



prayer over intercoms<sup>76</sup> while the final ruling regarding the Louisiana law's constitutionality is decided. If the law is unconstitutional, the agreement becomes the final ruling of the court; if the law is constitutional, the school board must vote whether to allow prayer, with the case continuing if they vote to allow prayer (Order by Agreement 2000). In the meantime, allowing moments for silent prayer or meditation was agreed to be an acceptable practice. Governor Foster filed notice of appeal on July 11, 2000 appealing the summary judgment ruling that declared the law unconstitutional and denied the state's motion for summary judgment (Notice of Appeal 2000).<sup>77</sup> The school board did not challenge the law on appeal.

On appeal the Fifth Circuit Court affirms the district court's ruling that the Louisiana law is unconstitutional. Despite the district court's use of three different Establishment Clause tests, the appellate court uses just the *Lemon* test, and finds that the law violates the first prong as it lacks a valid secular purpose (*Doe v. Ouachita Parish School Board* 2001, 293). At several points during its ruling, the Fifth Circuit asserts that the present case is "virtually indistinguishable" from the Supreme Court's 1985 ruling in *Wallace v. Jaffree* (1985; *Doe v. Ouachita Parish School Board* 2001, 293-95). In *Jaffree*, Alabama had introduced statutes to have a moment of silence, as well as to allow teachers to lead "willing students" in school prayer (1985, 40-42). The Supreme Court ruled that the legislative history, and history of the practices in Alabama, indicated that the law was meant to introduce school prayer and that the law lacked a valid secular purpose (*Wallace v. Jaffree* 1985). As was the case in *Jaffree*, the Fifth Circuit finds that the Louisiana law's legislative history, including statements made by the legislators involved, made it clear that the law was intended to do little more than to return verbal prayer to public schools (*Doe v. Ouachita Parish School Board* 2001, 293-94). The

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<sup>76</sup> While not part of the summary judgment ruling, the Ouachita Parish School Board voted one week after the summary judgment ruling to voluntarily end the practice of intercom prayer (Americans United 2000).

<sup>77</sup> Although Governor Foster filed for appeal on the two grounds stated, the Fifth Circuit's opinion in the case treats the case as appealing based on the summary judgment ruling leading to the declaratory judgment against the statute (*Doe v. Ouachita Parish School Board* 2001, 290).

wording of the law, when compared to previous versions, makes it clear on the face this is about verbal prayer in schools (*Doe v. Ouachita Parish School Board* 2001, 294). The court argues that the previous Louisiana law, and the Constitution generally, already protected silent school prayer, further questioning the purpose of the amended law (*Doe v. Ouachita Parish School Board* 2001, 294). With the sole purpose of the law to return verbal prayer to public schools, the Fifth Circuit concludes that the law lacks a valid secular purpose (*Doe v. Ouachita Parish School Board* 2001, 294-95). As such, the law violates the First Amendment's Establishment Clause.

The ramifications of this case go well beyond the overturning of a law that allowed vocal prayer in public schools. In light of their court victory, the plaintiffs motioned to have the defendants pay for the plaintiffs' fees and costs. The district court eventually granted this motion, assessing an award for fees and costs totaling \$160,089.87, to be split evenly between the school board and the governor (Report and Recommendation 2000). In addition, the school board and state were responsible for splitting equally an additional \$6,505.10 in mediation services fees (Order Regarding Mediation Services 2000). This brings the shared total to \$166,594.97, with each party paying just shy of \$83,300, not to mention the cost of their own legal defense. These are just the costs from the district court case. As state entities, one of which is a school board, this money inevitably had to come out of limited budgets that are tax-payer funded. Thus, the impact of the ruling is much broader than those who can no longer deliver, or hear, prayers over their schools' intercom systems. Taxpayers, albeit indirectly, were responsible for the high cost of the defense of a law that was deemed by two federal courts to be unconstitutional. Moreover, the ACLU testified in front of the legislature, before they passed the law, that the law was unconstitutional (Associated Press 2001). During the oral arguments before the Fifth Circuit, one of the judges hearing the case explicitly accused the Louisiana Legislature of "passing politically popular laws of doubtful constitutionality, knowing courts will throw them out" (Times Wire Reports 2001). If there is any

accuracy to the judge's accusation, this is political pandering that the state government and the Ouachita Parish School Board—and the taxpayers that fund them—had to pay for in the end.

In 2002, the Louisiana state legislature replaced “prayer” with “silent prayer,” returning to the wording of the law after the 1992 amendment. House Bill 13 was explicitly presented as returning to allowing silent prayer or meditation (House Bill 13 2002). The legislature describes these changes as, “To amend and reenact R.S. 17:2115(A), relative to prayer and meditation in schools; to require that prayer or meditation authorized for students and teachers be silent prayer or meditation; and to provide for related matters”( House Bill 13 2002). This amendment, which passed 101 to 0 (with 4 absent) in the state House and 33-0 (with 6 absent) in the state Senate, returns the law to the 1992 version, allowing silent prayer or meditation in public schools. Three years, two court cases, and over \$160,000 later, the law returned to exactly the way it was before the 1999 amendment was passed.

### **Mobilizing Christian Identity**

In this section I explicate the mobilization and identity politics used in this case. Many of the common arguments highlighted in the content analysis in the previous chapter are evident throughout this case study. In addition, the political engagement and responses to this case are rife with NCR identity politics. The use of equality and fairness arguments is consistent with the NCR's embrace of right-wing populism. The reliance on majoritarian and tradition-based rationales for school prayer also matches the NCR's right-wing populism. Moreover, these arguments were prevalent in the content analysis, lending support for similarities in the NCR's public argumentation and the arguments used for school prayer in a more formal legal setting. These similarities speak to a core of NCR political mobilization and engagement. The NCR's identity politics pervasive in this case study also come forth with the connections made between an American identity and a Christian identity. These arguments further the notion that to be American is to be Christian, and that these

connections justify the NCR's equality and tradition-based claims for school prayer. The NCR puts forth arguments that seek to protect those who identify as Christian, but do not root these arguments in actually protecting religious expression or faith. I explore all of these ideas in the subsections below.

### *Equality, Fairness, and Victimization*

As seen in the last chapter, one of the main themes in NCR mobilization is around the conception of "equality." In this case study the equality theme is often expressed as protecting ideals of "neutrality," and in appeals to "fairness." The defendants, to the extent that they actually tried to defend the law, argued that it was neutral as written, as it did not require prayer, merely allowed it (Reply Brief 2000, 1-2). Moreover, the law did not privilege any one religion, as it did not allow some forms of prayer while disallowing others (Opposition of Defendant Governor 2000, 12). Despite the formal neutrality and lack of privilege that the defendants assert, all of the prayers were offered by students in the Fellowship of Christian Students, and no other religious viewpoints were acknowledged (Plaintiff Amended Complaint 1999, 5-7). Finally, the defendants argued that the law was neutral in that the law contained explicit instructions that the law was not to be interpreted as endorsing any one religion, or even religion in general (Reply Brief 2000, 1-2).<sup>78</sup> In addition, the law was about ensuring students equal rights to free speech, not about unfairly endorsing religion (Reply Brief 2000, 1-2). It is only fair that all students enjoy the same speech rights, free from censorship. Thus, as was seen in the content analysis in the previous chapter, equality is a central concept for the arguments put forth in defense of the state law and local school policies.

This equality took on an element of fairness with respect to responding to the plaintiffs' allegations. The plaintiffs initially brought their suit against Governor Foster in his official capacity,

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<sup>78</sup> The text of the law reads, "The allowance of a brief time for prayer or meditation shall not be intended nor interpreted as state support of or interference with religion, nor shall such time allowance be promoted as a religious exercise and the implementation of this Section shall remain neutral toward religion" (Prayer or Meditation; Pledge of Allegiance 1999).

against the Ouachita Parish School Board, and against several named school officials, including one teacher and the principals of both the Junior High and the High School (Plaintiff Amended Complaint 1999).<sup>79</sup> By naming specific school officials, the defendants argued, the plaintiffs crossed a line of decency. According to the defendants, naming specific school officials was procedurally unnecessary as the suit could have progressed against the school board without named school officials (School Board Motion to Dismiss 2000, 7). Moreover, it was patently *unfair* as such accusations, especially when accompanied by a press conference announcing the suit, *unfairly* labels these school officials as “lawbreakers” (School Board Motion to Dismiss 2000, 7). The defendants also argue that it is unfair to name officials while remaining anonymous. The motion to dismiss states, “Without first asking this court’s permission to proceed anonymously, these Plaintiffs have publically labeled four (4) individual educators as lawbreakers while unilaterally shielding their own identity” (School Board Motion to Dismiss 2000, 7). Thus, the defendants allege the plaintiffs are acting unfairly by having skipped procedural steps. Even worse, the plaintiffs have taken these liberties while attacking, by name, educators dedicated to helping children learn.

The defendants portray the plaintiffs as rule breakers—by proceeding anonymously without the court’s permission—who erred by shamelessly hiding their own identities while lambasting educators as “lawbreakers.”<sup>80</sup> Lawbreakers, given the law-and-order stance common to New Right and NCR ideology (see, e.g., Boyer 2008; Hadden and Swan 1981; Lassiter 2008; Morone 2003; Zimmerman 2002), is a particularly nasty epithet reflective of a sense of betrayal brought to light by

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<sup>79</sup> The plaintiffs eventually voluntarily dismissed the named school officials, leaving the case as against the School Board and the Governor (Plaintiffs’ Notice of Dismissal 2000). Subsequently, the defendants argue that the formerly named officials are actually the proper defendants, not the school board (Memorandum in Opposition 2000, 6-7). This tactic failed to convince the district court judge. Nonetheless, it is worth noting how the “fairness” frame, and the partial grant of anonymity led to the dismissal of the named school officials, which the defense tried to use to end the case.

<sup>80</sup> Subsequent to the defendants’ motion, the plaintiffs responded to the motion to dismiss with a motion to proceed anonymously. The defendants replied to the plaintiffs’ response, and this time characterized the referenced accusation as the plaintiffs’ “publically accus[ing] these individuals of violating our country’s constitution” (Reply Memorandum 2000a, 4). The defendants’ choice to phrase the legal claims as personal slights that accuse educators of violating the public trust through transgressions against the Constitution echoes the previous use of “lawbreakers” as a means to show how wrong-headed the plaintiffs are.

the accusations in the lawsuit. Lawbreakers are those, who by definition, lack a proper respect for authority and adherence to law and order. Proper authority and law and order are ideas at the core of NCR political vision. Thus, the epithet lawbreaker carries power beyond what it might in other contexts.

The unfairness compounds as, according to the defendants, the high school student and his mother were engaged in their own rule breaking by violating the courts desegregation order by lying about their address (Reply Memorandum 2000b, 2-3). This represents not only an unfair action, but a patent abuse of the law. Misuses of the law are commonly singled-out by those engaging in right-wing populist arguments, such as the NCR (Kazin [1995] 1998). The use of equality arguments in this case is consistent with the findings in the content analysis in the previous chapter. Equality-based appeals reflect the right-wing populism running through the push for school prayer, consistent with the NCR's political vision. The equality and fairness claims show that the defendants are depicting their side as virtuous and upholding the ideals of American democracy, while the other side is using lies, deception, and abuse of the law to try to force a political agenda on an entire community. In this way, the arguments involved in this case demonstrate an embrace of NCR-style right-wing populism.

The repeated use of claims of unfairness invokes the equality theme discussed in the previous chapter while also bringing in the idea of a secular liberal elite hell-bent on ending school prayer. This elite, in this specific case the ACLU of Louisiana and Americans United, are so anti-religion that they might have (according to the defendants) invented plaintiffs to bring their politicized complaint (School Board Motion to Dismiss 2000, 6). The secular liberal elite are targeting those who identify as religious and support school prayer for invidious, identity-based discrimination. Principles of equality and fairness, therefore, are ideal for combating what the defendants portray as identity-based attacks. The defendants' repeated invocations of concern for

the public's legitimate interest against this unusual request for special treatment that is unwarranted by the facts furthers the efforts to stand up for fairness against illegitimate, liberal special interests (School Board Motion to Dismiss 2000). Consistent with the NCR's right-wing populism, such abuse of the law is un-American, labeling the plaintiffs as "other."

Another of the main themes uncovered in the content analysis was use of victimization language. In the case in this chapter, this victimization language is paired with the majoritarian politics common to the NCR's right-wing populism. This victimization language most directly displays the NCR's identity politics at play in this case. The defendants argued that the anonymous plaintiffs might be a front for the ACLU of Louisiana and Americans United. Such fictitious plaintiffs would allow these liberal organizations to bring their politically motivated challenge to court, despite lacking standing on their own (School Board Motion to Dismiss 2000, 6). While the district court ultimately dismissed the argument, and while it might have just been legal posturing to try to get the parties to reveal their names or to get the case dismissed (Boston 2000), the claims echo those of the NCR's right-wing populism.

Specifically these arguments match the social engineering claims common to the NCR's political mobilization found in the content analysis in the previous chapter. The claim is that the liberal elite minority—the ACLU and Americans United—are out to misuse the law to enforce their political will on students in the Ouachita Parish School District. This misuse of the law is emphasized by the defendants' characterizing the Does as having the "audacity" to lie about their residence and ask the court to stop student-led prayer (Reply Memorandum 2000b, 6). Thus the defendants tell the story of virtuous citizens of Ouachita Parish, many of whom think prayer should be a part of the school routine, targeted by liberal elites who want to eradicate all trace of God from public life. The victims here are the silent majority within Ouachita Parish who just want school prayer, as well as the public school officials who were publically denounced as "lawbreakers" by the

plaintiffs. These groups are targeted for discrimination based on their religious identity, but not clearly due to their particular religious beliefs. In that a central facet of the NCR's right-wing populism is a belief in the need for public moral education, which is constantly being undermined by a disproportionately-powerful liberal elite, connections exist between these views and the arguments put forth in this case.

In response to this feeling of victimization the defendants attempt to push accusations on to the plaintiffs. By focusing on the alleged wrong-doing of the plaintiffs, the defendants not only attempt to get the case dismissed for lack of subject matter jurisdiction, but also try to tell a different story about violating the law. That is, the defendants, including Liberty Counsel's Mat Staver, repeatedly attack the plaintiffs for violating the court's desegregation order (e.g., Reply Memorandum 2000b, 2-3). These repeated comments show an adherence to a law-and-order frame that was reflected in the expressed horror at labeling specific school officials "lawbreakers." In addition, by invoking the "desegregation orders" the defendants try to place themselves on the side of right, as well as on the side of upholding constitutional principles, rather than possibly having violated such principles through the inclusion of prayer in public schools. Perhaps more importantly, the attention paid to desegregation orders does more than just appeal to constitutional principles and notions of law and order. The emphasis placed on desegregation orders, especially within a former Confederate state, conjures thoughts of the Civil Rights Movement. Connecting the push for school prayer with the Civil Rights Movement works to trade upon the social justice permeating the Civil Rights Movement to advance the cause of school prayer. The connections also highlight the ways in which the NCR are using their religious identity as a political identity, and appropriating social justice movements argumentation along the way. Claims of victimization and appeals to equal treatment characterize many identity-based social justice movements in the U.S., ranging from the women's movement to the Gay Rights Movement (Herman 1996; 1997; Miceli 2005).



Hooking their position to that of respecting the court's desegregation order also matches the previously discussed use of equality arguments. In this telling, the school board wants to protect equal access to schools, whereas the plaintiffs are in the wrong. This last point is furthered by the defendants' repeated characterizations of the plaintiffs' claims and actions as absurd and audacious.

For example:

As Plaintiffs point out, there is no case directly addressing the question of whether a student attending a school through subterfuge and in violation of court-ordered attendance zones has standing to bring a federal suit questioning intercom prayer at that school. This lack of precedent probably indicates few plaintiffs have the audacity to misrepresent their child's residence to enroll him in a public school in violation of a court's desegregation orders and then ask that very court to rule upon the constitutionality of religious expression by other students at the school (Reply Memorandum 2000b, 6, emphasis in original).

In this characterization, it is the plaintiffs, not the defendants, who are in the wrong. According to the defendants, the plaintiffs seek to repress students' religious expression while violating court-ordered desegregation plans. Through this argument the defendants put themselves on the side of law and order. It is worth noting that this is one of the only times that the notion of "religious expression" is invoked directly throughout the entire case. Even here, it is mentioned with respect to the claim challenging the act of school prayer as violating the Constitution, and not in terms of the defendants' efforts to preserve religious expression. Thus, when religious expression is mentioned, it is not to argue for its protection. The defendants also present themselves as defenders of equality through invocations of the equality implicit in desegregation orders. While this tactic does not convince the courts in the end, the arguments are consistent with an attempt to stand up for law and order and to reassert a position as a virtuous, law-abiding citizen, which are arguments common in the NCR's version of right-wing populism. These law abiding citizens are portrayed as the norm, and it just so happens they are also the ones in favor of school prayer. Thus, those with beliefs consistent with a NCR identity are portrayed as on the side of law and order, seeking to protect

everyone. However, when protecting everyone means keeping Christian prayer in schools, the equality and fairness arguments begin to work towards preserving the status quo that favors the NCR's position.

*Tradition and Majoritarian Politics*

The defendants embrace the notions of tradition and majority rule, defenses consistent with the majoritarian politics endemic to the NCR's right-wing populism and identity politics (Kazin [1995] 1998, 246; Mattson 2008, 92-93). The defendants portray the complaints as representing a minority position that is objecting to a traditional practice that has existed far before the amendment to the 1999 law (Reply Brief 2000). The defendants readily admit that school prayer was a regular occurrence in Louisiana before the law was changed in 1999, signifying that the law was not responsible for causing prayer in schools (Reply Brief 2000). Moreover, this history means student-led school prayer is a traditional practice in Ouachita Parish. The lack of prior complaints apparently indicates that school prayer is something a vast majority of the community wants. Thus, it is the plaintiffs, not the defendants, who are out of touch with the political will of the community. While "the will of the majority" is far from a constitutional defense from accusations of Establishment Clause violations, it does not stop the defendants from raising this point (Reply Brief 2000). The ideas that traditional practices ought to be protected and that the majority's will should determine local practices are fundamentally populist arguments. Arguments that the "silent majority" faces discrimination when a vocal minority chases prayer out of schools are also NCR's right-wing populist arguments that claim discrimination based on religious identity (Plaintiffs' Reply 2000, 14-15).

The defendants' majoritarian arguments in defense of traditional practices function to protect entrenched social privilege (for example, Plaintiffs' Reply 2000, 14-15). This privilege manifests through having one's religion endorsed and shared over intercoms in public schools.

Participating in shared traditions and rituals serves as a mark of inclusion (*Lee v. Weisman* 1992, 646, Scalia, dissenting; Zimmerman 2002, 182-83). When those traditions and rituals come from within one's own religion, the person is marked as being a cultural insider. With the authority of the school endorsing specific religious beliefs—even if only by sharing them as part of their official announcements—students from within the tradition are marked as insiders, while those not in the tradition are reminded that they are cultural outsiders. This social inclusion has continued effects well beyond the classroom (see Jacobs and Theiss-Morse 2013). For example, a long-time West Monroe resident who was forced to close his restaurant because someone on the internet claimed he was involved in the lawsuit (Plaintiffs' Sur-Reply 2000). These rumors led to boycotts that forced him to close his restaurant. He denies that he was the plaintiff, and if he is telling the truth, he was shunned from the community based on nothing but an internet rumor. Regardless of the truth, his business suffered. This man was marked as a cultural outsider and ostracized because people believe he dared to challenge the social privilege Christianity—and a conservative variant at that—enjoys in Ouachita Parish, and most of the U.S. These were precisely the reasons given as the reasons why the families in the lawsuit wanted to proceed anonymously. Tradition is a powerful social force, and those religions seen as “traditional” American religions enjoy substantial social privilege (Jacobs and Theiss-Morse 2013). It is preservation of this social privilege that animates the NCR's identity politics, including in this case. By arguing to protect traditional, popular practices, but ignoring the faith involved in these practices, the NCR mobilizes to protect privilege and identity, but not necessarily faith and religious expression.

The defendants' use of tradition and majoritarian arguments are offered as a quasi-legal defense among the actual legal arguments. For example, Greg Manley, the Vice President of the Ouachita Parish School Board, goes so far as to argue that, ““The bottom line is not what I, you, or a judge think. It's what the students think,”” and ““We let a vocal minority dictate what a silent

majority wants” (quoted in Plaintiffs’ Reply 2000, 14). Manley’s comments demonstrate that the traditional practice of school prayer, supported by students, should trump legal determination of what “a judge” thinks. In addition, he directly embraces majoritarian politics by decrying the actions of a “vocal minority” that harms the New Right, and NCR, hero—the “silent majority.” Manley pits this silent majority against not just any vocal minority, but specifically against the ACLU. Manley states, “We did not create the lawsuit. The ACLU did. But, the ACLU can rest assured that we are going to use all resources available to make sure that we keep student led prayer in the Ouachita Parish School system” (Plaintiffs’ Reply 2000, 14). In this version of the story it is the ACLU who is responsible for the situation in this case, not the Louisiana legislators who passed a law allowing school prayer, not the principals who instituted prayer over the intercoms in their schools, not the students who read these prayers, not the school board that tacitly allowed these practices to happen, and not the apparent tradition of having school prayer in Louisiana public schools even without legal support. For Manley, it is the ACLU that is upsetting the social order to impose a minority will upon the majority that allegedly wants God in their public schools. By this reckoning, the ACLU is intentionally discriminating against people who identify as religious.

Throughout their defense, the defendants attack the plaintiffs for their wrong doing, as well as argue the case should be dismissed for lack of standing. They do not, however, try to defend either the state law or the practices of prayer within Ouachita Parish public schools. If the case were dismissed on standing grounds, such defenses would be unnecessary. However, the reasons are deeper than just legal strategy. Part of the state’s official defense in this case was that there has been organized prayer for many years in Louisiana’s public schools, thus neither the law nor the school board are responsible for this practice (Governor’s Motion to Reply 2000, 4). The prayer happened regardless of its legality, so a change in the law did not bring about the practice of prayer in Louisiana public schools. This is an argument the state uses again in front of the Fifth Circuit

(Times-Picayune 2001). The state appeals to the idea that a traditional practice, regardless of Supreme Court rulings barring said practice, should have a central place in Louisiana's public schools. Moreover, the fact that the schools would have organized prayer in contravention of the Court's ruling, and without the backing of state law, indicates that the practice will not go away. Consequently, neither the school board nor state law can be blamed for "causing" organized prayer in Ouachita Parish's public schools. The tradition of the practice should protect it, at least as being distinct from the law in question. The defendants' take away point is that regardless of the state of the law, Americans are going to pray in schools.

*America as a Christian Nation: Connecting God and Country*

Many of the arguments put forth in this case in defense of the law and of school prayer rely on the premise that America is a Christian nation. This argument asserts that religion is a part of American tradition because the U.S. was founded by Christians as a Christian nation, and that our institutions presupposed the existence of a divine being that guided the U.S.'s destiny (e.g., Chancey 2009; Jacobs and Theiss-Morse 2013; Reply Brief 2000). Moreover, school prayer has a long tradition of being a part of public education. Consequently, prayer belongs in schools as an acknowledgment of this tradition and a continued acknowledgment of how an American cultural identity is inextricably linked to a Christian identity (see Jacobs and Theiss-Morse 2013).<sup>81</sup> When arguing in favor of the law, legislators involved in the process remarked that the law was intended to return prayer to schools (*Doe v. Ouachita Parish School Board* 2001, 294-95). The state asserted that Representative Cynthia Willard-Lewis, the law's chief sponsor, argued that the law was intended to promote "a moment of calm and peace at the start of each school day" in an effort to combat growing school violence (Times-Picayune 2001). Such statements do not appear in the legislative

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<sup>81</sup> Jacobs and Theiss-Morse (2013) find that a majority of Americans explicitly associate being a true American with being Christian. Moreover, both Christians and non-Christians strongly and consistently make this connection implicitly. Thus, the NCR's arguments both support these explicit and implicit beliefs while also appealing to these beliefs to advocate for policies that secure the entrenched social privilege that flows from being considered true Americans.

records surrounding the bill (Times-Picayune 2001). Even expressing the desire as “returning” prayer to schools suggests that prayer belongs in schools, has long been a part of schools, and once again needs to be a facet of public education. Nonetheless, the process of linking prayer in schools with the calming of aggression to better serve the nation begins to weave a tapestry where school prayer creates good citizens capable of fearing God and obeying the law.

The actual practices of school prayer in both West Monroe High School and West Monroe Junior High School further these connections between God and country, and between an American and a Christian identity. In both schools, the prayers are introduced every Monday by calling on students to stand for the prayer and the Pledge of Allegiance (Plaintiff Amended Complaint 1999, 5-7). In both schools a student reads a demonstrably Christian prayer, and then recites the Pledge of Allegiance (Plaintiff Amended Complaint 1999, 5-7). These practices are informative for a number of reasons. First, students are requested to stand to show respect and deference to both God, through prayer, and country, through pledging allegiance to the symbol of the country. Standing in unison helps to unite the students in shared reverence and shared ritual. Joined by their teachers, students see the authority figures within the school also demonstrating respect for the prayer and the Pledge (Plaintiffs’ Reply 2000, 11).

Second, putting a prayer and the Pledge together in the same context suggests a connection between praying to God and swearing allegiance to the U.S., especially as portrayed as “one nation under God.” Students have the nation’s motto, “In God We Trust,” reemphasized every Monday as they pray together to a Christian deity before pledging themselves to the U.S. In 1989 the Louisiana legislature helped to draw out these connections. When amending the law in 1989 after the defeat of the 1980 inclusion of prayer in schools, the legislature reenacted the still valid law allowing for silent meditation, but they also added provisions in the same law for the Pledge of Allegiance (Silent Meditation; Pledge of Allegiance 1989). Quite literally, the legislature replaced the “lost” practice of

school prayer with the recitation of the Pledge of Allegiance. Three years later when the law was amended again to allow silent prayer or meditation, in addition to the recitation of the Pledge, these connections were highlighted yet again (Silent Prayer or Meditation; Pledge of Allegiance 1992).

Third, the seamless connection of a prayer with the Pledge shows that religion is important for understanding what it means to be an American. Moreover, religion is treated as important for the fate of the U.S., as again expressed in the national motto. The U.S. trusts in God, is united under Him, and will invoke His blessing on our children and education. School prayer, especially when followed by the Pledge, contextually draws these connections that already existed in Louisiana law.

Fourth, as a decidedly Christian prayer is offered in conjunction with the Pledge of Allegiance, students are exposed to the implicit argument that the U.S. truly is a Christian nation, founded by Christians who wanted to be free to practice their own version of Christianity. The U.S. offered this freedom—not freedom from religion, as the NCR is want to point out—but rather freedom to practice their Christian faith, and the freedom to expel those who disagreed. Linking Christian prayers with affirmations of dedication to a flag help to invest that flag with the symbolism of its uniting Christians as a single people beneath the stars and stripes. Moreover, with the prayer and Pledge occurring on Monday, the Sunday lessons from Church, fresh in many Christian students' minds are called up and connected to the education that is about to begin. Prayer linked with the Pledge in a school building at the start of instructional time invokes God's grace over the learning process, and over the nation that is united under Him. All of this is strengthened by the proffered defenses for school prayer as merely traditional practices in American public education.

Finally, and most importantly for the NCR's political vision, the prayer is always offered before the Pledge of Allegiance. After all, while the U.S. is a Christian nation, the proper citizen is always obedient to God first and country second. God is the true authority, and all governmental power and authority derives from Him (Liberty Institute 2013, i; Scalia 2002, 18-19). Obedience to

God must come before allegiance to country, but obeying God's authority is also a way to understand how to show proper respect for governmental authority as well (Scalia 2002, 18-19).

These connections between God and country strengthen the NCR's identity politics as they entangle a Christian and an American identity. Such identity connections support the arguments for preserving the place of religion, and specifically prayer, in public schools.

The school board's own sentiments also reinforce these connections between God and country. For example, after voting to "aggressively [defend] Board policy in keeping prayer in schools," the School Board's Vice President remarked to the press, "I feel the forefathers founded this great country on godly principle and on something that God was needed in our society and in our school system" (quoted in Plaintiffs' Reply 2000, 13). Here we have the explicit reference to the founding as involving "godly principle" that speaks to the U.S. as a Christian nation. Moreover, there is the acknowledgment that the Founders thought "God was needed in our society and in our school system." This acknowledgment speaks to the tradition of including God in public schools as well as the importance of school prayer for proper education. As was discussed in chapter 2, proper education, according to the NCR, must be about moral character, and prayer helps to instill this moral character. This proper moral character can help to combat the cultural decline that the NCR sees as endemic to current American culture.<sup>82</sup> Thus, proper American education requires prayer and religion, ultimately protecting NCR social privilege by portraying Christian values as the solution to America's problems. These same ideas are implicit in Rep. Willard-Lewis's assertions that prayer in schools could promote calm that can help combat school violence. The proclamation of moral and cultural decline runs throughout NCR discourse, and is one of the main points the NCR's political vision aims to address. The discourse around school prayer in this case connects to the NCR's

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<sup>82</sup> E.g., Gaddy, Hall, and Marzano 1996, 192; Kazin [1995] 1998, 256; Martin 1996, 77-78, 232; Ramet 2005, 432.



political vision and broad use of identity politics through combining a prayer and the Pledge, and emphasizing the U.S. as a Christian nation in need of spiritual rebirth.

*Praying for School Prayer*

Finally, one additional event and the surrounding discourse link this case with the NCR's right-wing populism and their political vision. This event is a rally held at the high school to support keeping prayer in the public schools. This prayer rally functions as a culmination of the elements in the preceding analysis of the NCR's identity politics in this case. Less than one month after the complaint was filed, Ouachita Parish School Board Vice President Greg Manley, West Monroe High School Principal Ernest Reed, and Superintendent Lanny Johnson all attended an organizational meeting at North Monroe Baptist Church to plan a rally at the high school to defend school prayer. At this meeting these school officials talked with 150 pastors regarding the lawsuit and the planned event to show support for the fight against the lawsuit (Plaintiffs' Reply 2000, 13). North Monroe Baptist Church is a part of the Southern Baptist Convention<sup>83</sup> (North Monroe Baptist Church n.d.). Throughout the legal challenge, North Monroe Baptist Church provided a bastion of support for the embattled school board, including joining with other clergy to run full-page ads in the local newspaper supporting school prayer and the school board (Boston 2000). Several school officials joined in various ads, including the principal of West Monroe High School, where the lawsuit started.

The rally was subsequently held at the high school football stadium on Sunday January 30, 2000 (Plaintiffs' Reply 2000, 13). Five different members of the Ouachita Parish School Board, including its president and vice president, were seated on the stage during the rally (Boston 2000). Attendance at this event is estimated to be over 15,000 people, more than 10% of the entire

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<sup>83</sup> Since the "Conservative Resurgence" within the Southern Baptist Convention, which began in the 1960s and 1970s, the Convention has moved in a conservative direction, becoming mainstays in New Right, and I argue NCR, politics and ideology (see, e.g., Hefley 1991; Humphreys 2002; James 2007; Lewis 2011).

population of Ouachita Parish (Boston 2000). Speakers at the event included two prominent NCR figures, William J. Murray, chairman of the Religious Freedom Coalition, and Mat Staver, founder and chairman of Liberty Counsel. At the rally Staver remarked, ““If we don’t sow morality and virtue [in schools], we are going to reap immorality and chaos”” (Boston 2000). His comments return to the notion of moral decline, and school prayer as a means to stop this cultural backsliding. His comments also emphasize that schools are a place for moral education, and that what happens in our public schools has important consequences for the fate of the nation. These arguments posit Christian practices and beliefs, along with embracing America’s alleged Christian identity as a way to save the U.S.

Several days prior to this rally, Greg Manley, Vice President of the Ouachita Parish School Board, published a letter to the editor in the local newspaper, the *News-Star*. Manley’s letter reflects the themes demonstrated throughout the case, as well as the rally itself. These themes are consistent with the NCR’s right-wing populism and identity politics. Manley begins this letter by framing the issue as the “Ouachita Parish School Board battl[ing] a lawsuit trying to keep prayer in our parish schools” (quoted in Plaintiffs’ Reply 2000, 15). From the start the school board’s Vice President indicates that the school board is going to do what it can to ensure there is prayer in the public schools. There is no doubt from this set up that the school board favors prayer in public schools, regardless of what the Supreme Court has already said about the matter.

Manley goes on to express his amazement at “how we have come to this point in our society when this country was founded on godly principles” (quoted in Plaintiffs’ Reply 2000, 15). Again, there is an explicit appeal to the founding and the relevance of “godly principles” to the birth of the nation. In fact, Manley repeats the phrase “godly principles” again in the next sentence, this time linking not just God and country, but also God and American law. Manley writes, “Our forefathers founded and established the Constitution, which is the foundation of our government, with godly

principles at the forefront” (quoted in Plaintiffs’ Reply 2000, 15). The reader is not told what these “godly principles” are, but is informed that God—a specifically monotheistic reference—underlies the very American system of government. To support America is to support God. He furthers this point with references to “In God We Trust” and the U.S. as “One nation, under God” (quoted in Plaintiffs’ Reply 2000, 15). Manley is building the argument once again that America is a Christian, or at least religious, nation and that there is a direct link between God and the U.S. These arguments are emblematic of the entanglement between a Christian and American identity at the core of the NCR’s identity politics.

However, challenges like the case facing the school board cause Manley to wonder “How can we trust God and be one nation under God when we remove student-led prayer from our school system”( quoted in Plaintiffs’ Reply 2000, 15). Manley sets up the practice in question as student-led prayer, seeking to distance the school’s, and various adults’, involvement in the practice. Moreover, and more subtly, Manley pits the plaintiffs in the case—and the secular liberal elites in the ACLU and Americans United that support the case—as sowing the seeds of division within American society. The ACLU and Americans United attack the religious, and all of America with them. More than just division, these agents threaten the very well-being of the nation and our moral center as we, collectively, begin to doubt (as we do not “trust”) God. In this telling, lawsuits like the one the school board is fighting are dangerous as they go against tradition as old as the U.S. itself, and threaten to further America’s cultural decline.

Manley goes on to tell the reader that the case is a misrepresentation of our founding principles as “The ‘freedom of religion’ (not freedom ‘from’ religion) and ‘separation of church and state’ premises were to guarantee that the government would not mandate, dictate or force a particular religious belief on all its citizens. It was not intended to remove God, prayer, the Bible or the Ten Commandments from our schools” (quoted in Plaintiffs’ Reply 2000, 15). The plaintiffs are

misusing the law for their own political purposes at the expense of the religious majority. The law is meant to stop states from imposing state religion, and school prayer falls short of this threat, according to Manley. He also asserts that the law was never meant to remove Judeo-Christian elements of religion—“God, prayer, the Bible or the Ten Commandments”—from public schools. While there is a Judeo-Christian appeal to the claim, the reference to “the Bible” limits it further to a *Christian* appeal (see Darian-Smith 2010, 226-30). Thus, the law was never meant to limit Christian expression in public schools. Nothing is said about other religions’ place within American law, or even public schools. Manley’s appeal to a Christian founding of the U.S. works to also blend a Christian and an American identity, leaving the ACLU and others opposed to school prayer as improperly American. The ACLU’s alleged misuse of the law also puts them on the outside of proper American behavior and beliefs.

As if the dangerous nature of the ACLU’s lawsuit were not clear enough, Manley continues to spell out the threat. He writes, “It’s very hard for me to sit back and let a group like the ACLU dictate to the people and students of Ouachita Parish what is best for our children. The silent majority has been silent way too long” (quoted in Plaintiffs’ Reply 2000, 15). Manley’s NCR populist hackles are raised by the efforts of “a group like the ACLU” to “dictate” to the people what is acceptable. This is a blatant attempt at liberal social engineering, which was a common argument among NCR’s political mobilization as described in the previous chapter. Not only is the ACLU dictating to the people what they may do, but they are doing so in a way that asserts knowledge over “what is best for our children.” The idea of needing to protect children from liberal elite brainwashing, also common in the content analysis in Chapter 3, shows up here in Manley’s argument. What is best for children is a matter of local concern. As explored in Chapter 2, and further in Chapter 5, religion is important for a proper moral education, and parents have a right to control many facets of children’s upbringing. Chapter 3 shows that the NCR treats efforts at

removing prayer and religion from school as attacks on Christian parents, attempting to turn their children away from the parents' religion. Such attacks on parents through their children indicate direct discrimination against the religious. Manley wraps up his letter with an invitation to what he calls a "prayer rally" at the football stadium on the 30<sup>th</sup> (Plaintiffs' Reply 2000, 15). As a prayer rally, and not just a political rally, the school board is invoking God's help in defeating the lawsuit attempting to remove Him from Ouachita Parish schools.

### **Conclusion: Louisiana School Prayer and NCR Identity Politics**

While the case studied in this chapter is emblematic of the NCR's mobilization, and even involved the founder of an NCR organization, the NCR has remained largely quiet regarding this case. The NCR's relative air of silence around this case could downplay the connections between this case study and the NCR. Even Liberty Counsel, whose founder helped argue the case, says effectively nothing about the case. In their various reports chronicling "The Survey of Religious Hostility in America," Liberty Institute and the Family Research Council do not mention *Doe v. School Board of Ouachita Parish* (2000; 2001) even once in the 45 pages dedicated to "Attacks on Religious Liberty at the Schoolhouse" (Liberty Institute 2013). This section of the Survey reviews cases and news stories from 1985 to 2012, including examples from Louisiana and *Santa Fe Independent School District v. Doe* (2000), decided by the Supreme Court during the case discussed in this chapter. The document includes "hostility" regarding school prayer, and has examples from state and federal courts, as well as news reports that are not associated with cases. The Ouachita Parish example fits all of these criteria, but is missing from the document. It is completely possible that the organizations putting the report together simply overlooked the case. Regardless of the cause, the silence around the case is intriguing, while also raising questions about the connections back to the NCR. Nonetheless, there are three important ways in which NCR mobilization and identity politics are critical to understanding the case in this chapter.

First, with an indeterminate number of individuals who identify with the NCR involved, and with limited NCR organization support, the case demonstrates the resonance of NCR argumentation. This resonance could come from those who identify with the NCR being involved in the case, or it could reflect the appeal of NCR identity politics, ideology, and argumentation regarding school prayer. As highlighted earlier, the main patterns of argumentation discovered in the content analysis carry through to this case study. The defendants rely on equality (and fairness) arguments, while also claiming positions of victimization. Victimization is a key facet by which the NCR's identity politics mobilizes around a shared identity to protect their social privilege. In so doing, the NCR appropriates social justice movement tactics and argumentation to countermobilize against social change.

Prayer, when discussed, is portrayed in neutral terms, downplaying faith-elements involved in prayer. Even when dealing with what by all accounts were explicitly Christian prayers in public schools, the defendants never try to defend the religious expression in prayer or even portray prayer as an act of religious faith. In addition, the defenses offered throughout this case involve heavy appeals to the NCR's version of right-wing populism and identity politics. The shared patterns of argumentation, including the integration of right-wing populism, demonstrate a consistency between the arguments made by the NCR and those put forth in this case. This consistency does not directly connect the NCR to the case. What it does do is demonstrate the resonance of the NCR's argumentation. Equality is deeply entrenched in the American psyche (Bellah et al. 1996), and the NCR have used this connection to argue for school prayer. The defendants in this chapter, including Liberty Counsel's founder, make the same equality-based arguments. To the extent that the NCR is involved, they are making similar arguments to those found in the content analysis. To the extent that they are not involved, others defending school prayer appeal to the same themes and ideas. This indicates that there is appeal in the ideas central to the NCR's political vision and mobilization that

appeal to those outside of the NCR who also want school prayer. Thus, even with uncertain levels of engagement in this case, NCR-style arguments and mobilization is evident.

Second, there is no appeal to the Free Exercise Clause to defend the inclusion of prayer in public schools. This lack of appeal to the Free Exercise Clause is consistent with the content analysis. To the extent that the legislature offers a justification for the school prayer law that is not just putting prayer in schools, it is to offer a moment of calm to combat school violence (Times-Picayune 2001). This explanation does not even mention religion, religious beliefs, or religious practices. There is some discussion around the students' ability to pray if they want, but no appeal to students' rights to freely express their religion. Not only are appeals to the Free Exercise Clause missing, but any defense of the religious practices, or religion in general, are missing from the defenses and broader discussion. For the defendants, this case is presented as about protecting a traditional practice, or about liberal elites' hostility towards the religious (Governor's Motion to Reply 2000; Reply Brief 2000; Reply Memorandum 2000b). The case is not presented as about protecting religion as sincere expressions of faith. The case is also not presented as protecting the free religious expression of all faiths. No other religions were represented in the school prayer, nor does the discussion around the law indicate that there was any intent for the law to expand religious pluralism in public education.

Third, the efforts in the case are aimed at "keeping prayer in schools," and in so doing, preserving a Christian identity as central to an American identity. The mobilization around school prayer in this case relies heavily on the idea that America is a Christian nation. The NCR argues that the founders saw prayer as integral to a moral citizenry, and thus prayer must be a part of public schooling (Feldman 2005). Those advocating for school prayer in this case indicate that religion, and specifically prayer, has an important traditional place in American society, and this tradition must be preserved (Reply Brief 2000). In this sense, as explained above, there are explicit connections drawn

between a religious (specifically Christian) identity and an American identity. Moreover, religion in this discussion is treated as part of an *identity*, and not as a system of beliefs based on faith. Claims of religious discrimination abound, but none of these claims indicate any limitations or discriminations targeted at religious practices. Prayer is offered not as religious devotion, but as a traditional part of American education. Tradition must be preserved. The role of religion in society must be preserved. The fact that the Founders identified as Christian and saw religion as important to a moral citizenry is important. What is missing from these points is the acknowledgment that prayer is an expression of faith, and that there are specific theological beliefs that accompany prayer. The defendants, and those supporting prayer in general, emphasize belonging to a (Christian) religion and not protecting expressions of faith. This religious identity must be protected from the “PRAYER HATING DEVIL[S]” who want to harm this entrenched religious identity by removing prayer from public schools (Plaintiffs’ Sur-Reply 2000, 2).

With little attention paid to past precedent, or even the congressional testimony warning that the law was unconstitutional, the Louisiana Legislature and schools within Ouachita Parish chose to enact school prayer policies that were unconstitutional (Associated Press 2001). Making a point about religion’s place in American history and society, especially schools, was treated as more important than following the law. The end result was high legal fee bills and effectively no change from the previous law. It was a point emphasized at substantial cost, with no lasting victory. It is a fight that continues in Louisiana and across the U.S.<sup>84</sup>

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<sup>84</sup> See Appendix B for, in part, a chronology of additional disputes in Louisiana involving public school prayer that all occur after the case studied in this chapter.



## Chapter 5

### Parental Rights, Prayer, and Privilege: Constructing Proper Christian-Americans

On May 17, 1995 in the Mansfield Room in the Capitol Building, the Christian Coalition was joined by prominent Republican congressional leaders for a televised press conference where the Christian Coalition unveiled its “Contract with the American Family” (Geyer 1997, 57; Waldron 1995). Clearly referencing the Republican Party’s “Contract with America” released a year earlier, the Contract with the American Family contained 10 cultural and social policy positions the Christian Coalition believed would help correct what it saw as wrong with the direction in which America was headed (Conger 2003, 124; Geyer 1997, 57; Gilgoff 2007, 101). Among these wide-ranging policy proposals were the call to strengthen parental rights—including the denunciation of the United Nation’s Convention on the Rights of the Child—and a call for allowing organized, verbal prayer in public schools and other public places (Conger 2003, 124; Geyer 1997, 57; Waldron 1995). The Contract with the American Family represents the Christian Coalition’s, and in particular Ralph Reed’s, attempts to make the NCR movement more mainstream and explicitly policy oriented (Browning et al. 2000, 40-41; Geyer 1997, 57-58; Gilgoff 2007, 101-02). The Contract with the American Family served to draw increasing national attention to the NCR movement and their policy concerns, including those linked to public education (Browning et al. 2000, 40-41; Gilgoff 2007, 101-02).<sup>85</sup> The Contract with the American Family was popular with NCR-oriented members of Congress, but found mixed support with the electorate, many of whom saw the Contract with the American Family as “being a contract with the white middle-class Christian American family, not a broad gesture in the interest of all” (Conger 2003, 124). Even without national political success, school prayer and parental rights are still central to the NCR’s identity-politics-based mobilization in public schools twenty years after the Contract with the American Family.

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<sup>85</sup> Also included in these policy positions related to public schools were calls for moving control of public schools away from the federal level and towards more local control, as well as calling for vouchers, tax-credits, and other means of obtaining school choice (Conger 2003, 124). All of these are benefits aimed at parents.

In this chapter I study the NCR's mobilization of parental rights arguments for religion in public schools. I argue that, much like the NCR's mobilization for school prayer, the mobilization around parental rights demonstrate the NCR's concern over questions of authority in society. Specifically, the NCR's mobilization for school prayer works to protect those who identify as conservative Christians by pushing for their increased ability to shape public school curricula in association with the NCR's political vision. Parental rights becomes a means by which the NCR seeks to protect its position in American society, while furthering connections between a Christian and an American identity, all by trying to move schools in a direction of affirming conservative Christian values. As with school prayer, although religious beliefs seem to be the starting point for this mobilization, the arguments put forth by the NCR focus on controlling who has authority over children and preserving Christian parents' privileged place in society. As was the case with the criticisms launched against the Contract with the American Family, universal language is used, but the NCR gains more than others from the benefits sought. Free exercise of religion or increasing religious freedom for all do not factor in to the actual arguments the NCR puts forth for school prayer. While rooted in religious beliefs surrounding the family, the NCR's parental rights mobilization centers on securing socio-political power over education.

I focus on parental rights in this chapter because the issue of parental rights subsumes many of the other issues the NCR often takes up in public schools, such as evolution versus creationism (or intelligent design), school choice options, sex education, and tolerance programs aimed at teaching about the LGBT community (Dwyer 1994; Klicka and Phillips 1997; Murray 2009; NeJaime 2009). The NCR deploys parental rights arguments with respect to all of these issues. The pervasiveness of parental rights arguments for the NCR allows me to broaden the scope of NCR mobilization in public schools while focusing on how parental rights further the NCR's political vision. Moreover, the NCR's parental rights arguments are thematically consistent with what the

NCR argues for school prayer. However, parental rights also offer an interesting twist on the NCR's mobilization for school prayer. Whereas the school-prayer-based mobilization tends to focus on trying to include more NCR views and ideas to shape curricula and schools through inclusion, parental rights often involve excluding objectionable ideas and lessons to shape curricula and schools in the NCR image through what is excluded. In this sense, school prayer and parental rights are less opposites and more two sides of the same NCR-identity-politics coin.

When I speak of parental rights in this chapter I refer to the NCR's presentation of the rights and privileges that have been traditionally—or that they think ought to be—afforded to parents *qua* parents. Parental rights are ill-defined in American law, but they do have a long legal tradition all the same, and the phrase “parental rights” is one oft-repeated in NCR argumentation. The organization ParentalRights.org, which primarily mobilizes support for a Parental Rights Amendment to the federal constitution, describes parental rights generally as “the liberty of parents to direct the upbringing, education, and care of their children” (Ramey 2014). The Alliance Defending Freedom (ADF) has similarly explained parental rights as “...parents’ fundamental right to direct the upbringing and education of their children” (Gray 2012). What is common to both explanations is that these are rights that parents have pertaining to how they raise and educate their children. The NCR argues that protections for these rights are necessary because they form the cornerstone of Western civilization built on the traditional family structure. This traditional family structure, the NCR claims, is being threatened by overzealous government bureaucrats, liberal educators bent on indoctrinating children with views that contradict those of their parents, and the threat of international law that could impinge on how NCR parents rear their children (Cushman 2013; Farris 2009; Klicka and Phillips 1997; Pacific Justice Institute n.d.).

In the next section of this chapter I provide an overview of the law currently surrounding parental rights. This section provides the legal context in which the NCR mobilizes for expanding

parental rights to control public schools. Then, in the following section, I focus on explaining the arguments the NCR puts forth for parental rights in public schools, and how these relate to their mobilization for school prayer. Ultimately, both school prayer and parental rights function to create in-groups and out-groups in public schools that further the NCR's connections between an American and a Christian identity. From here, the next section explores the focus on authority running throughout the NCR's mobilization for parental rights. As with school prayer, parental rights involves a very specific conception of authority that is derived from the NCR's worldview and is central to their political vision. By pushing this conception of authority into public schools the NCR works towards their goals of cultural transformation through instructing future generation of citizens in conceptions of authority consistent with the NCR's views. Following the discussion of authority, in the next section I argue that the NCR's mobilization around parental rights, regardless of the animating impulses, rests on arguments that seek to preserve parental interests and the ability of parents to inculcate their children into the parents' religious beliefs without interference from the state. These arguments ultimately rest on a conception of the NCR as a unified group with cultural rights to social reproduction that means they must be allowed to control their children's views and beliefs without public schools interfering with alternative views and beliefs.

### **Legal Landscape**

While this chapter does not focus on case law or explicit legal arguments, this section offers a brief overview of the relevant concepts and cases that provide the legal landscape within which the NCR mobilizes. Even when the NCR does not invoke specific laws or cases, this information is relevant for how they conceive of parental rights, and perhaps more importantly, how their mobilization fits within, or challenges, the dominant narratives in this legal context.

*Legal Concepts*

One of the primary ideas at play in the NCR's use of parental rights arguments is the basic construction of the relationship between children, their parents, and the state within American family law. This three-way relationship is often discussed as being a triangle, with the state at the apex, and children and parents occupying the bottom points (Mnookin and Weisberg 2005, 795; Murray 2009, 397; Rosenbury 2007, 833). The power divisions within this family law triangle fall largely on a public/private divide. Parents are ceded control over children in the private sphere, while the state maintains control in the public sphere, especially with respect to education (Kelly 2002; Murray 2009, 397-98; Rosenbury 2007, 840). The control in these respective realms is nearly universal, with the state needing a threat of harm to children to intervene in the private sphere, and parents are afforded few chances to object to the state's exercise of power in schools (Murray 2008, 395-96; 2009, 398).

While this is the standard view, as Murray (2008; 2009) acknowledges, it is somewhat removed from reality. The triangular model envisions only parents and the state as having influence over children. This model ignores other familial, caregiver, and peer relationships, let alone cultural forces that help to shape and educate children as they become acculturated into American society (Murray 2008, 390; 2009, 399; Rosenbury 2007, 841). This suggests that parental rights, as an organizing legal concept, misses the multifaceted way in which children are shaped by the world around them. Instead, the logic of parental rights clings to a simplistic view that focuses on when is the state the legitimate authority governing children, and when are parents the legitimate authority governing children (Dwyer 1994). Parental rights, therefore, serve as interveners into this triangular relationship, and involve points where parents attempt to push back against state intrusions into the private sphere and state power in the educational context.

These parental rights are often referred to as “fundamental rights,”<sup>86</sup> including by the Supreme Court (e.g., *Santosky v. Kramer* 1982; *Troxel v. Granville* 2000; *Wisconsin v. Yoder* 1972). However, parental rights are not afforded strict scrutiny protections, generally given to fundamental rights, in these cases. Strict scrutiny would require any alleged violation of parental rights be justified as serving a compelling governmental interest, and that the law or act in question was narrowly tailored to achieve the interest in question (Chemerinsky 2009, 943-46, 968-77). The presumption with strict scrutiny is on the side of individuals’ liberty and against state action, allowing action only when it is necessary and limited in scope. For example, in *Troxel v. Granville* (2000), Justice O’Connor, writing for the Court, finds that parental rights involve a “fundamental liberty interest,” but she stops short of applying strict scrutiny to the Washington state law in question in the case. Justice Thomas filed a concurring opinion in *Troxel* to argue that strict scrutiny should have been applied, indicating a divided position within the Court regarding the level of review (*Troxel v. Granville* 2000, 81, Thomas, concurring in the judgment). This confusion means that there is an acknowledged place for parental rights within American law, but it is not typically afforded the highest level of judicial review. In fact, parental rights are typically awarded heightened (or intermediate) scrutiny only when these claims are combined with free exercise claims (NeJaime 2009, 354). Otherwise, parental rights, like most rights claims, are assessed under the lowest level of scrutiny used by courts (Chemerinsky 2009, 971-72). The NCR-supported Parental Rights Amendment seeks to guarantee that parental rights are afforded strict scrutiny by writing this protection into the Constitution (ParentalRights.org n.d.g).

In addition, building off of the family law triangle, there does not exist in American law a consistent acknowledgment of a fundamental parental right to control public school curricula

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<sup>86</sup> e.g., Alliance Defending Freedom 2009; Dacus and Dacus 2007, 64; ParentalRights.org n.d.d; n.d.f; Perkins 2014; Shafer 2011; True Tolerance 2012.

(NeJaime 2009, 352).<sup>87</sup> Courts typically depict parental rights as negative rights that protect parents from state intrusions, but do not offer parents the ability to interfere in the state's realm of public education (Cross 2001, 864; Dwyer 1994, 1374-75; NeJaime 2009, 352). Some states do offer various protections and opt-out provisions for specific types of lessons, but these are on a state-by-state basis. These opt-out provisions usually require parents to choose to exclude their children from educational material, as opposed to having to choose to allow their children to partake in specific lessons. This indicates that the state's presumption is inclusion, with the chance to choose exclusion through opting-out. Most often when opt-out provisions exist, the ability to opt-out is limited to health and or sexual education, and does not extend to any other types of lessons that might be deemed objectionable by some parents (Russo and Thro 2012, 410). This difficulty in asserting control over public school curricula is one of the primary reasons the NCR gets involved in fights for parental rights in schools.

#### *Selected Case Overviews*

To round out the legal context surrounding parental rights, I highlight a few cases pertaining to parental rights. I focus on a few of the more well-known cases. In particular, these are cases that the NCR brings up in their own arguments pertaining to parental rights. Parental rights as a distinct legal concept began, in earnest, through a series of Supreme Court cases in the 1920s. These cases overturned state regulations pertaining to private schools on the grounds that the regulations violated parents' traditional liberty to direct their children's education, rights that are claimed to be enshrined in the 14<sup>th</sup> Amendment's Due Process Clause (Dwyer 1994, 1379). These cases often involved questions of religion tied to the assertions of parental rights.

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<sup>87</sup> In the face of this lack of a right to control school curricula the NCR often turns to discourses of local control over schools. The language of local control is one means by which the NCR can advocate for power at a local level, which can then be influenced by local parents and school board officials (Binder 2002; DeFattore 2004; Detwiler 1999).

While not the first of the 1920s parental rights cases,<sup>88</sup> *Pierce v. Society of Sisters* (1925) is one of the cases which the NCR most often cites in their argumentation around parental rights and schools. In *Pierce*, parents challenge an Oregon state law requiring public school education, thus implicating the legal status of private, including religious, schools. The Court ruled unanimously that “the fundamental liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only” (*Pierce v. Society of Sisters* 1925, 535). The case affirmed parents’ ability to control their children’s education by being able to choose to send their children to public or private schools. The language of school control, choice in education, and an emphasis on the role of parents in guiding their children’s upbringing makes this an important case for the NCR.

The NCR also makes frequent references to *Wisconsin v. Yoder* (1972) in their arguments defending their parental rights. *Yoder* involves an Old Order Amish family challenging mandatory school attendance up to the age of 16. The Yoder family, and other members of the Old Order Amish, agreed to sending their children to public schools through eighth grade but refused to send them after that, excluding their children from an additional one to two years of mandatory education. The Court ruled that the law violated the Amish parents’ free exercise rights, and that the goals of the Wisconsin legislation would not be harmed by limiting Amish children’s education to eighth grade. The Court acknowledged the goals of the law and public education to be the creation of an engaged, educated public citizenry that is civically minded, and found that these legitimate goals would not be harmed by allowing the Amish to exempt their children from part of the required age range. While the case involved free exercise claims and not asserted parental rights, the

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<sup>88</sup> *Meyer v. Nebraska* (1923) is usually acknowledged as the first parental rights case at the Supreme Court level. *Meyer* involved the invalidation of a Nebraska law that prohibited the teaching of foreign languages. While the case was brought by a teacher charged with violating the law by teaching German at a Lutheran school, the Court ruled that part of the violations committed by the law were against parental rights to choose foreign language instruction for their children. Thus, the case affirms the existence of parental rights, but it is not a case primarily about parental rights.



NCR frequently touts it because of, as is the case with *Pierce* (1925), the aspects of the ruling that acknowledge parents' liberty interests in the religious upbringing of their children (e.g., Liberty Counsel n.d.b).

The next case of note, *Mozert v. Hawkins County Public Schools* (1987), is not a Supreme Court case, but it is still very important for NCR argumentation. The plaintiffs in *Mozert* challenge a Tennessee school curriculum involving the instructional use of a textbook that some parents felt violated their free exercise rights. Specifically, these parents alleged that a number of the readings taught the occult, disrespect for parental authority, and other views that did not mesh with the objectors' religious views. The book in question was a reader used in the reading curriculum that contained many stories on a variety of topics. The text is one that is widely used in schools. The school in question refused to provide alternative reading assignments to replace the alleged objectionable material (*Mozert v. Hawkins County Public Schools* 1987, 1059, 1063). Although the trial court ruled for the plaintiffs (*Mozert v. Hawkins County Public Schools* 1984), the appellate court rejected the plaintiffs' arguments as not involving any violation to anyone's free exercise of religion or expression (*Mozert v. Hawkins County Public Schools* 1987, 1069-70). The appellate court argued that the lessons involved reading, not doing or believing anything in particular, and as such were not coercive nor did they present a burden on the profession or exercise of religion. While the state won the case, various parties have used it to support teaching about religion, including controversial beliefs, so long as it is non-proselytizing (Stolzenberg 1993). However, the case has also been interpreted to defend many state educational practices from parental objections (Carr 2012).

The final case I will focus on here does not actually take place in the context of schools, but nonetheless occupies an important place in NCR discussions of parental rights. This last case is *Troxel v. Granville* (2000), and it pertains to a grandparent custody case. Brad Troxel and Tommie Granville, when they were in a relationship, had two children together. Their relationship ended in

1991, but Brad's parents maintained regular contact with their grandchildren. After Brad's suicide in 1993, Granville sought to limit Brad's parents' visits with their grandchildren to one short visit a month. The Troxels, wanting more contact with their grandchildren, sued under a Washington law allowing third parties to challenge for visitation rights. O'Connor, writing for the Supreme Court's majority, argues that the law violates parental rights to control the care and custody of one's children when there is no evidence of neglect, abuse, or anything else to call into question a parent's fitness as a provider. As mentioned earlier, O'Connor does refer to parental rights as fundamental liberties, but stops short of applying strict scrutiny to parental rights, which is something Thomas advocates in his concurring opinion. The NCR lauds this case for its acknowledgment of parental rights as fundamental rights that allow fit parents to be free of government intrusions into private matters (Farris n.d., 5). However, they raise concern over the lack of strict scrutiny protections for parental rights (ParentalRights.org n.d.b).

The takeaway from these cases and general legal factors at play regarding parental rights is that the area of law is not new, but is still evolving. Moreover, parental rights exist as a means of protecting families from state intrusions in the private sphere, but have little sway in the public education context. Nonetheless, the NCR makes frequent appeals to the notion of parental rights in advocating for a greater ability for religious parents to control school curricula. This area of law is still evolving, but regardless of the outcomes of these mobilization efforts, the NCR's argument for parental rights are revealing. This mobilization sheds light on how the NCR conceptualize the purpose of public education and the connections between education, authority, and membership in the American community.

### **Parental Rights, Prayer, and Schools**

The connections between school prayer and parental rights in NCR mobilization are somewhat tenuous. While the NCR spends significant time mobilizing for school prayer, as well as

deploying parental rights arguments in the context of schools, these areas are often not explicitly linked by the NCR. However, it is clear that many NCR parents see school prayer as an issue of affirming their faith and values in the educational context in support of their responsibilities as parents, and thus implicitly involving questions of parental rights. Moreover, and much more explicitly, school prayer and parental rights, as embodied in NCR's mobilization around a Christian identity, both further the NCR's political vision. In this sense, the questions of school prayer and parental rights are intricately connected to the NCR's identity politics towards achieving their political vision. In this section I explore the connections between school prayer and parental rights, the expanded use of parental rights in regards to public school curricula, and finally discuss how the NCR uses parental rights and school prayer to construct in-groups and out-groups with bearing on who are legitimate Americans.

#### *Parental Rights and School Prayer*

As explained in Chapter 2, school prayer advances the NCR political vision in four main ways. First, school prayer folds religion into public education. Second, school prayer supports the idea that America is a Christian nation and Americans are a religious (specifically Christian) people. Third, school prayer offers moral education. Finally, school prayer involves education in proper authority, starting with God's authority over all. These four elements help to reify the NCR's position in American history as well as currently in society, as well as lay the groundwork for the cultural transformation they seek. Parental rights arguments function in much the same way.

The content analysis in Chapter 3 shows that the NCR appeals to parental rights when discussing prayer and religious expression in schools. These arguments present parents, not children, as the central rights holders and actors with respect to schools. Also as explained in Chapter 3, when students are denied the chance to pray or otherwise express their parents' religious views, the NCR frames the harm done here as against parents and parental rights as much, or perhaps more, than

they present it as against the students in question. In this way, the assertion of parental rights fits with the politics of victimization arguments the NCR makes. In particular, parental rights function as a counter-argument for the NCR to the alleged secular liberal indoctrination taking place in public schools (e.g., Morken 1999).

The NCR political vision is premised upon acknowledging America as a Christian nation and ushering in cultural transformation to further embrace this religious basis for American society. School prayer helps by connecting a religious and American identity in public schools, and by teaching proper Christian values to students. Parental rights works towards this vision in much the same way. Parental rights, as employed by the NCR, involve arguments for asserting religious control on school curricula (Dwyer 1994, 1405). While these arguments sometimes manifest as requests for opt-out provisions or for children to be removed from specific types of lessons, more often the NCR uses parental rights to try to remove objectionable school practices and lessons (Detwiler 1999; Dwyer 1994; NeJaime 2009). For example, in arguing against a specific curriculum for sexual education, Mathew D. Staver of Liberty Counsel argues:

Parents have the primary role of raising and training their children, especially when it comes to topics such as human sexuality. It is outrageous to permit public school employees to indoctrinate our children regarding sex in any manner and at any age. Parents do not cease being parents when they drop their children off at the schoolhouse door. State legislatures should enact laws that protect the role of parents. It doesn't take a village to raise a child. It takes committed parents. Whenever government assumes it knows best how to raise our children, then the family unit will suffer (quoted in Liberty Counsel 2006b).

Or, parental rights are used to assert parental control over children in opposition to state intervention. For example, "In both the classroom and the courtroom, Christians must take a stand for parental rights and oppose those who seek to let anyone other than mommy and daddy decide what is best for their child" (Alliance Defending Freedom 2013). In this sense, the NCR uses parental rights to push for cultural transformation by removing certain lessons that violate a specific conservative understanding of Christianity that the NCR embraces. Appealing to parental rights to

shape school curricula involves challenging the family law triangle discussed above by pushing back against the state's absolute control over schools. The NCR tries to interject components of religious education to challenge secular liberal indoctrination that the NCR alleges happens in schools. These efforts also involve attempts to support a Christian understanding of authority in society, which includes increasing the role for parents over children at the expense of the state's current position over children in the law (Ammerman 1987; Ellison and Sherkat 1993, 315; McNamara 1985; Peshkin 1986; Rose 1988; Wald, Owen, and Hill 1989).

### *Parental Rights and Education*

Although there is a lot of variation in the specific arguments made, most NCR arguments using parental rights in schools fall into one of three basic arguments. The first is the use of parental rights to try to preserve the NCR's version of the Biblical family's<sup>89</sup> position in American society. The second type of argument involves the use of parental rights claims to dispute who gets to control children's education, including what can be taught to whom and when. The third category of argument involves bemoaning the loss of parental rights over children and education and despairing over the social ramifications of these losses. This third category is less about using parental rights, and instead functions more like the NCR's politics of victimization arguments discussed in Chapter 3 as a critique of the present situation and a call to action. All three of these argumentative patterns share an implicit focus on connecting protections of parental rights with the ability to either expand, or at the very least protect, NCR social privilege.

Unsurprisingly, the NCR supports what they deem to be a Biblical conception of the family. While the NCR's conception of parenthood and the family is discussed at more length later in this

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<sup>89</sup> While I discuss the NCR's conception of parenthood and the family in more depth later in this chapter, a brief definition is in order. The NCR's conception of the Biblical family is essentially the nuclear family, headed by a strong patriarch, with children who are deferential and obedient to their parents (McNamara 1985, 450-51). This view is presented as being explicitly endorsed in the Bible as God's plan for the family (Foster n.d.; Heffernan 2002; Sanford 2009a; 2009b).

chapter, for now a brief examination of parental rights and the Biblical family helps to explain how the NCR deploys parental rights arguments. In an example that pulls together several of the argumentative themes while prominently featuring the Biblical family, Homeschool Legal Advantage (HLA)—a division of the Christian Law Association (CLA)—explains, “[I]n today’s culture there are many people who want to minimize the rights of parents and the importance of God’s model for the family—especially the role of parents in educating their children” (Homeschool Legal Advantage n.d.). The HLA explicitly invokes “God’s model for the family,” while articulating a strong use of the “rights of parents” to protect this Biblical family structure. For the HLA, as well as the CLA, parental rights are necessary to allow parents to properly rear children in the Christian faith, and in so doing preserve a traditional concept of the family at the core of the NCR’s faith and worldview (Homeschool Legal Advantage n.d.). Thus, parental rights support a family structure that the NCR sees as rooted in the Bible. Supporting this Christian family structure also preserves Christian privilege in society through the reification of the family as a divinely-ordained and state-sanctioned entity that deserves privacy and protection from the state.

The second category of parental rights arguments used by the NCR is perhaps the most typical of its parental rights arguments. These arguments involve trying to reclaim authority over education, especially values-based education, from the state and public schools and rest this control in the hands of conservative Christian parents. These arguments range from assertions that parental rights require that all diversity training—what the NCR sees as code words for pro-LGBT education—must work on an opt-in rather than an opt-out basis (Lively, Ackerman, Kreep, and Citizens for Community Values n.d., 5) to arguments emphasizing “The right of parents to educate their own children according to their religious and moral objectives .... Teachers must understand that they are not de facto parents” (Liberty Counsel 2006a). The rejection of diversity training serves as an example of parental rights to object to lessons based on content, whereas the second example

is emblematic of the broader assertions of parental rights to control children's education and upbringing. Arguments of both kinds show up again and again as the NCR push back against what they perceive as secular liberal indoctrination within public schools. These arguments frame both attempts to indoctrinate children with views that contradict their parents' religion, as well as the mere exposure of children to views that contravene their parents' religion, as harms that must be negated through the protection of parental rights (NeJaime 2009, 361; Stolzenberg 1993, 591).<sup>90</sup>

The third type of parental rights argument asserts that parental rights are under attack, while also articulating why parental rights are necessary. For example, Liberty Counsel expresses their dismay at a 9<sup>th</sup> Circuit Court ruling, arguing:

The [9<sup>th</sup> Circuit Court] concluded that parents cease being parents during the school day. ... While parents may object to teaching seven-year-old Susie from a sex manual, as long as the school does not commit treason, the panel's decision says: "Parents - keep your mouth shut. Susie belongs to the school. So get lost!" The breadth of this decision is staggering (Liberty Counsel 2005b).

Liberty Counsel provides an example of how NCR activists express what they see as attacks on parental rights and legal setbacks as indicative of a full-scale loss of parental rights. The NCR presents this loss as so complete, in the above example, that taking your child to school is effectively the same as no longer being a parent at all. Moreover, Liberty Counsel bemoans this loss, linking it to "teaching seven-year-old Susie from a sex manual" as they allege such practices (wholly unrelated to the actual 9<sup>th</sup> Circuit case being discussed) will occur now that parents cannot object to curricula or specific educational practices. As with the NCR's general pattern of arguing from a position of victimhood, they seek to advance the case for parental rights by indicating that such rights are under attack, and this attack has grave consequences for education (e.g., Focus on the Family 2011). These

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<sup>90</sup> A variant on this formulation involves two different NCR organizations' arguing that having children exposed to information about sex is like having them "mentally raped" (Liberty Counsel 2005a) or "raping their innocence instead of their physical being" (True Tolerance 2012). While this would appear to make a strong claim for harm to children, in both instances the NCR offers parental rights as the answer to what happened, while reframing the harm-akin-unto-rape as violations against the *parents* more than the virtually-raped children.

potential ramifications include sowing the seeds of intergenerational conflict as parents lose the ability to impart their religion to their children who instead are indoctrinated into secular liberal values presented in schools in lessons from which the parents cannot exempt their children (Russo 2007, 375).

While the examples presented here have been very brief, they are indicative of the basic patterns of arguments the NCR deploys in its mobilization for expanded parental rights in schools. These three types of arguments work to assert that parental rights support religious beliefs. These beliefs should allow parents to control the education their children receive. Also, as the NCR argues, when they cannot exercise these rights, parents—and all of society—suffer the deleterious effects of a society that lacks a proper moral core. Thus, parental rights work to try to preserve the NCR's social position, as well as establish parents, and their religious beliefs, as indicative of ideal authority in society. These efforts, especially as they are broader than requesting narrow exemptions from certain lessons, work to create in-groups and out-groups within schools that correlate with the NCR's conception of who is a virtuous, proper American citizen.

#### *Construction of In-Groups and Out-Groups*

Both school prayer and parental rights help to advance the NCR political vision. Similarly, these arguments articulate the right-wing populist elements suffusing the NCR's identity politics. As discussed in Chapter 2, regardless of the motives underlying its inclusion, school prayer is inherently divisive and exclusionary. The manner, methods, words, and even deities vary greatly across religions and sects within religions such that truly non-sectarian prayer is a practical impossibility (Feldman 2005, 178-80). Any effort to include prayer in school involves a high probability that some people will be left out of what is often portrayed as an inclusionary practice (e.g., DelFattore 2004, 13; Gaddy, Hall, and Marzano 1996, 12). When state entities embrace organized school prayer, they lend legitimacy to the expressed prayers (Gaddy, Hall, and Marzano 1996, 192; Jacobs and Theiss-Morse



2013).<sup>91</sup> For those who do not ascribe to the expressed views, they are marked as cultural others (Jacobs and Theiss-Morse 2013; Theiss-Morse 2009). In this way, organized school prayer works to establish in-groups and out-groups among students. As the practice of organized school prayer is also linked to arguments rooted in American tradition and the idea of America as a Christian nation, this exclusion is more substantial than just who gets to pray which prayers in school. Official state support for prayer in schools clearly demarcates some as being fully American while others are pushed to the fringes as outsiders (Jacobs and Theiss-Morse 2013, 374-76).

The NCR's use of parental rights arguments functions in much the same way. By rejecting the ideas the state has set forth for public education, the NCR seeks to supplant the state assessments with their own religiously-informed views. The NCR uses parental rights to try to assert control over school curricula, and in so doing, seek to include more of their views while excluding the views of others. The primary focus of the NCR's exclusionary push with parental rights is any lessons that contradict the conservative Christian view the NCR embraces regarding the LGBT community. To preserve their own moral teachings and their ability to control the moral education of their children, NCR parents frequently assert parental rights as a counter-measure to schools' efforts to be more inclusive of LGBT individuals, which includes anti-bullying programs aimed at preventing sexual-orientation based bullying (Murray 2009, 380-82). Regardless of the narrow target in schools for parental rights arguments, the overall NCR efforts focus on influencing the values imparted through education by carefully controlling what topics may be covered and how these

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<sup>91</sup> For the children who either have to participate in religious exercises in which they do not believe, or visibly abstain from these processes, the sense of being a cultural outsider is evident and real (Feldman 2005, 70; Jacobs and Theiss-Morse 2013, 374-76). The NCR counters these arguments with appeals to tradition, but also pointing out that not having school prayer suggests to the religiously devout that their religion is something that should be private and is, perhaps, something of which to be ashamed (e.g., Liberty Institute 2013, i). These conflicting points make any approach to school prayer potentially problematic and exclusionary, either by explicitly embracing a religion that excludes some, or by leaving religion out and implicitly singling out others. While the explicit embrace of religion is more visibly divisive than the implicit rejection of religion, both approaches are not without problems.

topics may be covered in public schools (NeJaime 2009; Russo and Thro 2012). Inclusion of NCR topics grants state legitimacy, and perhaps state support, for these views.

The NCR emphasizes values consistent with their political vision. They defend the inclusion of these ideas by claiming parental rights that allow children to not be exposed to ideas contradictory to their parents' religion while also being free to express their parents' religious beliefs. For example, Tony Perkins, writing for the Family Research Council (FRC), explains, "But when state-run schools begin to serve a wholly secular agenda and deny parents the ability to train their children, they begin to do what the First Amendment says the state must never do: Establish religion" (Perkins 2013b). According to FRC, parents must be afforded the opportunity to "train" their children. The FRC establish earlier in the same piece from which the quote is drawn that this training entails religious and moral training (Perkins 2013b). They present the loss of this ability to train—a core premise of parental rights—as related to an effort to establish a religion of secular humanism in schools.<sup>92</sup> In making these claims, FRC is asserting parental rights to push back against state control over children while also trying to assert NCR influence on what curricula are legitimate in schools. In this way, the FRC's statements demonstrate how parental rights can work to try to include the NCR in important decision-making capacities while trying to exclude others (here secular humanists) whose values and beliefs do not match with those of the NCR.

With a focus on values education and religious expression, school prayer and parental rights share many of the same desired effects for the NCR. Moreover, as the NCR presents both school prayer and the idea of parental rights as traditional American practices core to the American way of life, the connections between an American identity and a Christian identity are reinforced (Cureton n.d.; Vitagliano 2007). As Jacobs and Theiss-Morse (2013) argue, these connections are drawn implicitly and explicitly by a vast majority of Americans and directly impact how "American"

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<sup>92</sup> This claim of establishing secular humanism as a state religion in schools was common in NCR argumentation in the 1990s, and in this sense marks a return to arguments mostly abandoned approximately 20 years ago (Binder 2002, 45).

someone is considered to be. Thus, the NCR uses school prayer and claims of parental rights to flip the very indoctrination process they lament. Now, religious values are inserted into schools, replacing secular values, and taught to all children. This has the effect of signaling to students with conservative Christian parents that they belong to the vaunted group of true Americans. Those with differing religious beliefs are marked as outsiders while being taught that to be truly American is to hold beliefs consistent with those the NCR espouses. This shift is consistent with the NCR's use of right-wing populism that embraces a core group of Americans—namely conservative Christians—as proper Americans, rages against the secular liberal elite who seek to misuse their power for their own political gain, all while seeking to remake American culture in the name of tradition to move America in the “right” direction (Crespino 2008, 105; Kazin [1995] 1998, 247-48; Lassiter 2008, 20-24). The NCR's advocacy for school prayer and parental rights, consistent with its right-wing populism, focuses on in-groups and out-groups that help to define who count as virtuous Americans in the service of reclaiming America's allegedly-lost traditions that help define it as a Christian nation. This focus also indicates how the NCR mobilizes Christians *qua* Christians to advance their social position *vis-à-vis* schools.

### **Parental Rights and Authority**

The connections between school prayer, parental rights, and the NCR's political vision show that they have mobilized around the issues of school prayer and parental rights in ways that advance their political vision. Sometimes parental rights are asserted to support school prayer (DeFattore 2004, 121; Morken 1999), other times to support religious expression more broadly (e.g., Kellum 2013), and sometimes parental rights are used to end curricular practices that the NCR see as violating their core beliefs (e.g., Pacific Justice Institute n.d.). Regardless of the specific manner in which the NCR deploys parental rights arguments, what is clear is that the issue of authority is

central to this mobilization of parental rights arguments. Moreover, the issue of authority is also relevant to the question of school prayer.

In this section I explain the role authority plays in the NCR's mobilization around a Christian identity. To do this, I first examine the NCR's view of parenthood and what it means to be a parent, as revealed in their parental rights argumentation. This conception of parenthood explains the authority the NCR views parents having from their relationship with God and their children. Then, I highlight the recurrent antigovernment message that runs throughout this mobilization. This antigovernment theme focuses on who is a proper authority in the lives of children, as well as who has proper authority over the citizenship training children receive. I wrap up this section with a discussion of the disciplinary focus that also emerges in this mobilization around school prayer and parental rights. Collectively, these discussions of the NCR understanding of authority explain how their identity-based mobilization works to emphasize social privilege over religious devotion, while also asserting control over the citizenship production process.

### *Parenthood, Prayer, and Parental Rights*

As discussed in Chapter 2, one of the benefits for the NCR of school prayer is not just prayer as moral education (which is a separate benefit), but also prayer as education in *authority*. This education begins with the acknowledgment of God's authority over all (Velarde 2008b). In the NCR's push for school prayer, God's sovereignty over all, including over the state, is emphasized (Liberty Institute 2013, i; Scalia 2002, 18-19). School prayer is used to teach morality, as well as support instruction in the respect of proper authority from God down to parents, and also to legitimate state authorities acting consistent with the NCR's conception of Christian beliefs. The authority that school prayer helps to reinforce also involves a role for parental authority. This emphasis on prayer and parental authority highlights the importance of moral education for children while also stressing the importance of obedience to proper authorities (Ellison and Sherkat 1993,

314-15). These themes of authority involved in prayer, as suggested here, continue with the NCR understanding of parenthood.

For the NCR, the family is a divinely ordained institution involving parents of opposite sex and their offspring (Crampton 2006; Dacus and Dacus 2007, 64; True Tolerance 2012). Children, within this context, are a gift from God (Dacus and Dacus 2007, 64; True Tolerance 2012). Such a gift must be properly nurtured. The view that the family is a core unit, blessed by God, within NCR thought further drives the NCR position that parents have a moral obligation to properly train and educate their children (Crampton 2006; Pacific Justice Institute 2008; ParentalRights.org 2011; 2013; True Tolerance 2012). As Brad and Susanne Dacus for the Pacific Justice Institute (PJI) have explained:

God has given us children to raise and protect. It is our job, not the school's, to make the final determination of what our kids should and should not learn. Courts have held that parents have a fundamental right over their children. That fundamental right is essential for enabling parents to exercise the responsibility of parenting that God has given them (Dacus and Dacus 2007, 64).

Parents, through their obligations to God, must responsibly use the opportunity to be a parent to properly rear children in a Christian way, rather than in accordance with state dictates. This focus on the moral obligation of parents to provide appropriate values education is another way in which the NCR depicts parenthood. The proper education the NCR refers to involves teachings that are explicitly rooted in Christian doctrine and help solidify the children's identity as Christian individuals. According to the NCR, schools, ultimately, are supposed to acknowledge this parental role in education and assist parental efforts, not get in the way of this divinely ordained institution (Pacific Justice Institute 2009b).

To achieve the proper education, the NCR focuses on the importance of moral or values education. The emphasis here is two-fold. First, it is critical to teach the correct values to children. Second, the NCR asserts that parents have the rights—and the moral obligations—to control which

ideas their children encounter, as exposure to anti-Christian ideals can be construed as a harm to the parents' rights of control over their children.<sup>93</sup> These rights over moral education are expressed as “allowing parents to exercise their God-given (and constitutionally protected) rights to oversee the moral upbringing of their children” (Crampton 2006). In this sense, the NCR's understanding of the Biblical family structure necessitates that parents also have the right to control their children's moral upbringing.

Sometimes this control must be manifest not just in the ability to teach one's children, but also in the ability to limit children's exposure to those views that, in the case of the NCR, do not fit within a Christian worldview (Infranco 2011). As Stolzenberg explains, the plaintiffs in *Mozert* (1984; 1987), discussed earlier, allege a violation of their rights as parents by having their children exposed to “ways of life contrary to that of their parents” (Stolzenberg 1993, 588). These plaintiffs went so far as to characterize the harm they suffered as brought about by the exposure to—not the indoctrination of specific ideals but the mere presentation of—competing values and ideas in public schools that do not conform with a very limited view of Christian values (Stolzenberg 1993, 591, 597-98). While more extreme than most NCR positions, the plaintiffs in *Mozert* demonstrate the perceived importance for the NCR in controlling values and moral education in public schools.

In many ways, the insistence on controlling values education harkens back to the founding of the common schools, discussed in Chapter 2, in that the Bible was originally included in public education as an express means to teach a common core of values and moral beliefs that would help guide the nation and produce better citizens (Feldman 2005, 59-60; Gaddy, Hall, and Marzano 1996, 11). Parental rights, as asserted by the NCR, are concerned with moral and values education, as well as in making sure parents can control their children's religion (ParentalRights.org 2011). The expressed concerns are that parents will lose the ability to assert parental rights to control curricula

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<sup>93</sup> Crampton 2006; Focus on the Family 2011; Infranco 2011; *Mozert v. Hawkins County Public Schools* 1987, 1060; Stolzenberg 1993, 588-91; True Tolerance 2012.

in such a way as to provide education consistent with their religious beliefs (Family Research Council 2014; Focus on the Family 2011).

According to the NCR, God has given children to parents, ordained a family structure of a married man and woman, and then given these parents moral authority over the upbringing of these children (e.g., Crampton 2006; True Tolerance 2012). This control over upbringing must also entail providing values and moral education grounded in (conservative) Christian beliefs. These factors illuminate the ways in which the NCR's conception of parenthood and parental rights involves a strong component of respect for proper authority, including parental authority. Much of the NCR political vision involves deference to proper authority, and parental authority is often the first lesson children receive in authority (Ellison and Sherkat 1993, 315). Teaching respect for authority at an early age is important for the NCR, as contempt for parents, if uncorrected, can become contempt for other authority figures (Ellison and Sherkat 1993, 315). This expanded contempt for authority, the NCR argues, can threaten the social order as these children age and never learn to respect law or to sublimate their own urges and desires into productive channels (Ellison and Sherkat 1993, 315). In addition, the lack of respect for authority can lead to the failure to transmit what are deemed as appropriate societal values. As these values for the NCR are tied to religious beliefs, lack of respect for parental authority also threatens the cultural transmission of NCR-style Christianity to future generations.<sup>94</sup>

Thus, parenting decisions matter greatly for the NCR. Parents must establish proper authority from an early age or risk sowing the seeds of unruliness and a lack of discipline that is unbecoming of Christians and well-ordered American citizens (Farris n.d., 2). As discussed in Chapter 2, school prayer, as an instrument of teaching the fear and reverence of God, helps to further this lesson in authority as it acknowledges God as sovereign over all who ought obey Him

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<sup>94</sup> This specific fear harkens back both to the discussion of the plaintiff's arguments in *Mozert* (1984; 1987), discussed previously, but also the claims of indoctrination and brainwashing discussed in the content analysis in Chapter 3.

(Detwiler 1999, 186; Fuller n.d.). Law and order becomes a popular theme, reflected in the arguments for school prayer discussed throughout this dissertation, in NCR mobilization around parental rights. The law and order focus is also emblematic of right-wing populism, which suffices the NCR's political mobilization (Kazin [1995] 1998, 247; Lassiter 2008, 24; Mattson 2008, 3, 92-93).

These connections are furthered when one considers that one of the Ten Commandments explicitly addresses parental authority. As Cureton, writing for the FRC, points out:

[The fifth] commandment<sup>95</sup> is about respecting authority. This authority is delegated to parents by God, who assumes His ultimate authority as Father. ... The fifth commandment requires that God's delegated authorities must be treated honorably (Cureton n.d., 6).

Cureton links the fifth commandment with not just the idea of authority, but with parental authority derived from God, in the image of God's authority over all *as a Father*. This is authority that Cureton goes on to claim was acknowledged and respected in colonial law, and by Washington and Jefferson,<sup>96</sup> both of whom are quoted as supporting parental authority (Cureton n.d., 6). From these connections we get that parental authority, and thus parental rights, is part of God's plan and must be respected as a means of respecting God. Moreover, parental rights and authority have long been respected in the American context, and thus are fundamental to who Americans are. This is yet another case where the NCR links their Christian identity—here through Biblically prescribed parental rights—with an American identity—through tradition, law, and explicit references to Framers of the American system. It is also significant that God delegated His authority to parents, and not to governments, all while expressing His authority as a Father, and not as a governing

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<sup>95</sup> Cureton offers the following as the specific version of the fifth commandment that he is invoking, “Honor your father and your mother, so that you may live long in the land the LORD your God is giving you.” Exodus 20:12” (Cureton n.d., 6). In using this specific version, Cureton highlights God-given authority as well as links it with a promise: if you honor your parents, God will reward your respect of proper authority.

<sup>96</sup> While not a Framers, Cureton also quotes President Grover Cleveland from his First Annual Address to Congress in 1885, where he remarked, “...the destiny of the nation rest[s] upon our homes, established by the law of God, guarded by parental care, regulated by parental authority, and sanctified by parental love” (quoted in Cureton n.d.). Cleveland also establishes that God is central to American law, and that parental authority is the key to fostering proper respect for law and order in American society.



official. The family structure, in this telling, is central to society and illustrative of proper authority, which could easily find itself at odds with the state.

### *Antigovernment Theme in Parental Rights Mobilization*

Much of the NCR's mobilization around parental rights takes on an antigovernment tone. This typically occurs as the NCR criticizes governmental policies that they see as harming parental rights. These battles are framed as the need to "... keep government out of making parenting decisions ..." (ParentalRights.org 2013). The NCR is quick to critique what they see as the government over reaching its power to try to make parenting decisions in place of parents (e.g., Liberty Counsel 2006b). The NCR frames parental rights as opposed to governmental intrusions into the family that seek to usurp the proper role parents have in their children's upbringing. Parental rights are seen as clashing with governmental interests, and in the NCR's argumentation, governmental overstepping in its attempts to serve its own special interests.<sup>97</sup> However, as Focus on the Family articulates, "Protecting parents' rights in education also protects a self-governing society by safeguarding against an intrusive government school system that can eventually infringe on religious freedoms" (True Tolerance 2012). In this sense, parental rights are good for society as they lead to productive citizens that are self-governing, while also limiting the power of an intrusive government. This notion of protecting the virtuous American citizens from the illegitimate use of governmental power makes the NCR's use of parental rights arguments consistent with their right-wing populism (Kazin [1995] 1998; Lassiter 2008; Mattson 2008).

These struggles to define where governmental authority ends and parental authority begins return to the traditional triangle depiction of family law discussed earlier in this chapter. Parents, the state, and children exist in a triangular relationship in family law with the state almost universally responsible for schooling, and parents almost universally responsible for the private sphere. This

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<sup>97</sup> This pattern of argumentation is captured with respect to the NCR's social engineering arguments and is discussed at length in Chapter 3.

relationship with rigidly demarcated spheres of influence makes it practically inevitable that arguments for parental rights in schools would manifest as antigovernment. After all, the NCR is seeking the revocation of state authority in an area historically seen as the domain of the state and zealously defending the private realm typically ceded to the family from governmental intrusion. In this way, the NCR mobilizes for parental control of nearly all aspects of their children's (and by extension, other people's children's) public education. Hostility to common practices and lessons seen as being anti-religious in schools requires mobilization around parental rights to try to wrestle control from the state to instead shape curricula in the NCR image.

The NCR political vision involves the belief that God is, and should be, a part of all that we do, and thus schools without acknowledgment of God's presence are inherently contradictory to this vision. However, given past court rulings, many direct attempts to introduce religion into public schools are viewed as suspect.<sup>98</sup> Parental rights, as a means of procuring children's ability to express their parents' faith and to not learn values contradictory to their parents' faith, advance this goal of religious inclusion in schools. Moreover, it furthers the explicit identification of Americans as Christians as the religious inclusions and values sought are distinctly Christian. Thus, the mobilization around a Christian identity, to preserve Christian religion and beliefs in public schools, necessitates arguing against governmental intrusion into parental affairs, which manifests as antigovernment arguments. After all, parents, and not government bureaucrats, know what is best for children, including which values and ideas ought to be taught in public schools (Alliance Defending Freedom 2013).

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<sup>98</sup> As demonstrated in the Louisiana case study in Chapter 4, direct efforts to include vocalized prayer in schools through official means are often unsuccessful. In fact, Louisiana's governor, perhaps unwittingly, indicated the more effective strategy of simply allowing teachers to pray as they want and not having official laws or policies on the books to govern such practices. This more effective strategy came to light through the line of defense that involved arguing that the law was not to blame for the vocalized prayer activities involved in the case, as many schools in Louisiana had school prayer before the law made it legal.

This specific set up where parents and the government are supposed to have their own spheres of influence over children, and where neither party seems to want to accept these boundaries, leads to the conflicts at issue in assertions of parental rights. The importance of public schools as institutions of citizenship production furthers the nature of these struggles. The strains of right-wing populism and Christian dominionism entrenched in the NCR's political vision makes the control over what can be taught, and how it can be taught, in public schools of paramount importance. As Chief Justice Burger explains in the majority position in *Wisconsin v. Yoder*, "The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children" (*Wisconsin v. Yoder* 1972, 232). Parents have traditional interests in their children's upbringing, but so does all of Western civilization that relies on these parents to foster proper citizens. Moreover, Burger states, "... the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society" (*Wisconsin v. Yoder* 1972, 213-14). This leads to the governmental balancing of parental rights, especially parental rights to guide children's religious education, with the state interest in fostering proper citizens. Ultimately Burger and the majority side with the Amish in *Yoder* because they are still good citizens, as he elaborates:

The record strongly indicates that accommodating the religious objections of the Amish by forgoing one, or at most two, additional years of compulsory education will not impair the physical or mental health of the child *or result in an inability to be self-supporting or to discharge the duties and responsibilities of citizenship, or in any other way materially detract from the welfare of society* (*Wisconsin v. Yoder* 1972, 234, emphasis added).

We see that Burger expresses the state interest as, among other things, to have self-sufficient citizens that are not a drain on society, and who also can fully perform the duties and responsibilities of citizenship. The state is concerned with upbringing that advances the interests of society, and sees the Amish as able to do this within their own communities.

The NCR, similarly, is also interested in the citizenship training that occurs in schools. However, the NCR's parental rights argumentation implies specific values with respect to this citizenship training. As has been expressed throughout this chapter and this dissertation, the NCR's political vision calls for cultural transformation to "save" America (Family Research Council n.d.e; Feldman 2005, 7-8). Religious values education, an area the state has acknowledged as important for the free exercise of religion as well as for the entirety of Western civilization, is necessary, according to the NCR, to have a well-ordered, properly disciplined citizenry (Chancey 2009, 187; Feld, Rosier, and Manning 2002, 174; Greenawalt 2005, 81, 83). This is why school prayer is so important for the NCR, as they see it as crucial to American greatness, and this is also why parental rights *vis-à-vis* public schools are necessary. The NCR expresses concern over the wrong values being taught in schools, and thus steps in to try to correct what they see as an egregious error on the part of government and educators.

Parental rights, the NCR argues, are necessary to advance democratic principles of self-governance, as well as to preserve religious freedom (True Tolerance 2012). By portraying government as intrusive and damaging to a self-governing populous, the NCR depicts their efforts around parental rights as better serving governmental interest than the government's own actions. Thus, the NCR articulates its positions regarding parental rights as good for the American citizenry, while the government is unable to serve its own desired ends. However, as Dwyer articulates, this NCR formulation of parental rights involves seeking to supplant governmental authority and state law to assert parents' religion as an overarching good that must be protected regardless of what children, educators, or other professionals might desire or might reasonably believe is actually in children's best interest (Dwyer 1994, 1385-89).

It is important to also note that while the NCR's parental rights mobilization often harbors antigovernment tones, the actual balance sought is more delicate. As Murray argues, the NCR's

antigovernment rhetoric regarding parental rights is largely a manifestation of the desire to assert parental control over children free from state influence, not an ideological belief in the illegitimacy of the government (Murray 2009, 359-60). In fact, the NCR, while arguing against the government through parental rights, also calls for government enforcement of parental rights and governmental protection for religious expression (e.g., Liberty Counsel 2006b; Murray 2009, 391). Attempts to control public school curricula also involve this claim on state power while arguing against how this state power is being used against Christian in the U.S. While this back-and-forth between critiquing governmental use of power and asking for governmental intervention complicates the issue, what remains clear is that the NCR uses parental rights arguments in a manner that furthers their political vision in schools. While the NCR frequently argues that the government harms parental rights and basic moral education, they do not see governmental power as inherently opposed to NCR positions (see Binder 2002).

### *Discipline, Authority, and Parental Rights*

The question of parental rights as it relates to discipline, and the related notion of authority, links the NCR's focus on their Biblical presentation of the family with their antigovernment rhetoric. This connection comes through in the way the NCR asserts parental rights to support the idea of parental authority, which for the NCR must include the right to discipline one's children. In particular, the disciplinary practice of spanking is one that is oft defended by the NCR (Collum 2003; Fagan, Saunders, and Fragosos 2009, 15; ParentalRights.org n.d.h).<sup>99</sup> While the question of discipline and spanking starts to move beyond the school context, the NCR's presentation of these ideas actually links with their concern for public education more than it draws distinctions.

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<sup>99</sup> In addition, the NCR spends significant effort arguing against the adoption of several U.N. conventions because of the effect these would have on parental rights, with much attention paid specifically to the fact that these instruments would make spanking illegal. These international instruments the NCR focus on are the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and to a lesser extent, the Convention on the Rights of Persons with Disabilities (American Family Association 2012; American Family Association of Pennsylvania 2012; Daly 2009; Fagan, Saunders, and Fragosos 2009; ParentalRights.org n.d.e; n.d.h; Perkins 2013a).

Sometimes, however, the issues are explicitly linked. Such was the case with the American Family Association's (AFA's) defense of a school that was under criticism for its practice of allowing parents to authorize the school to administer "the swat" for disciplinary issues (Collum 2003). The school describes "the swat" as "a lick with a paddle, administered by the principal, witnessed by another teacher" (Collum 2003). Even the use of the more colloquial "lick" downplays that what is involved is an adult's use of a wooden paddle to strike a child for misbehaving while another adult watches. This corporal punishment is used in the name of proper discipline and obedience. While such explicit links between discipline and school policies occur, they are not the norm.

The NCR's mobilization for parental rights illuminates how protecting rights to discipline children are another means of preserving parental authority. Specifically, this focus is about preserving traditional parental, and especially Christian parental, authority. The practice of spanking as a disciplinary measure has become emblematic for the NCR of this traditional authority. The NCR goes so far as to link the notions of discipline and education, as discipline—including corporal punishment—becomes a form of education *in* authority.

Returning to the AFA piece quoted above, we see one example of where the NCR turns to the Biblical notion of "spare the rod, spoil the child" (Collum 2003). The phrase the AFA invokes comes from Proverbs 13:24, "He that spareth his rod hateth his son: but he that loveth him chasteneth him betimes."<sup>100</sup> By invoking this proverb we get a clear sense that discipline, including spanking, is not only authorized by the Bible, but is a guide to proper disciplinary procedures in order to avoid "spoiling" a child. The notion of the "rod" and corporal punishment comes up again in Proverbs 29:15, "The rod and reproof give wisdom: but a child left to himself bringeth his mother

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<sup>100</sup> The King James Version translation of the Bible is provided in text given its central place within NCR denominations. However, the English Standard Version translation is provided here as well for comparison: "Whoever spares the rod hates his son, but he who loves him is diligent to discipline him."

to shame.”<sup>101</sup> Again, spanking and corporal punishment are linked to parenthood and education, as children, the Bible teaches, learn through this form of discipline. More so, children who are not subjected to corporal punishment as a form of discipline will “bring shame” to their parents because they will not have proper respect for authority and will never develop appropriate obedience to said authority. In this way public school education is implicitly linked to authority and discipline through the idea that discipline and obedience are to be prized as important educational goals, with corporal punishment as a key to bringing about this proper training.

While some in the NCR do bemoan the loss of such physical punishments in schools (e.g., Collum 2003; Fagan, Saunders, and Fragoso 2009, 15), most instead turn to a different means of teaching obedience in schools: prayer (Detwiler 1999, 186; Liberty Institute 2013, i; Velarde 2008b). Returning to Mike Huckabee’s points discussed in Chapter 1 (and again in Chapter 2) regarding violence in schools, we get a sense of how the NCR views the lack of proper discipline in schools—as well as in society, generally—as derived from a society that lacks a proper respect for authority that prayer can instill. Time and time again the NCR links various social issues, and what they see as general cultural decline, with the Supreme Court’s removal of prayer from public schools in the 1960s.<sup>102</sup> This includes Huckabee’s linking of violence in schools with the absence of God in these same schools (Huckabee 2012). School prayer helps instill proper fear and respect for God, and as such, serves as education in proper authority. These lessons from prayer further establish that God’s authority extends over all, and that God has ordained a specific family structure to have authority over children. These views help support the general NCR praise for the value of obedience over autonomy in children, seeing obedience and not autonomy as the way to produce properly oriented,

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<sup>101</sup> Unlike with the previous proverb, the wording of the English Standard Version is practically identical to the King James Version. The English Standard Version reads, “The rod and reproof give wisdom, but a child left to himself brings shame to his mother.”

<sup>102</sup> DelFattore 2004, 299; Ellison and Sherkat 1993, 314; Hoover and den Dulk 2004, 10; Ramet 2005, 432; Zimmerman 2002, 161.

well-disciplined citizens (Ellison and Sherkat 1993, 313-15). The take away from such discipline-oriented lessons in obedience, not unlike the lesson learned by Adam and Eve upon their fall, is not to question legitimate authority.

### **Protecting Parental Interests with Parental Rights**

The NCR's arguments for parental rights repeatedly return to the ideas of allowing Christian parents to control their children's religious and values education while also supporting traditional conservative Christian views of authority. These arguments indicate that the NCR's efforts in schools, including parental rights, have everything to do with protecting parents' religious positions and beliefs, and not the free exercise of religion or children's rights and opinions. Despite what might motivate these arguments, the arguments themselves emphasize protecting parents' interests. This is a limited group of parents, as not all share the NCR view of authority or even their views on the ends of public education. The NCR does not frame their parental rights mobilization as increasing religious liberty for all, nor with preserving any specific religious practices. I am not saying that the NCR does not care about free exercise or their religious beliefs. Rather, I am arguing that the *implications* of their actual mobilization indicate their deeply felt fear and anxiety over social status for Christianity. In this section I further highlight the ways in which the mobilization discussed earlier in this chapter ultimately focuses on protecting the interests of NCR—and only NCR—parents.

The focus in the NCR's parental rights mobilization remains squarely on what parents feel is best for their children, which is always presented as what is also best for the parents. For example, ParentalRights.org presents its mission as “to protect children by empowering parents,” which they further explain creates “...the right of every current and future American child to be raised and represented by parents who love them, and not by disconnected government bureaucrats” (ParentalRights.org n.d.c). Notice children are presented as having rights, but the right in question is



to have a fully empowered parent. Thus, even when presenting children as the rights-bearers, the focus immediately turns back to the empowered parent. These empowered parents are portrayed as necessary to protect their children and parental interests from the illegitimate overreach of “disconnected government bureaucrats” who believe they know better than parents what children need. This repeated antigovernment theme, often presented as the dangers of interfering government bureaucrats, captures how concerned the NCR is with lost parental power and authority at the hands of government limitations on parental rights. Consistent with ParentalRights.org, the NCR generally presents children’s interests as protected by allowing parents to be parents (Alliance Defending Freedom 2009; Infranco 2011; Liberty Counsel 2006a).

This focus on serving parental interests as a means to benefit children is consistent with Dwyer’s (1994) critique of parental rights. As Dwyer argues, although rights are normally treated in the American context as “protections of individual self-determination,” for courts and the NCR “... decisions regarding the education and upbringing of one’s child are in fact aspects of the *parents’* self-determination” (Dwyer 1994, 1410, emphasis in original). Dwyer argues that this is misleading because parental rights are really “other-determining” rights that allow parents near-complete control over their children, perhaps to the detriment of developing children’s autonomy and ability to make their own identity-shaping decisions (Dwyer 1994, 1410). Dwyer adds, “Moreover, these rights give parents the legal authority to override the preferences of children and to treat them in ways contrary to state laws and regulations reasonably designed to protect children’s interests” (Dwyer 1994, 1388). These critiques, and the characterization of parental rights, are consistent with the NCR’s mobilization for parental rights in schools. Children’s interests are subsumed into parental interests and parental rights (e.g., Ramey 2014).

Moreover, as these parental rights are asserted to shape public school curricula, they cease being focused just on one’s own children and become claims to controlling the education of all

children (Pacific Justice Institute 2013, 25; Peshkin 1986, 190). When parental rights are mobilized for opt-out provisions, these claims are limited enough to primarily affect only one's own children. These are still rights claims to control over another human being, but they are more limited than when the parental rights claims are aimed at reshaping school curricula and practices. At that point, the NCR is using parental rights to change practices that affect all children at the schools (or in the relevant school districts), thus making the assertion of parental rights far broader than just controlling one's own children (Dwyer 1994, 1445-46; Pacific Justice Institute 2013, 25). This is consistent with the NCR political vision towards cultural transformation in the interest of "fixing" many of the societal ills the NCR claims plague America. Disobedience, disorderly behavior, and a lack of respect for proper authority rank high on this list for the NCR.<sup>103</sup>

Not only is parental authority, as protected by parental rights, necessary for enacting the NCR political vision, but it is also important for maintaining traditional familial hierarchies that are Biblically prescribed (Christian Law Association n.d.; Homeschool Legal Advantage n.d.; Liberty Counsel 2006b). These hierarchies are threatened when children are encouraged to question their parents and teachers (Cushman 2013; Vitagliano 2007). They are also questioned when these children gain rights against their parents. Part of the threat the NCR sees in international law governing children is that these conventions seek to grant children legal protections against normal parenting decisions. These legal protections put children's rights claims at odds with the parental rights the NCR so fervently defends. For example, FRC argues that the U.S.'s participation in the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) would, among other things, "Reduce parental authority while expanding children's 'rights'" (Fagan, Saunders, and Fragosos 2009, 4). The FRC critiques the CRC and CEDAW as a "leftist" tool used for "...promoting an agenda that is opposed

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<sup>103</sup> American Family Association n.d.; Christian Coalition of America n.d.; Family Research Council n.d.b; n.d.d; n.d.e; Fuller n.d.; Huckabee 2012; Ramet 2005, 432; Wilson and Burack 2012, 185-86.

to the natural rights of the family...” (Fagan, Saunders, and Fragoso 2009, 4). Notice also that the FRC goes so far as to put the word “rights” in quotations marks when discussing children’s rights, which effectively communicates how nonsensical and fabricated such a notion is, for the NCR, when juxtaposed with parental rights.

Similarly, ParentalRights.org retorts:

Children would have the legal right to choose their own religion. Parents would be permitted only to give advice. Social workers and judges—not parents—could decide if and when your child goes to church or services with you (ParentalRights.org n.d.h, 2).

This quote captures the fear and anxiety over the U.S.’s potential adoption of the CRC as it would affect the NCR’s conception of the family (explained above) as well as the ability of Christian parents to inculcate Christian beliefs in their children (see also Klicka and Phillips 1997, 81). Parents, as God’s hierarchical family structure requires, are the unit the NCR sees as having rights for the whole family. Parents are to have rights on behalf of their children, and children are not to have rights that can be asserted against their parents, short of protection from grievous physical harm (which does not include spanking) (Klicka and Phillips 1997, 81; ParentalRights.org n.d.h). Recall from above that children’s rights are limited to having parents empowered to make decisions for them (ParentalRights.org n.d.c). Both examples get at the point that parents have rights in the family context, not children, and that children must obey their parents’ authority. This authority includes the ability to choose a religion for one’s own children. This ability speaks to a broader notion of cultural rights at play in how the NCR mobilizes parental rights in a manner aimed at preserving Christian parental authority and Christian parental interests.

Part of this cultural rights argument is an argument for the right to cultural reproduction as protected by parental rights. That is, the NCR seeks to preserve specific rights that protect (Christian) parents’ efforts to continue their culture by having their children adopt their parents’ beliefs (Stolzenberg 1993, 583). These cultural, parental rights asserted would allow parents to

careful control all elements of their children's education, especially values-based education. As has been discussed in this chapter, the NCR views children's respect for parental authority as necessary for Christian cultural social reproduction. The lack of respect for parental authority by children threatens the transmission of Christian values and the Christian religion (ParentalRights.org n.d.a).

Given that the NCR presents the U.S. as premised on a Christian values system, these threats to parental authority and the propagation of Christian values threaten the continued existence of the U.S. and of American Christianity itself (Ellison and Sherkat 1993, 315). These threats further the need for strong parental rights protections, as well as for the inclusion of prayer in public schools as a means to protect and maintain the U.S.'s Christian identity (ParentalRights.org 2013). Such cultural rights arguments are at odds with the NCR's right-wing populism that typically rejects similar notions. However, in that the NCR argumentatively and linguistically links a Christian and an American identity, arguing for Christian cultural rights in America serves as a means of arguing for traditional American rights to simply pass on one's views to one's children (e.g., Fagan, Saunders, and Fragoso 2009, 2; Pacific Justice Institute 2011). In the end, the emphasis remains on the NCR's efforts to preserve parental interests, which here involve the continued support for seeing America as a Christian nation rooted in Christian values. While the values emphasized have their origins in a specific interpretation of Christianity, the NCR's mobilization focuses on parents' ability to transmit these values, not on the values themselves. The arguments for parental rights and school prayer once again return to an emphasis on preserving identity and concomitant social privilege.

## **Conclusion**

This chapter has highlighted the ways in which the NCR has mobilized parental rights in schools to further their political vision. As I have demonstrated throughout this chapter, parental rights works in tandem with school prayer to highlight the importance of allowing religion in public schools while emphasizing the need for learning proper values and respect for legitimate authority.

The NCR offers both parental rights and school prayer as avenues for ensuring the proper learning environment, while also preserving parents' authority over the education their children receive. In this sense, parental rights and school prayer function as two sides of the same coin, furthering the NCR's political vision while strongly emphasizing the place of Christianity in public education and society more broadly. This emphasis on the role Christianity has traditionally played, and continues to play, in American society brings to light the ways in which NCR mobilization for both parental rights and school prayer is firmly rooted in the NCR's identity politics. As with the content analysis in Chapter 3 and the case study in Chapter 4, there is a distinct lack of appeals to the religion clauses or other efforts to protect the free exercise of religion for all. Rather, maintaining power and authority for Christian parents is at the forefront of the NCR's arguments presented in this chapter.

I conclude here with an analysis of the FRC's statement on parental rights. In this one paragraph the FRC demonstrates many of the major points I have argued in this chapter. The FRC begins:

FRC believes that both the responsibility and the authority for raising children rest primarily with their biological or adoptive parents. Government should empower parents to control the upbringing of their children and minimize its interference with the exercise of parental authority, except in cases of demonstrable abuse or neglect (Family Research Council n.d.c).

From the beginning the FRC emphasizes that the responsibility for rearing children belongs to parents. This responsibility is juxtaposed to the government here to indicate that parents, and not government bureaucrats, should make decisions regarding children's upbringing. In addition, the FRC explicitly invokes "authority," highlighting the importance of this concept for the NCR's understanding of parenting. Again, governmental interference is highlighted as a potential problem that must be minimized. Parental authority is presented as almost universal, with limitations occurring only "in cases of demonstrable abuse or neglect" (Family Research Council n.d.c). This high standard ensures that parents are given the benefit of the doubt in questionable cases, as in

those cases the abuse or neglect is not demonstrable. Moreover, spanking is implicitly exempted here, and is explicitly exempted later in the FRC's explanation.

The FRC continues:

Specifically, public policy should protect the right and maximize the power of parents to choose the form of education they wish for their children, be it public schools, secular or religious private schools, or home schooling. Public schools should avoid undermining parental authority or interfering with transmission of parental values to their children (Family Research Council n.d.c).

The FRC highlights the importance of school choice as part of the parental rights that need to be protected. In that my focus is on mobilization in and around public education, I do not focus on school choice here. However, the question of school choice was discussed in the context of *Pierce v. Society of Sisters* (1925) in the “Legal Landscape” section at the outset of this chapter. The NCR repeatedly turns to the presentation of parental rights and the family discussed by the Court in *Pierce*. In that sense this issue is included, albeit in a limited fashion, in this chapter. Much more germane to this chapter is the FRC's point calling for public schools not to undermine parental authority. This involves the balancing of parental versus state authority discussed in the context of the family law triangle, with FRC pushing for increasing parental authority and decreasing school authority. The NCR repeatedly expresses concern over schools not only teaching the “wrong” values, but also of these lessons working to indoctrinate children into views that directly contradict their parents' religion. The FRC shares this concern. This concern is further emphasized in the call for schools to not interfere with the transmission of parents' Christian values. As discussed above, the NCR mobilizes parental rights as a means of preserving parents' abilities to control moral education and to ensure they pass on their Christian religion to their children. This religious tradition involves values and cultural beliefs, as presented by the NCR, as much as it involves dogma.

Finally, the FRC concludes:

Medical procedures should not be performed on minors without parental consent, except in cases of medical emergency or public health necessity. The right of

parents to impose necessary discipline, including spanking, upon their children should not be infringed” (Family Research Council n.d.c).

While the point about medical procedures largely goes beyond the school context,<sup>104</sup> it does reinforce the idea that parental rights are asserted to control practically every aspect of children’s lives (Dwyer 1994). This control is further emphasized in the defense of “necessary discipline,” which explicitly invokes the practice of spanking here. As argued above, the NCR often depicts spanking as a crucial disciplinary practice that helps instill obedience and proper respect for authority. These values are critically important in NCR thought towards the enactment of their political vision that requires a well-ordered, self-disciplined society. Parental rights are asserted to enable this disciplinary practice, and occasionally even to advocate for this practice in schools (e.g., Collum 2003). The NCR presents parents as knowing what is best for children, and as having the moral obligation to raise these children in accordance with their specific understanding of the Bible. This understanding, as tied with the NCR’s political vision, involves fostering an appreciation for God’s authority as filtered through parents to children. This focus on authority and obedience emphasizes the extent to which the NCR’s mobilization around a Christian identity puts primacy on the identity and the correlated social privileges this identity brings to the NCR. NCR arguments for parental rights, just like school prayer, emphasize the role Christianity has played, and must continue to play, in American society. In this sense, the Christian identity is stressed more than the religious beliefs encapsulated in this identity. In the next chapter I conclude this dissertation by focusing specifically on how this identity is presented, mobilized, and the ways in which social power and privilege are implicated in the NCR’s identity politics.

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<sup>104</sup> Although not an issue of curriculum, the Pacific Justice Institute (PJI) has expressed concern over different policies in Modesto, CA and San Diego, CA that would allow students to leave school on their own for medical procedures, including abortion, without parental notification or consent (Pacific Justice Institute 2008; 2009a). While these policies are not the norm in schools across the U.S., they do indicate a way in which the NCR’s concern regarding medical procedures can, and has, involved schools as well.

## Chapter 6

### Christian Privilege and the New Christian Right's Identity Politics

On May 5, 2014, the Supreme Court of the United States by a 5-4 vote ruled that it was Constitutional for the Town of Greece, NY to open its town meetings with a prayer (*Town of Greece v. Galloway* 2014). Greece began the practice of opening town meetings with prayer in 1999, and from 1999 to 2007 every prayer given was Christian (*Town of Greece v. Galloway* 2014, 2). After the eventual plaintiffs complained, the town had several non-Christians give prayers at the beginning of the town meetings, but the overwhelming majority of the prayers given were still Christian in nature, with many explicitly invoking Jesus Christ (*Town of Greece v. Galloway* 2014, 2-3).<sup>105</sup> Justice Kennedy, writing for the majority, argued that such prayers were traditional and reflected the historical practices, going back to the founders, of having prayer at town meetings and legislative sessions (*Town of Greece v. Galloway* 2014, 16-19). In her dissent, Justice Kagan argues that the Court's opinion violates the Constitution's promise that "every citizen, irrespective of her religion, owns an equal share in her government" (*Town of Greece v. Galloway* 2014, 2, Kagan's dissent). What these competing sides depict is debate over the extent to which public prayer is merely traditional and an expression of American heritage (*Town of Greece v. Galloway* 2014, 19), and the extent to which prayer is inherently exclusionary marking non-conformers as American others (*Town of Greece v. Galloway* 2014, 16, Kagan's dissent).

*Town of Greece v. Galloway* (2014) shows how public prayer still matters, beyond schools, and how arguments that America is a Christian nation with a tradition of public prayer have sway, even at the Supreme Court. Although not about school prayer,<sup>106</sup> *Galloway* and its narrowly divided Court

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<sup>105</sup> Justice Kennedy argues that the overwhelming Christian makeup of the town meant that it was unreasonable to expect that the town would go beyond its borders to appear religiously diverse when such was not the case (*Town of Greece v. Galloway* 2014, 14-16).

<sup>106</sup> While *Galloway* is not about school prayer, the implications for school prayer and similar cases are very real. Just over a month after the Court released its opinion in *Galloway*, on June 16<sup>th</sup> the Court denied certiorari for a case, *Elmbrook School District v. Doe* (2014), that found holding public school graduations in a non-denominational evangelical Christian Church to be unconstitutional. This denial would otherwise be irrelevant, but for the fact that Justice Scalia, joined by



depict the ongoing struggle to define what it means to be American, as well as the place of religion in the public sphere. Moreover, Kennedy's majority opinion echoes many of the New Christian Right's (NCR's) arguments for school prayer that are examined throughout this dissertation. In this way, *Galloway* helps offer credence to the widespread nature of the NCR's discourse around school prayer and how convincing the arguments tend to be. After all, five Supreme Court justices agree with the basic premise that America is a Christian nation and praying in public can be unifying (*Town of Greece v. Galloway* 2014, 14, 16) while also respecting shared American tradition (*Town of Greece v. Galloway* 2014, 8, 19). These arguments are common to the NCR's arguments used as part of their identity politics. Moreover, these arguments parallel the NCR's efforts to link an American and a Christian identity in service of their political vision, which itself is oriented towards preserving Christian privilege in American society. These parallels are more profound when schools are viewed as centers of citizenship production, with town halls as the literal place where citizens go to be heard by their local governments. Both locations become battlegrounds involving prayer, citizenship, and who counts as legitimate members of the American community.

As I conclude this dissertation, I discuss how advancing and preserving Christian privilege helps explain much of the NCR's mobilization around school prayer as it is the ultimate goal of the NCR's politics. In addition, the fear and anxiety the NCR expresses over its perceived loss of this privilege further explains the frequent use of politics of victimization as part of their right-wing-populist-infused argumentation. In the first section of this chapter I synthesize the main points from the previous chapters to depict the seven main argumentative themes running throughout the NCR's mobilization for school prayer. Then, in the second section, I explain what I mean when I

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Justice Thomas, took the unusual step of filing a dissent for the denial of certiorari, arguing that the case should be remanded to be reconsidered in light of the findings in *Galloway*, including that the Seventh Circuit did not consider the role of prayer in American history and having graduation ceremonies at Christian churches in making its ruling (*Elmbrook School District v. Doe* 2014, 5-6, Scalia's dissent). Thus, while the Court did not accept the case, two of the nine justices explicitly argue that *Galloway* should directly impact questions of public school and connections to Christian religious buildings and symbols.

discuss Christian privilege in this chapter. Briefly stated, Christian privilege is the set of invisible, unearned social advantages that come from being Christian in the U.S. In the third section, I elaborate upon the ways in which Christian privilege is the ultimate goal of the NCR's mobilization around school prayer. Christian privilege is a decidedly political goal, as it relates to maintaining social status and insider status in American society. I conclude this chapter, and this dissertation, by indicating how a religious-based identity group has mobilized in such a way that religion becomes relegated to identity. The political aspects of the NCR's mobilization take over, making the NCR's social movement more about politics than it is about protecting the core elements of their religious identity. The end result is a hollow identity stripped of that which makes it special, religious faith, as prayer-as-faith-expression and free exercise are ignored for political ends.

### **Main Argumentative Themes in the NCR's Mobilization**

Throughout this dissertation I have explored the NCR's identity-politics-based mobilization for prayer in public schools. In this section I briefly recount the argumentative themes that have emerged in the preceding chapters. Distilling these main points serves as a summary and to move towards an analysis of the role of Christian privilege in NCR's mobilization, and in America more generally. Specifically I identify seven argumentative themes woven throughout the NCR's mobilization as presented in this dissertation. These seven points are the core of the NCR's mobilization I studied. For the NCR, (1) prayer is unifying and an important American tradition because (2) America is a Christian nation founded on Christian moral values. (3) The abandonment of these traditional values has led to the decline of the American nation as its citizens engage in morally dubious behaviors (4) leading to Christians becoming a victimized minority. In response, (5) the NCR engages in a form of identity politics that focuses on secular (primarily free speech) arguments, (6) including appeals to parental rights, that express fear and anxiety over lost, or perceived lost, power and privilege. (7) This fear and anxiety leads to the argumentative efforts to

preserve Christian privilege in American society primarily through exerting control over public schools as centers of citizenship production to enable the NCR's social reproduction. I address each of these points in turn.

The repeated appeals to prayer as a traditional element of public education suggest a peaceful history and (near) universal consensus around school prayer. As presented in Chapter 2, this does not match the historical record. Prayer in public schools has always been a contentious issue in the U.S., occasionally leading to violence (DeFattore 2004, 13). Moreover, both religious and irreligious parties have, at different times, objected to the inclusion of prayer in public schools, further indicating that this is not just a matter of a few angry atheists—or a secular liberal elite—trying to discriminate against Christians. Prayer is presented as important for solemnizing important occasions, such as graduation ceremonies, as well as important for creating a sense of unity among students who engage in a shared ritual (e.g., Scalia 2002).

The NCR portrays school prayer as unifying and traditional, in part, because collectively saying Christian prayers in schools helps to identify the importance of Christianity in the founding and continued existence of the U.S. (Feldman 2005, 7-8). According to the NCR, our institutions and laws are infused with Christian moral values, and acknowledging this fact is not indoctrination but rather proper civic education (Ramet 2005, 434, 440; Smith 2000, 51-53; Theriot 2010). In this sense, prayer in public schools is presented as a mere traditional practice, and not as proselytizing or state endorsement of specific religious beliefs (e.g., American Family Association n.d.). The NCR argues that, as a Christian nation, failing to acknowledge the role of Christians, Christianity, and Christian morals in American history is to present an intentionally (and politically) distorted view of the U.S. and what it means to be American (Wilson and Burack 2012, 185-86).

Given the benefits the NCR attributes to school prayer, as explained in Chapter 2, it is not surprising the NCR links America's cultural and moral decline with the Supreme Court's removal of

the 10 Commandments and vocalized prayer from public schools in the 1960s (see, e.g., Fuller n.d.). As Mike Huckabee argues in the quotes that begin Chapter 1, things like mass shootings and violence in schools are attributable to the lack of school prayer and the removal of God from public schools (Friar 2012; Huckabee 2012; Priscilla 2012; Sarlin 2012). Much like the logic behind including prayer in public schools expressed at the start of the common school movement (DelFattore 2004, 14; Feldman 2005, 58-60; Gaddy, Hall, and Marzano 1996, 11-12), the NCR portrays school prayer as necessary for moral education and the fostering of a properly moral citizenry (Detwiler 1999, 186; Fuller n.d.). The rise of the NCR, as well as their political vision outlined in Chapter 2, captures the many ways in which America is in a state of decline. The NCR contends that embracing America's Christian identity and school prayer can help rectify the mistakes wrought by the Court and the secular liberal elite allegedly out to purge religion from the public sphere.

As captured by the content analysis in Chapter 3, the NCR frequently relies on the politics of victimization in articulating their case for school prayer. A significant portion of the NCR's arguments regarding religion in public schools claim a position of victimhood that express the palpable sense of fear and anxiety over lost (or perceived lost) power and privilege. This loss comes at the hands of what is portrayed as a shadowy secular liberal elite on school boards and in elected office. This shadowy elite use their power to discriminate against Christians and drive all mentions of religion—or, perhaps, just Christianity (e.g., Spakovsky 2011)—from public schools. Thus, like other victimized minorities in the U.S., the NCR articulates a need to mobilize to claim their equal rights and their equal place in American society.

By portraying themselves as a vulnerable minority, the NCR depicts their claims as merely wanting equal consideration and free speech rights equivalent to those of all American citizens (Deckman 2004; DelFattore 2004; Feldman 2005; Gaddy, Hall, and Marzano 1996). They frame

these arguments in terms of portraying school prayer as a free speech issue, not an issue of the free exercise of religion. In this sense, the NCR grabs on to the notion of equal rights that are generally applicable to all, as opposed to relying on the religion clauses in the First Amendment, which are often rooted in notions of exemptions (Shea 2014). The equality frame, which is ensconced in the American psyche (Bellah et al. 1996; Greenhouse, Yngvesson, and Engel 1994; Haltom and McCann 2004), allows the NCR to frame their attempts to advocate for prayer and other religious expression in schools as nothing more than an exercise in free speech the same as is deserving of all Americans. The equality-based arguments make requests for school prayer a basic claim on American free speech rights. When these requests are paired with arguments connecting an American and a Christian identity, the equality-and-secular-rights approach furthers these connections that already exist in the minds of both Christians and non-Christians in the U.S. (Jacobs and Theiss-Morse 2013). Americans have free speech rights. Prayer is speech. Christians are prototypical Americans. Therefore, Christian prayer is nothing more than free speech akin unto what all Americans enjoy. The Louisiana case, explored in Chapter 4, is particularly informative for demonstrating the use of equality, tradition, and victimization to mobilize for school prayer as part of an equality-based claim that also fosters connections between American and Christian identities.

The NCR's embrace of parental rights, studied in Chapter 5, is consistent with their political vision and the effort to support vocalized school prayer, but it is at odds with the equality frame used in much of the NCR's mobilization. Parental rights, by their nature, are rights that do not apply to all equally. Not everyone is a parent, and thus not everyone can claim parental rights. Moreover, as embraced by the NCR, parental rights are used to try to shape public school curricula in association with the NCR's political vision. Parental rights are about parents' ability to control the upbringing and religious beliefs of their children. However, as applied to public schools, parental rights arguments are deployed to assert control over school curricula in ways that affect the

education of all children. Parental rights arguments, through this dual focus on social reproduction and controlling education for all children, buttress the NCR's social position as well as the political benefits that come with the position Christianity enjoys in American society. The expressions of victimization, viewed through the lens of the NCR's political vision, demonstrate that the NCR is afraid that they are losing, or perhaps have lost, their social position. The embrace of equality-based arguments functions as appeals to reclaim what was lost and to return Christians to an equal playing field with all Americans. However, given the privileged position Christians have historically enjoyed in the U.S. (Beard et al. 2013; Feldman 2005; Jacobs and Theiss-Morse 2013), this fear is overblown. Nonetheless, shifting demographics and the increased mobilization of the historically disadvantaged create the conditions by which the NCR could perceive itself as threatened, victimized, and suffering losses in the form of the increased rights and an increased focus on the concern of the historically marginalized and disadvantaged. In this sense, the NCR experiences the gains of the historically disadvantaged as coming at the expense of the NCR. These beliefs are common to the NCR's ideological counterpart, the New Right (Dudas 2008; Kazin [1995] 1998, 247; Mattson 2008, 3), as well as common in right-wing populism, which both the New Right and NCR embrace (Kazin [1995] 1998, 258).

Understanding the aforementioned argumentative themes is important, in part, because of the specific location of these struggles: public schools. Public education is an important socio-cultural institution in the U.S. because of its role in citizenship production (Elshtain 2001; Greenawalt 2005, 5; Hochschild and Scovronick 2003). The vast majority of American children attend public schools, and thus the vast majority of Americans learn what it means to be American through public education (National Center for Education Statistics 2012). Much of American civics education, as well as general socialization, occur in these schools. This training includes learning: who the legitimate authorities are in the U.S.; what are American citizens' civic duties; what forces

have shaped the U.S.; and how we should interact with our fellow citizens (Feldman 2005; Gutmann 1987; Hochschild and Scovronick 2003).

In this sense, public schooling has a profound effect on shaping the American nation through education and acculturation. This means that the practices that occur within these public schools are also significant for shaping beliefs about what is normal and appropriate for Americans. When public school students are requested by school authority figures to stand and collectively pray—especially when paired with the Pledge of Allegiance, as was the case in the Louisiana schools discussed in Chapter 4—a message is sent to students regarding what it means to be American, the role of Christianity in American society, and the government's support for the connection of an American and a Christian identity. When these practices and general education topics are in line with any one group's political vision, that group has important influence in shaping the beliefs of future generations of Americans. Thus, the NCR's mobilization around school prayer attempts to enact their political vision to produce future generations of American citizens that ascribe to the NCR's political vision of America as a Christian nation built upon shared Christian moral principles and values.

### **Christian Privilege**

The idea of Christian privilege unites the argumentative themes discussed in the previous section, while explaining the specific nature of the NCR's mobilization. The NCR's arguments employed in the course of their identity-politics-based mobilization express fear and anxiety over lost or perceived lost social power and privilege. This social power and privilege is best summarized as "Christian privilege." However, before I explicitly turn to how preserving Christian privilege is the ultimate goal of the NCR's mobilization, I will first explain what I mean by Christian privilege, and what this privilege entails in the American context.

Christian privilege, at its most basic, is the set of socio-cultural advantages that come from being Christian in the U.S.<sup>107</sup> These benefits are largely unseen, especially by those who enjoy them in society (Fried 2007; Schlosser 2003). In this sense, Christian privilege functions similarly to the much studied and discussed white privilege (e.g., Frankenberg 1993; Lareau 2011; Lipsitz 2009; McIntosh 1990) male privilege (e.g., Cose 1995; McIntosh 2003; Phillips and Phillips 2009), and heterosexual privilege (e.g., Sommer, Weatherman, and Cox 2011; Wilkinson and Kitzinger 1993). Like ideology (Haltom and McCann 2004, 13-14, 21) and hegemony (Gramsci 1971), Christian privilege functions through its taken-for-granted nature and the fact that it is largely unnoticed, especially as people are “taught” not to see their own privilege (McIntosh 1990, 31). However, this invisible nature also means that those who have the privilege feel particularly victimized whenever anything happens to their privilege (Engel 1984; McGirr 2001). Anything that is perceived as threatening privilege is experienced by the privileged as threatening to their equality, as the privilege is unseen, and thus taken as part of their equality, rather than special unearned considerations. Developments in the name of an inclusive, equal society—which, of course, requires some degree of dismantling privilege—are often framed by the privileged in terms of the politics of victimization. These challenges to the invisible privilege are often the impetus for backlash, resentment, and right-wing populism defending “true Americans” (Dudas 2008; Kazin [1995] 1998, 2; Lassiter 2008, 13-15; Lindsay 2007, 219; Mattson 2008, 3, 104, 117).

But what exactly are these privileges that Christians invisibly hold? Given how robust the scholarship is on white privilege and male privilege, the scholarship on Christian privilege is surprisingly nascent. The scholarship that exists on Christian privilege is almost entirely rooted in

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<sup>107</sup> Abo-Zena 2011/2012; Blumenfeld 2006; Fried 2007; Schlosser 2003; Small and Bowman 2011; Woodford, Levy, and Walls 2013.



educational literature,<sup>108</sup> with the primary focus within this literature being collegiate education with a concern for how Christian privilege affects non-Christians on college campuses (Bowman and Smedley 2013; Fried 2007; Small 2011; Small and Bowman 2011). Nonetheless, the existent scholarship can serve as an entry point into the examination of Christian privilege. Those who write on Christian privilege largely begin the discussion of privilege with McIntosh's (1990) conception of the "invisible knapsack" (e.g., Blumenfeld 2006; Schlosser 2003). Writing specifically about white privilege, McIntosh describes privilege as:

...an invisible package of unearned assets that I can count on cashing in each day, but about which I was "meant" to remain oblivious. White privilege is like an invisible weightless knapsack of special provisions, maps, passports, codebooks, visas, clothes, tools, and blank checks (1990, 31).

The idea of the invisible knapsack captures how privilege is unseen, while also fully provisioned to allow the privileged easy passage throughout society. Thus, scholars addressing Christian privilege begin with the idea that there are a number of unseen benefits that aid Christians in their daily lives in the U.S. The exact content of this knapsack is not always articulated, but there are several attempts (e.g., Clark et al 2002; Killerman 2012; Schlosser 2003) to follow McIntosh's (1990) lead in trying to list the specific advantages associated with privilege. However, with most of the scholarly literature focused on adherents of minority religions, or no religion at all, in the education system, there are few scholarly attempts to create a list of the privileges contained in the invisible knapsack that Christians carry in the U.S.

Rather than create and attempt to justify an entire list of the privileges associated with being Christian in the U.S., I focus on a few specific, important advantages tied to a notion of Christian privilege that have profound socio-political effects. One clear mark of social privilege is the ability to attain higher office. According to a Pew Research poll conducted between April 23 and April 27,

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<sup>108</sup> E.g., Abo-Zena 2011/2012; Blumenfeld 2006; Bowman and Smedley 2013; Fried 2007; Small 2011; Small and Bowman 2011; Woodford, Levy, and Walls 2013.

2014, 53 percent of those surveyed responded that they would be less likely to vote for a presidential candidate if the person did not believe in God (5 percent would be more likely to vote for someone if he or she did not believe in God) (Pew Research Center 2014). Not believing in God was the most negatively rated factor of the questions asked. Conversely, 21 percent of respondents would be more likely to vote for a candidate if the person is an evangelical Christian (17 percent reported being less likely to vote for such a person) (Pew Research Center 2014). Being Catholic, still within the realm of Christendom, was largely viewed as irrelevant for voters' decisions, with 9 percent claiming to be more likely to vote for a Catholic, 8 percent saying they would be less likely to vote for a Catholic, and an overwhelming 81 percent saying it would not matter either way (Catholic was the category with the highest "would not matter" rating of all traits considered in the study) (Pew Research Center 2014).

While the survey did not ask about candidates who belonged to non-Christian religions, the results are still informative. Being an evangelical Christian or Catholic led respondents to be more likely to vote for the hypothetical candidate, more indifferent towards the hypothetical candidate, and less negatively predisposed towards the hypothetical candidate than if this fictitious person were an atheist. This speaks directly to how Christianity is seen as a positive, or at least a neutral characteristic of Americans, but not being within this in group can have serious social ramifications, such as the likely inability to be elected to the presidency. For example, President Barak Obama faced heavy criticism for potentially being a "secret Muslim" (Graham 2010; *Los Angeles Times* 2007) and South Carolina Governor Nikki Haley has been the target of criticism regarding how "Christian" this Sikh-raised Indian-American really is (Baliga 2010; Vora 2012). The fact that such allegations can be freely made, and that they potentially threatened both of these candidates electoral prospects, speaks to the power of Christian privilege—and being part of the American in group—in the U.S. The privilege here is three-fold: (1) being viewed as prototypically American by virtue of

being Christian, thus being part of the in group of “true” Americans; (2) being able to vote for someone of your religion (if perhaps not your specific denomination), with the person having a chance at victory due to their adherence to a Christian faith; and (3) the ability to run for public office without your faith being a significant hindrance to your electoral prospects. Insider status, representation, and access to higher office are significant social advantages packed within the invisible knapsack of Christian privilege.

Another element of Christian privilege that I highlight here is official acknowledgment of one's religious holidays (e.g., Christmas is a federal holiday, Yom Kippur is not). This official acknowledgement marks as legitimate certain religious celebrations (Accapadi 2009; Blumenfeld 2006; Schlosser 2003). It also brings into the public sphere some religious celebrations, while excluding others. This grants insider status to those who can celebrate their shared holiday openly with everyone, while those whose holidays are not acknowledged by the government are left to their own private celebrations without the government's acknowledgment of the legitimacy of these celebrations.

Moreover, official federal recognition, such as what Christmas enjoys, comes with the additional benefits of having many businesses and governmental services closed, encouraging people to join with family and friends in celebration without the expectation of having to go to work. Celebration is easier when the government facilitates togetherness through acknowledgement. Those whose holidays are not granted official status must make special arrangements with their employers, teachers, or relevant figures if they are to observe their religious holidays.<sup>109</sup> This official recognition includes public school calendars that are oriented around Christian holidays. For example, most public schools have a Christmas break (often with some sort of school party) and Spring Break associated with when most Christians celebrate Easter. Official acknowledgment can go further, as

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<sup>109</sup> Abo-Zena 2011/2012, 17; Blumenfeld 2006, 198-99; Jacobs and Theiss-Morse 2013, 377-78.

was the case in the Louisiana schools discussed in Chapter 4, when school prayer reflects Christian beliefs, and often specific sects within Christianity. In this sense, Christians are privileged in that they know that if organized public school prayer occurs in the U.S., the prayers will likely represent their faith and beliefs. Moreover, Christians know they can celebrate their holidays without having to worry about work or school.<sup>110</sup>

Such acknowledgments, especially of Christian holidays, further encourage the conscious and unconscious connections between an American and a Christian identity with Christians viewed as true Americans, and those who adhere to another, or no, faith as outsiders (Jacobs and Theiss-Morse 2013). The privileges emerging here involve the legitimacy the government can grant to religious celebration by making it an official federal holiday; the way in which government acknowledgment of Christian holidays can foster the view of America as a Christian nation, and true Americans as Christians; and, finally, the ability to more easily plan religious celebrations with the closing of businesses and governmental services in observance of federally acknowledge religious holidays. Similar connections and privileges are granted when public schools choose to include Christian prayer in schools, at sporting events, or at graduation ceremonies.

Beliefs about electoral desirability and governmental acknowledgement of Christian religious holidays and prayers are but two of many possible examples to explore what Christian privilege means in an American context. These examples are informative as they speak first to the power of the association between being Christian (or at least not being an atheist) with being a good candidate for president, and, second, to the way in which the government supports Christianity and Christians while excluding others. This exclusion furthers the implicit beliefs many Americans already have that Christians are more American than non-Christians, which is a belief that even non-Christians have

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<sup>110</sup> All of this remains persistent despite NCR complaints—joined by many in the New Right as well—regarding the secular liberal elite's "war on Christmas." If there is a war on Christmas, it has been an unsuccessful campaign with respect to dismantling Christian privilege.

(Jacobs and Theiss-Morse 2013, 394). Christian privilege in the U.S. makes Christians' lives easier while also keeping Christians firmly entrenched in the political mainstream. It is precisely these, and similar, benefits from Christian privilege that ultimately reside at the heart of the NCR's identity politics.

### **Christian Privilege and the NCR's Identity Politics**

I have identified the NCR as a social movement engaging in identity politics around a conservative Christian identity to, among other things, advocate for prayer in public schools. Much of this advocacy takes the form of claims of victimization and secular rights claiming framed as efforts to earn an equal voice in schools. Despite the religious identity at the core of the NCR's identity politics, and despite the devotional faith aspects of prayer, the NCR's mobilization is ultimately oriented towards preserving (or perhaps reestablishing) Christian privilege. This is not to say that the NCR does not care about their faith or about prayer. In fact, the evidence suggests—and there is no good reason to doubt—that the NCR activists are motivated by their faith to become involved in the NCR as a social movement (e.g., Focus on the Family 2011a; 2011b; Minnery 2001). However, the actual arguments made as part of this mobilization reveal a deep-seated fear and anxiety over the status of Christianity in the U.S. This fear and anxiety, I contest, influences the arguments that the NCR relies on in such a way that elevates Christian privilege as the ultimate goal of their school prayer mobilization. Christian privilege is emphasized over expanded religious expression, or even more prayer in public schools. In this section I synthesize the findings from the previous chapters to support the claim that the NCR has, regardless of intent, aimed their mobilization at protecting Christian privilege. This aim undercuts the faith involved in prayer, and the faith of those who mobilize as NCR activists, as the *religious*-based social movement ends up as just another *political* movement with political goals.

As depicted in the content analysis in Chapter 3, supported by the case study in Chapter 4, and further advanced by the discussion of parental rights in Chapter 5, the NCR makes frequent use of the politics of victimization. The NCR presents itself repeatedly as an embattled minority group struggling for their basic rights and consideration under the overwhelming political might of a secular liberal elite trying to remove all vestiges of religion from the public sphere. A core part of the NCR's arguments employed in the service of their identity politics claim such victimization. This victimization is an overt expression of the NCR's perception of how religion and the religious are discriminated against *qua* religious individuals in society. While most likely sincerely felt, these beliefs are not necessarily empirically valid. Although no longer a numerical majority of Americans, Protestants (generally) are still the largest religious denomination in the U.S. (Pew Research Center 2012). When separated into individual sects, those that are most associated with the NCR account for close to one-third of all Americans, according to Pew's most recent religious affiliation statistics from 2008 (Pew Forum on Religion and Public Life 2008). The membership in conservative Protestant denominations most associated with the NCR has increased steadily throughout the 20<sup>th</sup> century, and the data so far on the 21<sup>st</sup> century does not indicate any significant difference despite small declines in white evangelical Protestant identification (Drum 2012; Pew Research Center 2012).

However, what has changed is that many more Americans are now "unaffiliated" than at previous times in the U.S., which could contribute to some of the perception of an increasingly secular American populace (Pew Research Center 2012). Nonetheless, such perceptions are flawed as these unaffiliated Americans are not wholly secular. Approximately one-third of the unaffiliated believe religion is at least somewhat important in their lives, two-thirds express a belief in God (although only 30 percent of the unaffiliated claim to be absolutely certain about the existence of

God), and a majority define themselves as either religious (18 percent) or spiritual (37 percent), still indicating a role for faith and belief in the lives of the unaffiliated (Pew Research Center 2012).

Additionally, the extent to which the NCR is well represented in America is emphasized by turning to Congress. When looking at the sects most closely associated with the NCR, 34 percent of the members of the 113<sup>th</sup> Congress belong to sects closely tied to the NCR (Mehta 2012). This is not the same as having 34 percent of Congress claim to be members of the NCR, but such measures are not readily available. Consequently, I offer the 34 percent statistic as a rough suggestion of the NCR's potential representation in Congress, which is in line with their representation in the general American populace. Similarly, the Family Research Council (FRC) and the American Family Association (AFA) scored 32.4 percent<sup>111</sup> of the members of the House of Representatives in the 113<sup>th</sup> Congress with a 100 percent rating marking total agreement with the FRC and AFA on key bills (FRC Action and AFA Action 2014). Given these numbers, the NCR is not underrepresented, or at the very least not at any clear political disadvantage that would suggest that they are (or are in the position to be) the targets for repeated invidious forms of discrimination. Moreover, NCR politicians—such as Michelle Bachman and Matt Salmon—who eschew many mainstream political and religious beliefs are still generally accepted, and certainly much more so than those perceived to be radical of other faiths in the U.S. While largely anecdotal, this further suggests the functioning of Christian privilege protecting politicians who might otherwise be seen as fringe political figures, but for their Christianity.

Furthermore, the NCR's claims of victimization tend to be broad in scope, claiming Christians, in general, are discriminated against in the U.S. (e.g., Zimmerman 2002). However, only

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<sup>111</sup> The FRC and AFA gave a 100 percent rating to 141 of the members of the House in the 113<sup>th</sup> Congress. By comparison, only 10 Senators received a 100 % rating. However, by looking at Senators with a rating of 75 percent agreement or better we see the number jump to 33, which again puts the agreement at about 33 percent. While the representation in the Senate is a bit lower than in the House, the numbers are still in line with the rough demographics available regarding the NCR in the U.S.

40 members of the 113<sup>th</sup> Congress explicitly identify as non-Christian, with an additional 10 members choosing not to answer, accounting for 7.5 percent (9.4 percent when including those who did not respond) of the entire Congress is (potentially) non-Christian (Mehta 2012). Over 90 percent of Congress identifies as Christian, when Pew has found that 78.4 percent of Americans identify as Christian (Pew Forum on Religion and Public Life 2008). Based on these statistics, Christians are overrepresented in Congress. Thus, there is reason to doubt the empirical validity of the NCR's claims of victimization, even if there is evidence to support that they believe they are the targets of such forms of discrimination. While those on both sides—those who want prayer in public schools and those who oppose it—have made mistakes regarding what they believe is legally allowable, generally speaking, both sides act with good faith and in accordance with the current state of the law (DeFattore 2004, 311-14). Nonetheless, the NCR continues to feel victimized and intentionally targeted for discrimination while advocating for forms of school sponsored prayer that have long been divisive and found to be unconstitutional.

The idea of an exaggerated sense of victimization, on its own, does not establish that the NCR's mobilization is oriented towards protecting Christian privilege. It does, however, suggest that Christians and Christian privilege are not as threatened as the NCR believes them to be. Such exaggerated claims of victimization dovetail with the NCR's embrace of right-wing populism within its mobilization. As explained in Chapter 2, a core of right-wing populism is an embrace of a besieged group of virtuous Americans who are fighting to preserve the American way of life (Kazin [1995] 1998, 1-2; Lindsay 2007, 219). The NCR's constant refrain that America is a Christian nation founded by Christians on Christian moral values and beliefs, as well as its repeated invocation of claims of victimhood, are at the core of their use of right-wing populism. Moreover, the claims that a secular liberal elite is using disproportionate political power for its own illegitimate political ends that are deleterious to the American way of life are yet another way in which the politics of



victimization give way to the NCR's right-wing populism. This right-wing populism also leads the NCR, through its political vision, to call for cultural transformation and increased participation of conservative Christians in important decision-making roles.

This transformation, animated by a conservative Christian worldview, largely focuses on political ends (e.g., Family Research Council 2011a; 2011b). For example, in talking to the Alliance Defending Freedom, Chuck Colson emphasizes cultural transformation—along with political action—to bring religion and the religious back into the mainstream of the public sphere (Alliance Defending Freedom 2012). He goes on to depict the NCR's positions as “promoting the common good by standing for liberty and doing those things that produce a healthy, flourishing society,” which he explains as the justification for Christians “tak[ing] dominion” over political and cultural institutions (Alliance Defending Freedom 2012). Remaking culture involves first having conservative Christians take political power. Colson's focus is on increasing the social rank and acceptability of the NCR and their positions more than it is about faith (Alliance Defending Freedom 2012). Colson's focus shows how the cultural transformation and the NCR mobilization is often geared towards gaining political power and influencing general perceptions of the NCR, which is ultimately about protecting privilege and not about faith.<sup>112</sup>

Similarly, school prayer becomes one of these mechanisms of cultural change. However, as is evident from the NCR's arguments around parental rights, the focus returns time and again to what Christian parents can, and must, control for their children. The NCR often articulates its position regarding school prayer and parental rights as the parents' ability to control their children's religious beliefs and the ideas to which their children are exposed (Gray 2012; Ramey 2014). The arguments are not framed as preserving the free exercise of religion, or in terms of greater religious inclusion.

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<sup>112</sup> Chuck Colson further explains the connection between Christianity and government in his book *God and Government* (2007). In this book Colson depicts states created by God, and governments as the tools necessary for limiting human actions and encouraging people away from sin. Here, the state is a tool for imposing Christian moral beliefs to move people away from “sin” and towards the full enactment of the NCR's political vision.

They are framed in terms of questions of legitimate authority and social reproduction through controls on education. Authority and belief-control are inherently political concepts (Foucault 1977; 1978). This is particularly true when asserting control over what ideas are relevant for public schools. Examples of attempted belief control through curricula in schools include arguments claiming prayer is a relevant school exercise or trying to exclude other beliefs or ideas as inappropriate for schools because these beliefs or ideas violate Christian ideals. This form of idea control seeks to limit not just the ideas that one's children are exposed to, but the ideas that all children attending the relevant public schools learn. Controlling the ideas to which future generations are exposed in public schools is one direct means by which the NCR seeks to enact its political vision, and one that is a step removed from the protection of the free exercise of religion or religious expression. As Beyer and Liston point out, much of the NCR's educational reforms and practices are not pedagogically grounded, and instead emphasize political goals over educational ones (1996, 34). Even the benefits that school prayer offers, according to the NCR, are depicted in expressly political terms (Gaddy, Hall, and Marzano 1996, 192; Martin 1996, 77-78, 232; Ramet 2005, 432). It is entirely possible that the NCR has made strategic calculations regarding which ideas are most likely to convince large numbers of Americans, but in the end, the arguments that they publically articulate are framed in political terms with political goals.

This politicization of the NCR's social movement is consistent with the NCR's political vision that involves realizing America as a Christian nation governed by Christians according to Christian principles. It is also consistent with NCR efforts to engage in what Heinz has called "politics of lifestyles" (1985). Politics of lifestyles involves efforts to shape, influence, and control the public symbols through which Americans make sense of what it means to be American (Heinz 1985, 156). The primary way politics of lifestyles plays out is through political struggles for control over the socialization process, which includes public schools, through which these public symbols

are imparted meaning (Heinz 1985, 156). In mobilizing to reinsert religion in public schools to protect tradition, and in defending Christians from claimed invidious discrimination, the NCR engages in lifestyle politics to preserve the generally positive, and historically important, view of Christianity and Christians in the U.S.

In this sense, using secular arguments to advocate including prayer in public schools as a form of acknowledgment of history and tradition, especially doing so with the belief that school prayer can lead to a more moral citizenry fits within the concept of politics of lifestyles. Furthermore, it demonstrates how the religious animus for the NCR's mobilization turns into an explicitly political focus. Prayer is not *prayer*—communicating directly with one's deity or deities—but rather it becomes *political* communication of shared moral values that are traditionally American values. This also works, therefore, as a form of further blending an American and a Christian identity, as traditional American values are explicitly Christian values, and Americans have historically been a Christian peoples in this retelling. Protecting social position while advocating specific lifestyle choices moves away from religious expression and into the realm of politics. Again, preserving Christian privilege is the end result of this mobilization, not the protection of religious expression. This focus on Christian Privilege and the view of America as a Christian Nation drives home why schools matter for the NCR: they are important in the process of socio-cultural reproduction and educating all children in the U.S.'s Christian past, present, and (for the NCR, hopefully) future.

Finally, the NCR's use of right-wing populism to push for Christian privilege furthers the insider/outsider dynamic running through so much of the NCR's discourse around school prayer, and in their political vision more generally. Asserting that America is a Christian nation with a uniquely Christian past draws clear exclusionary borders regarding who counts as legitimate Americans. These borders exclude from history the contributions to America of non-Christians, as

well as hide the contentious history around religion in the U.S.<sup>113</sup> Moreover, given the NCR's specific form of conservative Christianity, other Christians who do not agree with the NCR's beliefs and political vision are also excluded. As Passavant (2002) argues, the ability to successfully claim free speech rights is linked to identity, as those whose free speech claims are legitimated are viewed as part of the insiders that are wholly American.

Returning to the Supreme Court case that opens this chapter, the Court's own debate mirrors elements of the insider/outsider dynamic discussed in this chapter. In speaking for the majority, Kennedy writes:

The relevant constraint derives from [the prayer's] place at the opening of legislative sessions, where it is meant to lend gravity to the occasion and *reflect values long part of the Nation's heritage*. Prayer that is solemn and respectful in tone, that invites lawmakers to *reflect upon shared ideals* and common ends before they embark on the fractious business of governing, serves that legitimate function (*Town of Greece v. Galloway* 2014, 14, emphasis added).

Kennedy argues that Christian values are, and have long been, a part of American heritage, emphasizing that true Americans hold these Christian values. This is in keeping with the NCR's depiction of America as a Christian nation. Kennedy also states:

Legislative prayer has become part of our heritage and tradition, part of our expressive idiom, similar to the Pledge of Allegiance, inaugural prayer, or the recitation of "God save the United States and this honorable Court" at the opening of this Court's sessions (*Town of Greece v. Galloway* 2014, 19).

Here, Kennedy again refers to public prayer as part of American heritage and tradition, supporting the connecting of an American and a religious identity. Furthermore, as was seen in the public schools discussed in Chapter 4, Kennedy links prayer with the Pledge of Allegiance, as well as other official ceremonies, further marking America as a Christian nation with a shared past of saying Christian prayers at important events. To reject prayers—or even just Christian prayers—at such events is to take a decidedly un-American stance.

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<sup>113</sup> See Chapter 2 for a discussion of this exclusion and contentious history.

Justice Kagan picks up on the division inherent in Kennedy's opinion, which she highlights when she retorts:

In this country, when citizens go before the government, they go not as Christians or Muslims or Jews (or what have you), but just as Americans (or here, as Grecians). That is what it means to be an equal citizen, irrespective of religion. And that is what the Town of Greece precluded by so identifying itself with a single faith (*Town of Greece v. Galloway* 2014, 19-20, Kagan's dissent).

As Kagan pithily quips, to embrace the seemingly religious expressions of one religion as mere speech reflecting an alleged shared heritage and tradition, the government is marking some (i.e., Christians) as Americans, and others as insufficiently American cultural outsiders. The Court, in ruling on public prayer, embraces the insider/outsider dynamic central to the NCR's mobilization for school prayer. Lines are drawn. Peoples are excluded. Christian privilege, going unseen, wins the day at Court.

This insider/outsider logic reflected in the Court's ruling is also on display in the NCR's mobilization for school prayer. As the Court ruled, the NCR argues that prayer should be included in public schools because it is speech. Moreover, it is speech that has historically been viewed by Americans as acceptable and commonplace in the public sphere. As historically insider speech, the NCR argues, prayer belongs in public schools. The embrace of insider/outsider dynamics furthers the effects of privilege to exclude and marginalize the outsiders who do not enjoy privilege, even while claiming unifying affects from that which unites insiders. The NCR uses language of a mythic shared community to draw firm borders that keep them—and their privilege—on the inside, and exclude non-Christians and those who reject the NCR's political vision for an explicitly conservative Christian America (see Feldman 2005, 70; Greenhouse, Yngvesson, and Engel 1994). This is ultimately an exclusionary moral division seeking to define what it means to be American, and using schools as the means to inculcate this conception of being American. Such moral, nationalistic

struggles are the essence of right-wing populism, especially the NCR's particular variety (Kazin [1995] 1998, 247; Lassiter 2008, 24).

This exclusion, as Jacobs and Theiss-Morse (2013) have captured, has been internalized by Americans to such an extent that even those who do not identify as Christian strongly associate being Christian with being American. The automatic exclusion and distrust of non-Christians furthers the power of Christian privilege in the U.S. as Christians are free from knee jerk reactions that judge non-Christians—or those perceived as being insufficiently Christian—as illegitimate and not fully part of the American community. Efforts to include Christian prayer in public schools and the repeated claims that America is a Christian nation with Christian traditions and moral beliefs works to strengthen the connections between a Christian and an American identity. In this sense, focusing a movement on preserving alleged Christian tradition in the U.S. functions as a means to preserve the presumption of inclusion that comes from being Christian in the U.S. The NCR's mobilization keeps the invisible knapsack of privilege well stocked. What is missing is any sense of the religious pluralism common throughout American history (DeFattore 2004; Detwiler 1999; Feldman 2005; Zimmerman 2002), or any indication that school prayer is about prayer as a religious act. In the NCR's mobilization, prayer becomes speech, and being Christian becomes a political identification.

## **Conclusion**

The NCR's own words and arguments make it plain that their concern and their focus is not the free exercise of religion, especially not a general expansion of religious liberty for all in America. While school prayer is an important issue for the NCR, the faith and devotional aspects of prayer are repeatedly downplayed in their language and argumentation. What is left is identity politics as just politics, with a religion-centered Christian identity (and the exercise of Christian faith) lost, but socio-political standing (i.e., privilege) remaining. Such mobilization is rooted in the populist-infused

culture wars fighting over what it means to be American, who counts as legitimate Americans, all with an emphasis on who gets the benefits of in-group status. In efforts to realize the NCR's political vision, prayer becomes a tool of conformity useful for social reproduction and teaching lessons in proper authority. Prayer is largely reduced to a performative act of insider status, not a statement of one's faith in a deity—or deities—and their efforts to commune with said deity/deities.<sup>114</sup>

In NCR argumentation, praying Christian prayers in public is not (free) religious exercise, it is political speech. The NCR frames prayer as such in its defense of public school prayer. Praying Christian prayers in public is an expression of shared heritage and an acknowledgment of the role of Christianity in American history. The NCR relies on these secular arguments for public school prayer, and they find voice in Kennedy's opinion in *Galloway* as well. Praying Christian prayers in public is not about engaging in individual or group worship while communing with God. The NCR repeatedly shies away from making such an assertion, instead using prayer as a marker of who are true, legitimate Americans, deserving of the privilege that comes from having this identity. For a social movement organized around a religious identity, religion and faith are absent from the argumentation, and political ends towards preserving social privilege are ever present. As articulated in their own words, arguments, and aims, the NCR is a movement interested in Christian privilege, not the Christian faith that led them to mobilize.

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<sup>114</sup> While not about religious expression, several works on identity performance provide useful parallels. Hall's (1997) edited volume provides a useful overview and introduction into questions of cultural representations and identity performance. Butler's *Gender Trouble* ([1990] 1999) discusses gender performance, while CJ Pascoe's *Dude, You're a Fag* (2007) discusses performative sexuality as a means of claiming insider status.

## **Appendix A**

### **Methods and Analysis**

In this appendix I provide a more robust explanation of the content analysis in Chapter 3. The first section explains the more about the organizations studied and the documents that were collected for the content analysis. In the second section, I present a fuller description than what is included in Chapter 3 of each of the five main codes used in the content analysis. The third section explains the subcategories of these five main codes, focusing here on the ones that are not highlighted in Chapter 3. Finally, the fourth section goes into additional analysis, beyond what is presented in Chapter 3, for the various subcategories of arguments. I explain the findings, as well as discuss the argumentative similarities and differences between the New Right and the New Christian Right (NCR). Overall, the similarities between these two groups far outweigh the differences, supporting the ideological connections between the New Right and NCR proffered in Chapter 2.

#### **Data Collection**

For the content analysis, I examined 16 different prominent, national New Right and New Christian Right organizations. All of these organizations are interested, at least in part, with religion in public education. These organizations were selected because of their national presence, relative public exposure, and attention paid to issues related to religion in public education. Eleven of these organizations are from the NCR, and the remaining five are New Right organizations. The NCR organizations are: Alliance Defending Freedom (ADF), American Center for Law and Justice (ACLJ), American Family Association (AFA), Christian Legal Society (CLS), CitizenLink, Family Research Council (FRC), Focus on the Family, Gateways to Better Education, Liberty Counsel, Ruth Institute, and Speak Up University. The New Right organizations are: American Civil Rights Union,



American Enterprise Institute, Foundation for Individual Rights in Education (FIRE),<sup>115</sup> Heritage Foundation, and Home School Legal Defense Fund (HSLDF).<sup>116</sup> Only the Ruth Institute did not have any of its documents selected by random sample for the content analysis.

The articles collected range in date from 1999 (only one from this year ended up in the sampled documents) to January 2012. Fourteen of the documents did not contain a date, and 12 of these were basic position statements or a summary of information on a given topic. These documents are all publically available on these organizations' websites. These documents were found using the organizations' websites' search functions as well as by examining relevant pages as identified by the menu options for each site. Documents were selected for inclusion in the pool of documents if they were primarily about religion in education. Each document was assigned a number, which was used to randomly generate the list of documents to be coded. I coded 100 randomly sampled documents from the 306 documents about religion and schools from New Right and NCR sources. The NCR accounts for 73% of the organizations studied, 64% of the sampled documents, and 65% of the coded arguments.

### **The Five Main Codes Explained**

As explained in Chapter 3, I coded the documents for the following categories of arguments: special rights, politics of victimization, constitutional rights, non-constitutional rights, and tradition. In this section I explain each of these five categories.

The "special rights" code draws upon the work of socio-legal scholars who have explained the logic whereby those advocating against the expansion of rights to disfavored groups characterize their opponents claims as "special" (Dudas 2008; Goldberg-Hiller and Milner 2003; Haltom and

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<sup>115</sup> Although FIRE has occasionally taken on what are considered "liberal" issues, all of the cases for which documents were collected represent conservative positions or organizations, and all of the cases were referenced by other NCR or New Right organizations demonstrating, at the very least, fellow traveler status with respect to ideological orientation.

<sup>116</sup> The HSLDF was included specifically because it was identified by both NCR and New Right organizations studied here as helpful to the fight for religious rights in schools, as well as parental rights in education.

McCann 2004). Referring to rights as “special rights” characterizes rights claims as illegitimate abuses of the law that are not about “equal” rights, but rather seek special treatment. The category of special rights accounts for arguments bemoaning the expansion of rights or others but not for the religious. There is a strong element of countermobilization to special rights arguments.

“Politics of victimization” encapsulates arguments rooted in a sense of being a discriminated against group at the whim of a politically powerful opponent. This opponent is depicted as typically having power disproportionate to its size within the United States (Dudas 2008; Mattson 2008; Rogin 1987). Arguments within this code convey a sense of being wronged, discriminated against, or otherwise marginalized within American law and society. Arguments where the NCR embraces a position of victimhood demonstrate how they feel that society shows a broad concern for everyone’s “feelings” while not respecting sincere religious beliefs.

The “constitutional rights” code situates the NCR’s arguments within a constitutional law context. Given the specific references to religion in the First Amendment, a constitutional law focus depicts whether the NCR is making explicit rights claims to rights enshrined in the Constitution within their rights mobilization. In addition, the constitutional law code captures which rights are claimed. This code outlines the expressly legal content of NCR’s mobilization.

“Non-constitutional rights” arguments are the flip-side to the constitutional rights arguments discussed above. While constitutional rights arguments employ constitutional law, non-constitutional rights claims are more nebulous. These arguments typically involve asserting a “right” to do something without identifying a legal authority for the rights claim. That is, the idea of a right is invoked, but not a specific right or legal protection. Generic “religious liberty” and “religious freedom” claims are very common here. This is a form of rights talk that invokes legal language without engaging specific laws.

Finally, “tradition” arguments capture when the NCR roots its arguments in appeals to tradition to support the place of religion in public, generally, and in schools, specifically. Arguments for tradition are common in setting up the United States as a country with a robust Christian past. Part of this past is the importance of Christianity for the founding fathers that requires that religion be given a central place within today’s society.

All five of the main codes are divided into relevant subcategories. Table A1 lists these subcategories as a function of their main codes.

**Table A1: Main Categories and Their Component Subcategories Used in Coding**

<b>Special Rights</b>	<b>Politics of Victimization</b>	<b>Constitutional Rights Claims</b>	<b>Non-Constitutional Rights Claims</b>	<b>Tradition</b>
Not Equal Rights	Religious Discrimination	Vague 1st Amendment Claims	Religious Liberty or Freedom	America as a Christian Nation
Rights Should Protect Everyone	Social Engineering	Free Exercise	Freedom of Conscience	Law and Judeo-Christian Morality are Related
Powerful Minority Manipulating System	Political Correctness	Establishment	Parental Rights	Religion is Necessary for a Moral Citizenry
	Declining Religious Freedom and/or Liberty in Society	Free Speech	Children’s or Students’ Rights	Religious Rights are “Equal” Rights, Not “Special Rights”
		Free Association		Traditional Ordered Liberty Founded on Christian Beliefs
		<i>Tinker v. Des Moines</i>		
		Hybrid Claims		

### Subcategories Explained

In gathering data through the content analyses, each individual argument is coded, allowing for multiple codes in each document. The unit of analysis is not each document, but rather each

argument made. I define “argument” here as a discrete incidence of a rights claim (regardless of how informally the right is asserted), claimed violation (again, regardless of how broadly or informally this claim is made), or rationale for including religion in public education. Arguing one’s religious rights have been violated and arguing that a specific elementary school program violates a religious student’s right to free speech are two examples of the types of arguments coded as “arguments” for the content analyses in Chapter 3. The first is a vague claim, the second more specific, but both are claims that use a rights frame to express a perceived wrong. Documents can have multiple codes as they contain multiple arguments. The documents also can have multiple instances of the same code if the document contains multiple, discrete occurrences of the same type of argument. This approach has led to 806 coded arguments across the 100 documents sampled in the content analysis.

To further flesh out the arguments made as part of the main codes, each main code is further divided into subcategories. While some of these subcategories are explained in Chapter 3, the rest of the subcategories are explained in this appendix.

#### *Politics of Victimization Subcategories*

Politics of victimization is broken up into four subcategories: religious discrimination, social engineering, political correctness, and declining religious freedom or liberty. Political correctness, as a subcategory of politics of victimization arguments, includes arguments that accuse decision makers of trying not to offend people, taking particular care to avoid offending minorities while ignoring the concerns of the religious. Similarly, arguments that convey concern over too much emphasis on cultural sensitivity and inclusion and not enough on moral values and education also constitute “political correctness” arguments.

Arguments about declining religious freedom or liberty are rather straight forward. These arguments involve direct assertions that present American society as facing a loss of religious freedom and liberty. These assertions indicate that rights that were long acknowledged are now

being withheld or otherwise suppressed from religious individuals. Consequently, the religious are victims of some sort of cultural shift or power play by anti-religious forces that are preventing the religious from fully exercising the rights and freedoms they have long enjoyed. For example, as Jay Sekulow (2010) from the ACLJ argues:

One of my major concerns on this whole issue has been the utilization of courts to intimidate the voices of pastors into silence. The idea that pastors cannot address contemporary cultural issues from a biblical worldview is repugnant to everything the Constitution stands for. Our Founders would be horrified to see pastors being subpoenaed to appear in federal court to defend their positions and to give information regarding their associations, their sermons, and even their sermon notes. This is precisely what is transpiring in the U.S. District Court in California.

The assertion here is that there was a time when pastors enjoyed the right to say what they wanted. However, now this right has been effectively lost due to court interventions into pastors' speech.

#### *Constitutional Rights Claims Subcategories*

As is the case with the politics of victimization, I divide the “constitutional rights claims” arguments into subcategories. These seven subcategories of “constitutional rights claims” are: vague First Amendment claims; free exercise clause claims; establishment clause claims; free speech claims; free association claims; direct references to *Tinker v. Des Moines* (1969); and what I am calling “hybrid” claims. Vague First Amendment claims are those arguments that refer to First Amendment protections without ever specifying (or clarifying through context) which First Amendment protections are being invoked. These vague claims could be invoking the religion clauses, could be about free speech or free association, or they could be claiming a combination of various rights. The lack of clarity in the claims being made makes it impossible to specify which part of the First Amendment is being invoked. Moreover, this vagueness suggests a nebulous form of rights talk that is rooted in a sense of being a rights bearer whose rights have been violated. The message is one of “but I have rights,” without specifying the source (beyond somewhere in the First Amendment) or nature of these rights. In this sense, the vague First Amendment claims are rights-based versions of

the politics of victimization arguments. While rights are being claimed, the emphasis is on the victimization more so than the rights being claimed.

I coded arguments as free exercise clause claims or establishment clause claims when the arguments explicitly invoked the protections of these religion clauses. Free exercise arguments are those that assert the right to practice one's religion as guaranteed by the free exercise clause. Establishment arguments are usually framed as defending a particular inclusion of religion as not violating the establishment clause. Some establishment clause arguments assert a state establishment of a secular religion, thus combining the logic of the establishment clause arguments with the previously discussed social engineering subcategory of politics of victimization arguments.

I coded arguments for references to *Tinker v. Des Moines* (1969) because these arguments emphasize the place of students' rights in the educational context. *Tinker v. Des Moines* involved students' rights to expressive speech. The students at the heart of *Tinker* wore armbands protesting the Vietnam War. Ultimately, the Supreme Court upheld this act as part of the students' right to free speech as guaranteed by the First Amendment. Famously, Justice Fortas wrote that "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate" (*Tinker v. Des Moines* 1969, 506). This quote is the way in which *Tinker* is most often invoked as part of the New Right's and NCR's arguments about the place of religion and religious expression in schools.

#### *Non-Constitutional Rights Claims Subcategories*

I divided the non-constitutional rights codes into several subcategories: religious liberties or religious freedoms; freedom of consciousness or rights to conscience; parental rights; and children's or students' rights. Freedom of conscience or rights of conscience arguments are those that directly assert a right to, or indirectly assert a violation of, conscience protections that extend from religion. While freedom or right to conscience arguments could take other forms, in the documents I coded

they almost always took one of the two forms just described—directly asserted rights or indirectly asserted violation of one’s conscience. These are non-constitutional rights claims as the constitution does not explicitly protect “conscience.” In fact, early drafts of what eventually became the First Amendment offered to protect conscience instead of religion, but this formulation was ultimately rejected (see McConnell 1990).

Non-constitutional rights arguments were coded as parental rights when there are explicit assertions of parental rights or parents’ right to control some aspect of their children’s lives and upbringing. While these arguments arise with respect to religious issues, they are not always presented as parental rights to control their children’s religion. However, the assertions of parental rights are frequently made in such a way as to indicate that what the underlying concern is in the assertion is the preservation of religion and religious morality in the next generation of American citizens. Thus, this code is more informative for what it masks than for what it directly asserts (see Murray 2009; NeJaime 2009). For an analysis of what parental rights assertions do involve, see Chapter 5.

The final subcategory of non-constitutional rights arguments, and one related to parental rights, is children’s or students’ rights. This code encapsulates arguments that argue for a child’s right to be protected from unwanted—almost always “liberal”—ideas and for children, frequently as students, to have the right to express their faith in public schools. More so than parental rights, children’s and students’ rights are overtly about religion. Having both parental rights and children’s or students’ rights in the coding scheme is informative. These subcategories provide insight into when the emphasis is placed on children or students and what they face, and when the emphasis is on parents and their ability to control their children’s environment and education. While parental rights can be asserted in the best interest of the child, there is nothing inherent in parental rights that guarantees the concern is for the children, as opposed to for parental authority.

*Tradition Subcategories*

Tradition arguments are subdivided into five categories: arguments that America is a Christian nation or a nation with a history of acknowledging religion in public; arguments emphasizing that our legal system and morality is based on Judeo-Christian beliefs and practices; arguments that religion is necessary for a moral citizenry; that what the religious rights entails are claims of “equal” and not “special” rights; and arguments connecting rights to the idea of ordered liberty. All of these subcategories capture the different traditional elements the NCR presents as evidence that America is a Christian nation founded on Christian ideals and beliefs, and thus Christianity is written into the American system. Traditional practices, according to the NCR, involved Christianity, and thus they should still involve Christianity today.

*Special Rights Subcategories*

The special rights code, like the other main codes, is divided into subcategories of arguments. These categories are: that what opponents are claiming are not equal rights (“not equal rights”); that rights and laws should protect everyone and treat everyone equally (“protect everyone”); and that religion is being attacked by a powerful minority, or that a powerful minority is misusing the law to advance special, not equal, rights for their group (“powerful minority”). Arguments are coded as not equal rights when there is an assertion against another group’s rights claim that is characterized as being outside of legal norms as it seeks to gain undue benefits for a select few. The not equal rights subcategory fits within special rights as it characterizes opposing rights claims as being about inappropriate, special treatment that is not afforded to everyone.

The protect everyone subcategory describes arguments that dispute special protections for specific groups rather than everyone. This code is common to many of the arguments against various forms of equal protection, most notably affirmative action (Keck 2004, 181, 186; 2006). Equality is the underlying element to these arguments. Laws that offer protection for only some, for

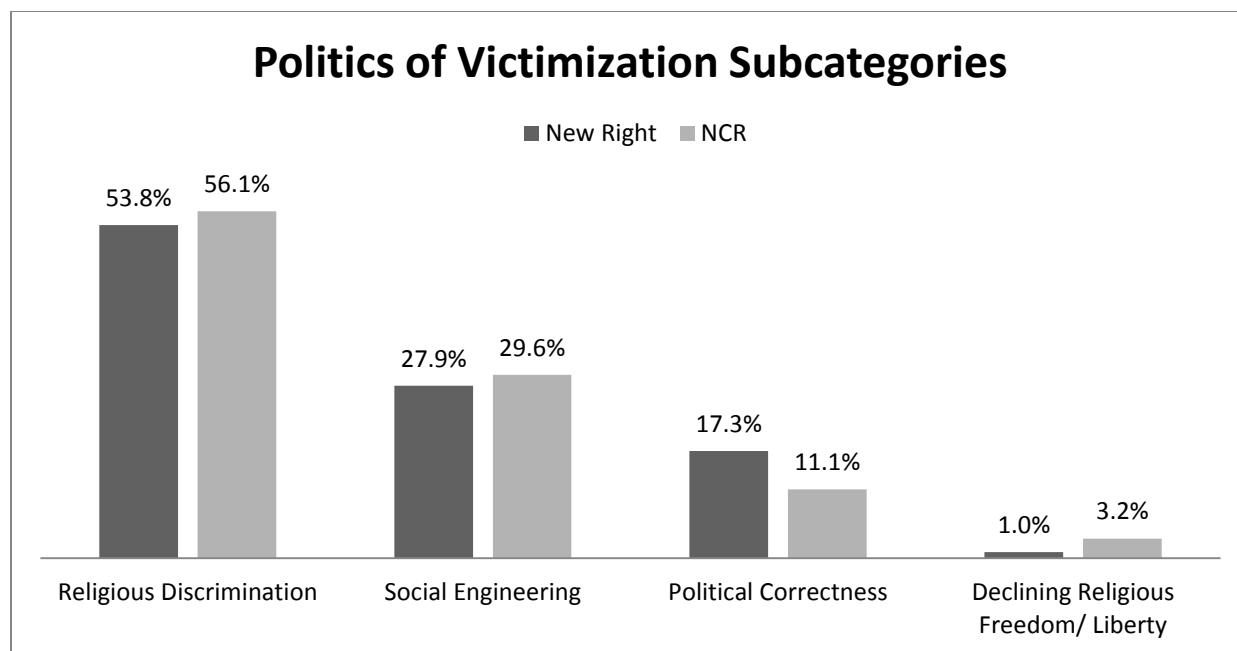


instance laws that prevent discrimination based on sexual orientation, violate norms of equality. These laws are seen as objectionable because they do not protect everyone but only a select few based on choices these individuals choose to make.

Finally, arguments in the powerful minority subcategory capture two elements of the logic of special rights. The first is that rights and rights claiming can be harnessed to discriminate against another group. For example, religious individuals would be forced to respect the rights of same-sex individuals even when the rights pertain to practices that violate the dictates of the religious individuals' chosen doctrines. The idea is that only by using political power that is disproportionate to the size of a group can laws be enacted to allow a minority to have rights that conflict with the rights of a majority. The second element to the logic of special rights captured by the powerful minority subcategory is that the law is being misused to advance the political goals of this powerful minority group. That is, nothing in the law dictates the specific laws or rights that the powerful minority claim, but political maneuvering has allowed for this group to abuse the law in a way that goes against the very intent behind the American legal system. Thus, the rights garnered are "special" in that they are abuses of law, do not apply to everyone, and in fact are used against a majority of the population.

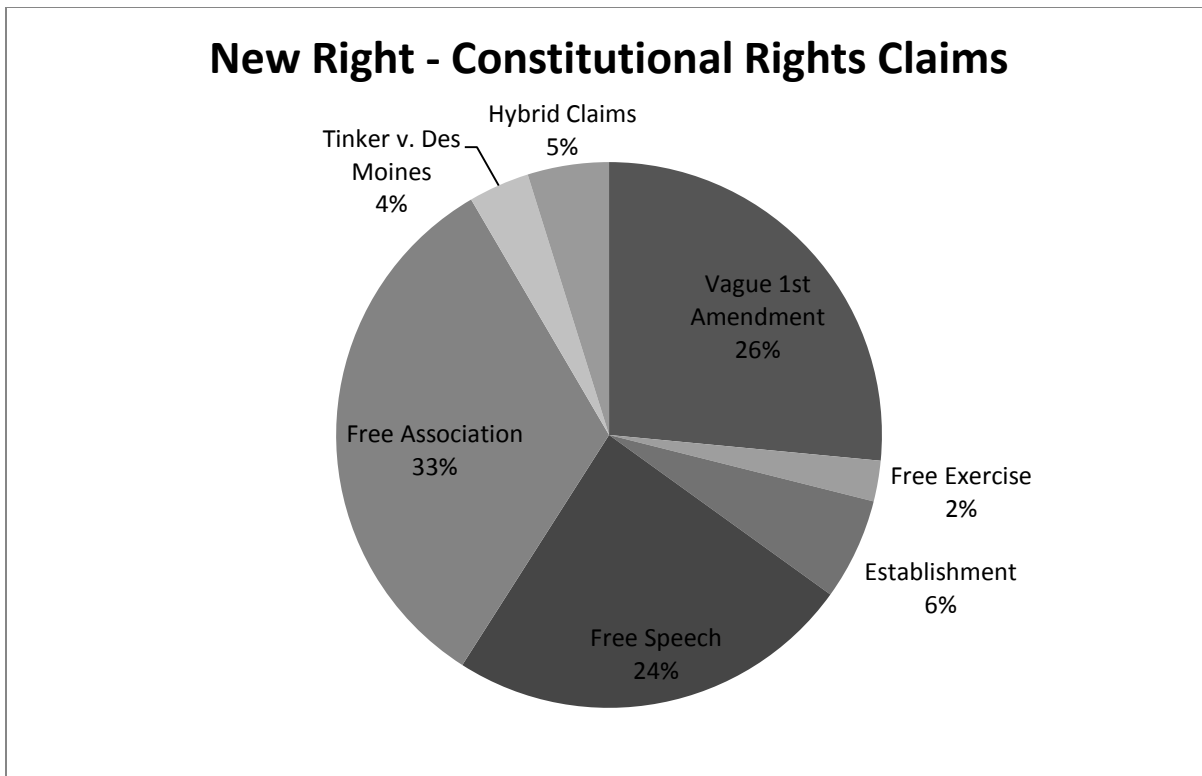
## **Discussion and Analysis**

In Chapter 3 I discuss the most important subcategories in the content analysis. In this appendix I discuss the rest of the subcategories to provide more depth to the content analysis. Figure A1 highlights the similarities in how the New Right and NCR mobilize politics of victimization arguments. Politics of victimization arguments are the most common category of arguments for both the New Right and NCR in the content analysis.



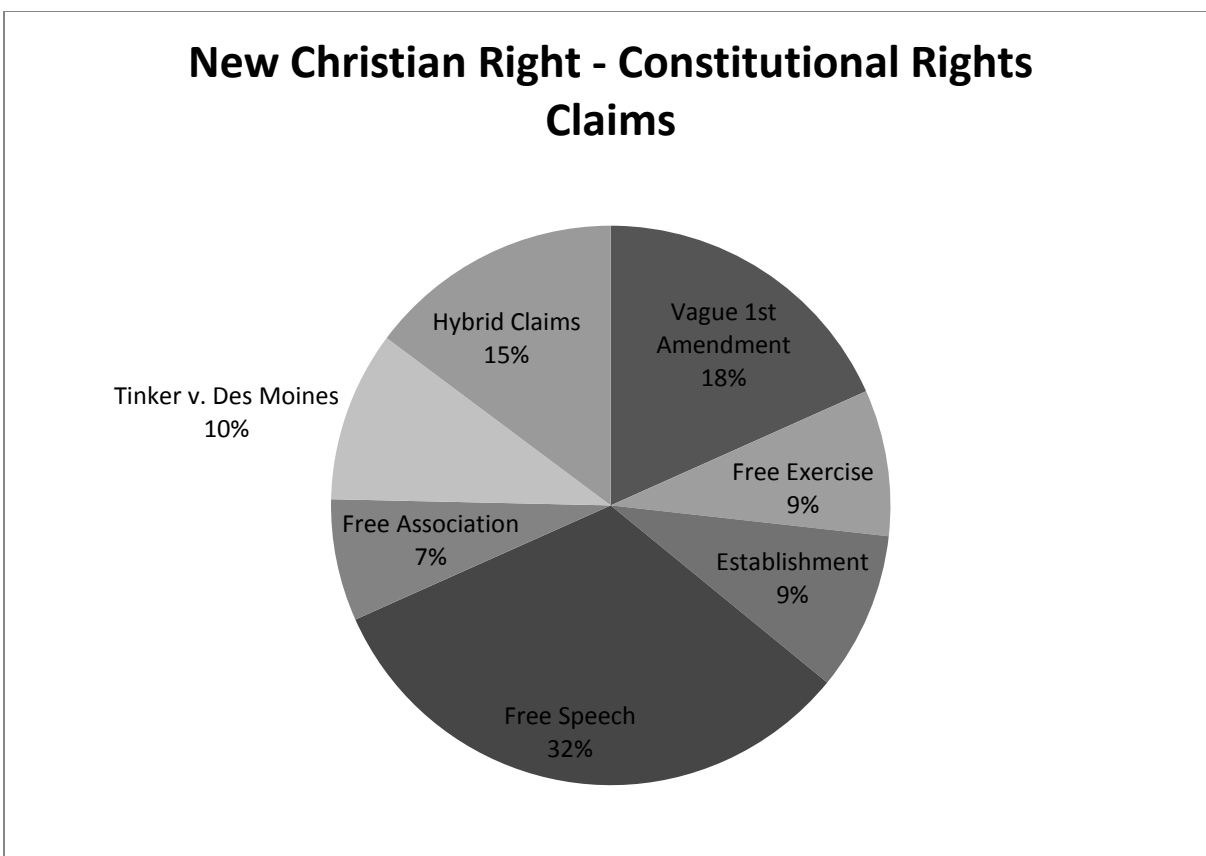
**Figure A1: Politics of Victimization Subcategories as a Percentage of Each Group's Politics of Victimization Arguments**

Constitutional rights claims are the second most common main category of arguments for the New Right and NCR in the content analysis. For the New Right, vague First Amendment claims are the second most commonly used subcategory of constitutional rights claims arguments. The vague First Amendment claims assert rights that are in the First Amendment that are supposed to protect religious students from various forms of discrimination. These claims are made without specifying which portion of the First Amendment offers the proffered protection. However, the 33% of the arguments that assert free associational rights, and the additional 24% of the arguments that assert free speech rights (the third most common subcategory of constitutional rights for this content analysis), suggest which portions of the First Amendment are most likely seen as being supportive of religion in public schools. Figure A2 present the coded subcategories for the New Right's constitutional rights claims arguments.



**Figure A2: New Right's Subcategories of Constitutional Rights Claims Arguments as a Percentage of Their Constitutional Rights Claims Arguments**

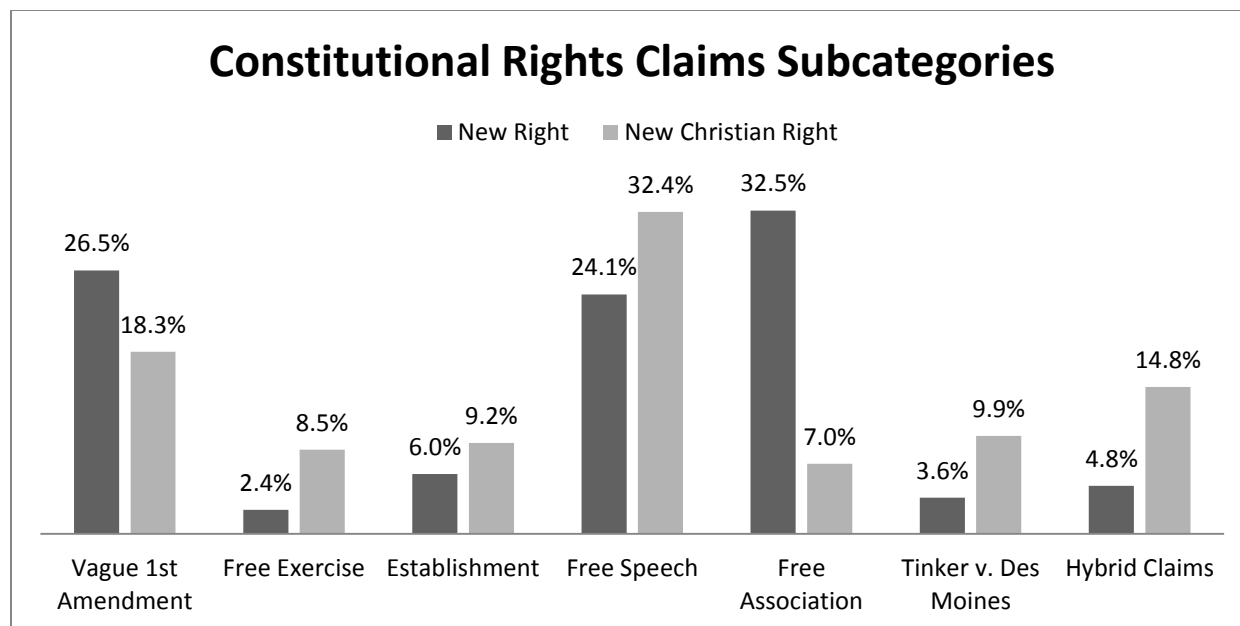
In addition, the second most common subcategory of constitutional rights claims arguments for the NCR is once again vague First Amendment claims, accounting for 18% of the relevant arguments. The NCR's third most common subcategory, accounting for 15% of their constitutional rights claims arguments, is hybrid claims. The next two categories, constituting another one-third of the NCR's constitutional rights claims arguments, could speak to the specific religion protections, but are either vague or claim a combination of rights. The vague claims do not specify which part of the asserted First Amendment offers the claimed protections, and the hybrid claims claim a "religious right" to some other constitutional right. These hybrid claims do not invoke the religion clauses specifically, but at least attempt to assert a specifically religious right to protect religion in schools. The prevalence of these hybrid claims is interesting, especially when compared to arguments that actually claim protections under one of the religion clauses.



**Figure A3: New Christian Right's Subcategories of Constitutional Rights Claims Arguments as a Percentage of Their Constitutional Rights Claims Arguments**

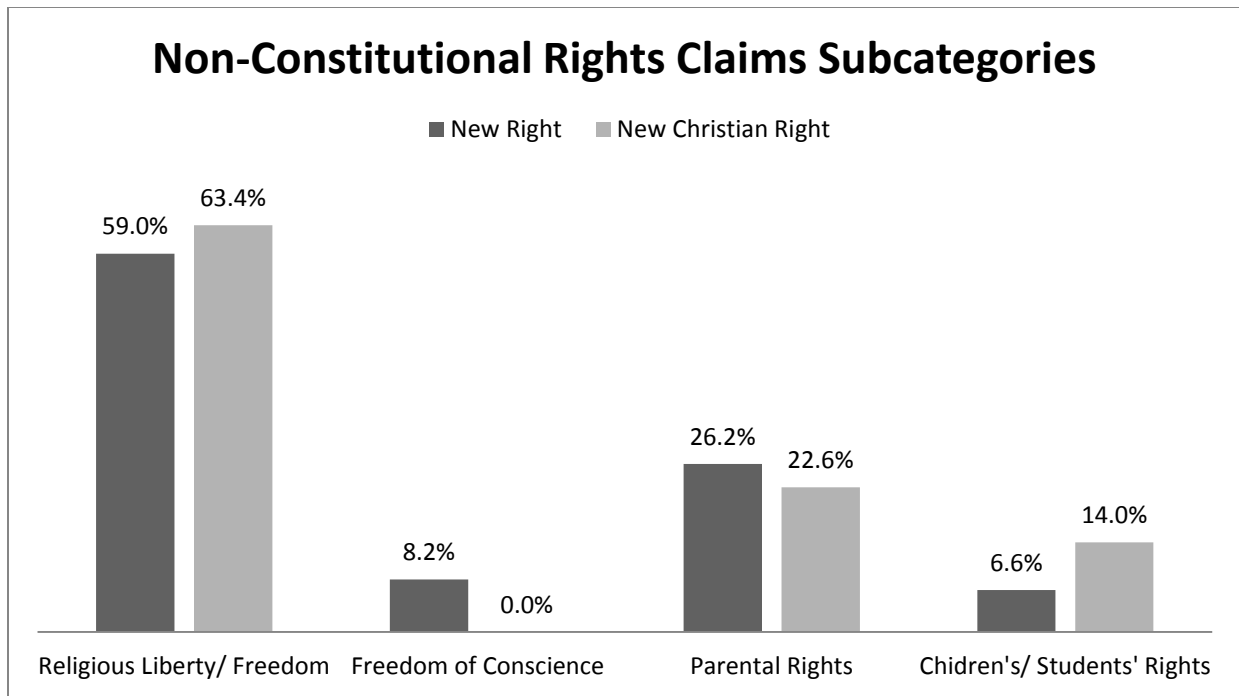
One additional point is worth making here. While the New Right's most common subcategory is free association, this subcategory is the least common for the NCR (as it was in the previous content analysis as well). Only 7% of the NCR's constitutional rights claims arguments claim free association rights. Thus, while the New Right is incredibly concerned with the rights of religious students to freely associate with other religious individuals, this is not an argument widely asserted by the NCR. This marks a substantial diversion in argumentation between the New Right and the NCR. The NCR appears, based on the arguments that they make, to be less concerned with controlling group membership as they are with protecting the rights of individuals to speak out about their faith and to express their beliefs. This free speech concern appears important for the New Right, but to a lesser degree. Figure A4 shows a side-by-side comparison of the New Right's and NCR's Constitutional Rights Subcategories, showing where these two groups diverge in

emphasis. As Figure A4 shows, the specific constitutional rights invoked are the main place where the NCR's argumentation diverges from the New Right's. However, as highlighted in Chapter 3, what is most notable here is the lack of reliance on the religion clauses, especially when compared with appeals to free speech and free association rights.



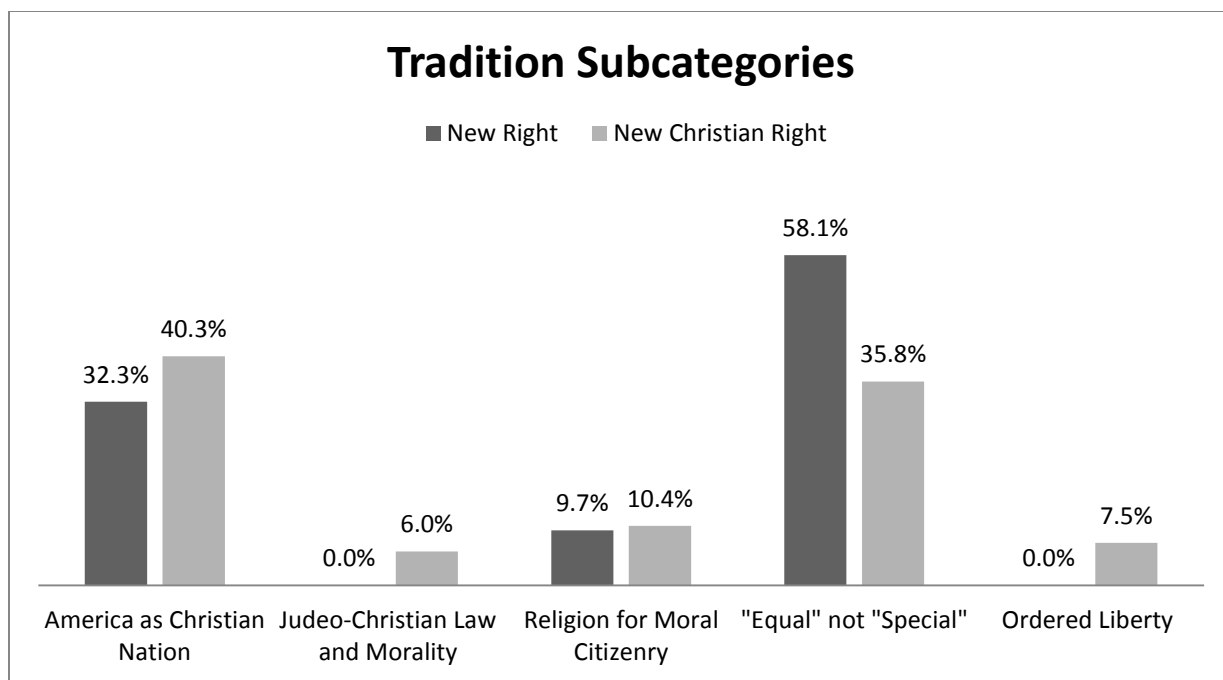
**Figure A4: Subcategories of Constitutional Rights Claims Arguments as a Percentage of Each Group's Constitutional Rights Claims Arguments**

Turning to non-constitutional rights claims subcategories, the NCR does not make a single freedom of conscience or conscience rights argument regarding religion in public schools. The lack of any conscience arguments is interesting in light of the New Right's occasional use of such arguments. Moreover, in keeping with the findings, it shows another way in which the NCR appeals to free speech over the religion clauses, or in this case the closely related idea of conscience. Figure A5 serves to again display the commonality in argumentation between the New Right and NCR in the content analysis.



**Figure A5: Non-Constitutional Rights Claims Subcategories as a Percentage of Each Group's Non-Constitutional Rights Claims Arguments**

The tradition subcategory show that the NCR relies heavily upon arguing that America is a Christian nation, and that they are asking for the equal rights of all Americans, not special rights for religion. This is in keeping with the equality theme running throughout their mobilization discussed in Chapter 3. It is also consistent with the NCR's focus on preserving the status and relative social privilege that Christians enjoy in American society, as I argue in Chapter 6. Also noteworthy is that the New Right emphasizes equality more than the NCR, perhaps because the New Right is highly invested in the use of "special rights" logic in many other social issues (see Dudas 2008; Goldberg-Hiller and Milner 2003; Herman 1997). Figure A6 displays the New Right's and NCR's use of the various tradition subcategories of arguments.



**Figure A6: Tradition Subcategories as a Percentage of Each Group's Tradition Arguments**

Finally, while the special rights code accounts for a small portion of the New Right's and NCR's arguments (3% and 5%, respectively), it is worth examining this code. The documents in the content analysis primarily focus on expressing victimhood and advancing arguments justifying religious rights in the educational context. This means the primary focus of these documents is the religious themselves, and not others who are making rights claims of their own. This alone helps to explain the small number of special rights arguments, as these documents do not focus on the rights claims of others so much as what is happening to the religious, and what they are trying to do about this condition. While the nature of the documents in this content analysis leads to not covering many opposing rights claims, the small number of special rights arguments is not without meaning. The fact that the New Right and the NCR are making special rights accusations here at all indicates that they do see the rights they are claiming as being different from those who are on opposing sides

of various rights-based conflicts.<sup>117</sup> This “other” includes the LGBT community as well as advocates for a strict separation of church and state.

Looking at the New Right’s subcategories, we see that 40% of their special rights arguments are arguments asserting that the rights claimed by others are not equal rights, but rather special rights. The other two subcategories, that laws should protect everyone (and not just special groups) and that a group using the law and rights against the religious is a powerful minority both constitute 30% each of the New Rights’ special rights arguments. Again, while this captures very few of the New Rights’ arguments, we do see a slightly higher emphasis on attacking the legitimacy of the rights asserted by the opposing side when rights are seen as in conflict. However, the rough parity of all three categories shows a relative balance in the arguments asserted against those who are claiming rights that could potentially infringe on the rights of the religious within the school context.

The NCR evinces a different pattern of special rights argumentation. The NCR’s most common argument, at 38% of the special rights subcategories, is arguments that the law should protect everyone. This shows a focus, again, on the idea of equality in the law. The law should protect everyone the same, and not offer “special” protections to certain groups. These arguments were most often expressed as statements against programs in schools to combat bullying of LGBT individuals. The NCR’s argument is that all children, regardless of sexual orientation, should be protected from bullying for any reason. Thus, laws or policies that stop only certain types of bullying miss the point of treating everyone equally. Of course, concern over these laws and practices that protect individuals from bullying on the basis of sexual orientation also come from a place of concern that sincere expression of religious belief would constitute bullying under these laws and policies. This suggests that the emphasis on equality, while not disingenuous, is not purely from a position of concern for treating everyone equally always.

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<sup>117</sup> The subcategory of “Traditional” arguments that involves claims that what is sought is “traditional, equal” rights and not “special” rights also captures this phenomenon.



The NCR's second most common subcategory of special rights arguments, at 35%, is assertions of being at the whim of a powerful minority. The concern over a powerful minority exerting political power disproportionate to the group's size fits with the preponderance of politics of victimization arguments. When combined, it is not just teachers and school administrators that are seeking to drive religion out of public schools, but politically powerful minority groups that pose a threat. Primarily these are LGBT groups, through their own rights mobilization, that threaten religion's place in public schools and the assertion of religious rights in public schools.

Finally, the last subcategory of special rights arguments, that what is being claimed are not equal rights, accounts for the remaining 27% of the NCR's special rights arguments. While this was (narrowly) the most common subcategory of special rights arguments for the New Right, it is the least common for the NCR. Again, the pool of arguments here is small, so I do not want to overgeneralize. Nonetheless, this distinction is still suggestive of a difference in emphasis. The NCR is largely focused on a theme of equality that runs through much of their rights mobilization, much more so than merely attacking those who do not agree with their arguments. This is not to say that the NCR documents are devoid of such attacks, but rather that their arguments are largely built around the idea of demonstrating the mainstream nature of what they are claiming as core equal rights available to all Americans.

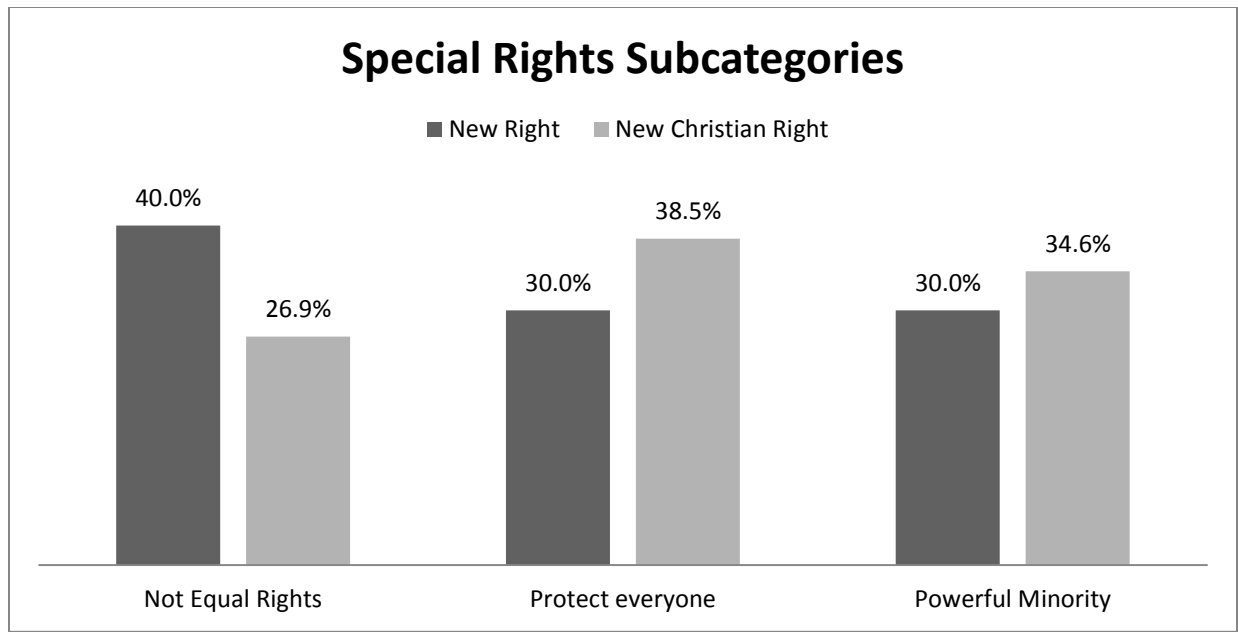


Figure A7: Special Rights Subcategories as a Percentage of Each Group's Special Rights Arguments

Table A2 compares the NCR and the New Right across all categories and subcategories for which I coded. Numbers are presented as percentages of the arguments made by each group.

Despite the differences discussed above, the table below shows far more similarity in argumentation between the NCR and New Right than it shows differences.

**Table A2: Coded Categories as a Percent of Each Group's Overall Arguments**

<b>Percent Comparison Across All Categories Coded</b>			
<b>5 Main Categories of Codes</b>	<b>Total</b>	<b>New Right</b>	<b>New Christian Right</b>
Special Rights	4.5%	3.5%	5.0%
Politics of Victimization	36.4%	36.0%	36.6%
Constitutional Rights Claims	27.9%	28.7%	27.5%
Non-Constitutional Rights Claims	19.1%	21.1%	18.0%
Tradition	12.2%	10.7%	13.0%
<b>Percent for Each Group Across All of the Group's Codes - Subcategories</b>			
<b>Special Rights</b>	<b>Total</b>	<b>New Right</b>	<b>New Christian Right</b>
Not Equal Rights Claimed	1.4%	1.4%	1.4%
Protect Everyone	1.6%	1.0%	1.9%
Powerful Minority	1.5%	1.0%	1.7%
<b>Politics of Victimization</b>	<b>Total</b>	<b>New Right</b>	<b>New Christian Right</b>
Religious Discrimination	20.1%	19.4%	20.5%
Social Engineering	10.5%	10.0%	10.8%
Political Correctness	4.8%	6.2%	4.1%
Declining Religious Freedom/ Liberty	0.9%	0.3%	1.2%
<b>Constitutional Rights Claims</b>	<b>Total</b>	<b>New Right</b>	<b>New Christian Right</b>
Vague 1st Amendment Claims	6.0%	7.6%	5.0%
Free Exercise	1.7%	0.7%	2.3%
Establishment	2.2%	1.7%	2.5%
Free Speech	8.2%	6.9%	8.9%
Free Association	4.6%	9.3%	1.9%
<i>Tinker v. Des Moines</i>	2.1%	1.0%	2.7%
Hybrid Claims	3.1%	1.4%	4.1%
<b>Non-Constitutional Rights Claims</b>	<b>Total</b>	<b>New Right</b>	<b>New Christian Right</b>
Religious Liberty/ Freedom	11.8%	12.5%	11.4%
Freedom of Conscience	0.6%	1.7%	0.0%
Parental Rights	4.6%	5.5%	4.1%
Children's/ Students' Rights	2.1%	1.4%	2.5%
<b>Tradition</b>	<b>Total</b>	<b>New Right</b>	<b>New Christian Right</b>
America as Christian Nation	4.6%	3.5%	5.2%
Judeo-Christian Law and Morality	0.5%	0.0%	0.8%
Religion Necessary for Moral Citizenry	1.2%	1.0%	1.4%
"Equal" not "Special" Rights Sought	5.2%	6.2%	4.6%
Ordered Liberty	0.6%	0.0%	1.0%

## **Appendix B**

### **Demographic Data and Chronology of Additional Legal Disputes Involving Prayer in Louisiana Public Schools**

In this appendix I offer an expanded view of the demographics of Ouachita Parish. I also offer more background regarding the case discussed in this chapter. This expanded context further fleshes out the context and history of the dispute around school prayer analyzed in Chapter 4. I contend that this expanded context provides for a more robust case study, while not critical for understanding the basic conflict.

#### **Expanded Demographic and Election Data**

The median household income for the Ouachita Parish School District in 1999 was \$35,788 with 14% of all households in the district living below the federal poverty line (National Center for Education Statistics 2000b; 2000c). The national median household income for the same year was \$41,994 (Welniak and Posey 2005, 4). The median household income in the Ouachita Parish School District is 85% of the national median. Louisiana, as a state, was ranked near the bottom of states for median household incomes in 1999, with only Arkansas, Mississippi, and West Virginia having lower median household incomes (Welniak and Posey 2005, 6). The Ouachita Parish School District, nonetheless, was slightly higher than Louisiana's median household income, which was \$32,566 (Welniak and Posey 2005, 6). Thus, the case occurs in a relatively poor parish by national standards, but one that is slightly above the state's average. These economic factors could play a part in the decision to turn to prayer in schools (see Frank 2004; Hunter 1991), but there is no evidence in the case itself to warrant exploring the possibilities at length. However, given the connection between economic hardship and a populist embrace of in-group rhetoric, these economic statistics are worth noting (e.g., Greenhouse, Yngvesson, and Engel 1994; Kazin [1995] 1998).

In 2000, the Ouachita Parish School District's population was 80% "white alone," 18% "black or African-American alone," with the remaining 2% identifying as another racial

classification, including “two or more races” (National Center for Education Statistics 2000d). There is strong racial homogeneity running throughout the Ouachita Parish School District. In addition, as described in Chapter 4, there is also strong religious homogeneity in the population. While the numbers are not as overwhelming as the racial divide, a majority of religious adherents in Ouachita Parish identify as Southern Baptist, and even more identify as evangelical. The racial and religious homogeneity suggest increased likelihood of shared cultural traditions and beliefs. This homogeneity is useful for lending itself to things like acceptance of school prayer even before the 1999 law was passed. The potential cultural homogeneity also explains the surprise from within the community when someone spoke out against a long-standing practice that was assumed to be acceptable to all. This depiction of a shared, homogenous culture is furthered when looking at presidential elections as a marker of regional ideology.

Ouachita Parish has a long history of voting conservatively, typically for the Republican Party, in presidential elections. In 1948 Ouachita Parish, along with the state of Louisiana, voted for Strom Thurmond’s State’s Rights party (Political Graveyard n.d.). In 1952 Ouachita Parish, again along with the state of Louisiana, voted for Adlai Stevenson (Political Graveyard n.d.). However, since 1956, regardless of how the rest of the state voted, Ouachita Parish has voted for the Republican candidate, and often by a majority of the votes cast (Leip 2012; Political Graveyard n.d.). There is one notable exception. The only year between 1956 and 2012 when Ouachita Parish did not cast at least a plurality of votes for the Republican candidate was in 1968. Instead, in 1968 Ouachita Parish backed George Wallace and his American Independent party with 47.8% of the Parish vote (Leip 2012). These votes support the view of Ouachita Parish maintaining positions, based on political support through votes, consistent with a New Right ideology. Ouachita Parish voted for Barry Goldwater by an astounding 83.4% (Leip 2012). As mentioned, Ouachita Parish voters cast just shy of a majority of votes for George Wallace in 1968, and then gave Nixon a majority of 74.7%

of the Parish vote in 1972 (Leip 2012). Regan, in both of his elections, also enjoyed well over 60% of the Parish's popular vote (Leip 2012). While election results are not a direct measure of ideology, the prevalence of electoral support for New Right candidates, in addition to the heavily evangelical orientation of Ouachita Parish (above the national average) strongly suggests an alignment between the NCR's ideology and a majority of Ouachita Parish residents. Moreover, this alignment is evident across the rise of the New Right and the NCR.

### **Chronology of Further Legal Developments in Louisiana After *Doe v. School Board of Ouachita Parish***

The following table offers a brief overview of the many ways in which school prayer has remained an ongoing issue in Louisiana after the Fifth Circuit ruled in *Doe v. School Board of Ouachita Parish* (2001). This sustained push for school prayer suggests the continued importance of the case study in this chapter for understanding the place of school prayer in NCR mobilization and identity politics. If Louisiana is any indication, the push for, and against, school prayer will keep this an ongoing topic for the foreseeable future as neither side is satisfied with the status quo.

<b>Table B1: Integration of Public Education and Religion After <i>Doe v. School Board of Ouachita Parish</i></b>	
<b>Year</b>	<b>Event</b>
2002	Louisiana legislature officials place the word “silent” back into their prayer and meditation law that was challenged in <i>Doe v. School Board of Ouachita Parish</i> (Silent Prayer or Meditation; Pledge of Allegiance 2002).
2002	Court order requires Louisiana to stop using public dollars to fund religious education related to its Governor's Program on Abstinence (GPA). In 2004 more questions arise regarding to extent to which the GPA is still endorsing specific religious beliefs and teachings ( <i>Advocate</i> 2004; American Civil Liberties Union 2005).

2005	The Tangipahoa Parish School Board is ordered by a U.S. district court to stop specific prayer practices before its meetings. The school board voted unanimously to keep their meeting's prayer decidedly Christian, rather than make it non-sectarian. On appeal in 2006, the 5th Circuit upholds a narrow version of the district court ruling, pertaining to four specific Christian prayers mentioned in the case. In 2007, through an <i>en banc</i> opinion, the 5th Circuit dismissed the case on standing grounds. The Tangipahoa Parish School Board was aided in their efforts by the NCR legal organization Alliance Defending Freedom ( <i>Doe v. Tangipahoa Parish School Board</i> 2005; 2006; 2007; Tapper and Sandell 2005).
2007	Prayer at Ouachita Parish schools becomes an issue again, this time involving graduation prayer. The ACLU and Liberty Counsel face off on opposite sides after six high schools in the Ouachita Parish School District voted to allow a student to give a message during graduation (Huntington 2007; Liberty Counsel 2007).
2008	A federal district court judge found a Tangipahoa Parish middle school's practice of allowing Gideons to pass out Bibles outside of the principal's office in the middle school to be a violation of the First Amendment's Establishment Clause (Associated Press 2008).
2008	In 2008, the Louisiana Legislature introduced and passed the Louisiana Science Education Act (LSEA). The LSEA, under the guise of an "academic freedom" law, allows teachers to bring in unapproved supplemental materials to add to science education. Critics view the law as a means to introduce creationism and intelligent design into science classrooms. This view is expressed in no small part because the Louisiana Family Forum, a prominent NCR group within Louisiana, lobbied heavily to have the law introduced. There have been subsequent attempts to have the law repealed, but these have failed to get past the Louisiana Legislature's Senate Education Committee. Despite a widespread backlash, including support from 78 Nobel laureate winning scientists, the law has not been successfully challenged or repealed (Barrow 2011; Repealing the Louisiana Science Education Act n.d.).
2011	A mere 30 miles to the northeast of West Monroe High School saw another high school embroiled in controversy over prayer at high school graduation. A graduating senior at Bastrop High School contacted his school and the ACLU about the scheduled prayer at the upcoming high school graduation. After a letter from the ACLU, and at the recommendation of the school's own lawyer, Bastrop High School changed the plans for graduation to reflect a moment of silence rather than an official prayer. Liberty Counsel contacted Bastrop High School, told them that they did not need to remove the prayer from the ceremony, and offered to represent the school <i>pro bono</i> . However, when another graduating senior was selected to lead the moment of silence, she took it upon herself to instead recite the Lord's Prayer. Administrators at the school expressed confusion as to why anyone would complain about school prayer when this is a practice that has existed at the high school for at least 25 years, and most likely longer (CBN News 2011; Liberty Counsel 2011).

2013	<p>State Rep. Katrina Jackson, who represents a portion of Ouachita Parish in the Louisiana Legislature, introduced a bill that would require public schools to have policies in place for the recitation of the Lord's Prayer. The bill had a number of elements garnered towards emphasizing the role religion has played in America's founding, as well as throughout American history. Moreover, "The recitations [of the Lord's Prayer and the Pledge of Allegiance] shall be conducted so that students learn of America's great freedoms, including the freedom of religion symbolized by the recitation of the Lord's Prayer" (House Bill 660). National backlash to the inclusion of the Lord's Prayer in public schools led to the bill's reformulation into a different means of including religion in public schools. The bill ultimately became a means of ensuring that students, teachers, parents, and other community officials may prayer on school grounds during non-instructional times. The amended bill was passed and signed into law (Prayer; Student-Initiated; Conditions 2013).</p>
2014	<p>A Sabine Parish public school came under pressure for being completely sufficed with Christianity. Many teachers led their classes in vocalized prayer. Almost all official school functions began with prayer led by teachers, administrators, or sometimes students. Christian imagery and quotes were prominently displayed all over the school, and even showed up on various (largely science) exams. One student, a sixth grader who is a Buddhist, was publically bullied by his teacher who called Buddhism "stupid" and mocked the child for missing science questions where the "answers" were literal interpretations of the Bible. When confronted with these allegations, the superintendent asserted that Sabine Parish is in the "Bible belt," so this is to be expected. She continued by asking if the student "has to be raised Buddhist" or if he could "change" his faith. She also sent a letter to the child's principle supporting the school's embrace of Christianity. The ACLU filed a lawsuit on behalf of this student and his family in January 2014. In March 2014 the court entered a consent decree requiring the school district to cease all unconstitutional religious activity and also requiring First Amendment training for all school staff in the district (Cohen 2014; Weaver 2014).</p>



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