

Secularisation by the ‘sacred’? Discourses of ‘religion’ and the San Francisco Peaks

**Seth Schermerhorn
(Arizona State University)**

Abstract: *This article examines discourses of ‘religion’ and considers whether discourses of religion may be considered secularising discourses in the context of the San Francisco Peaks, which various American Indian tribes in the southwestern United States have struggled for decades to protect from what many have described as ‘desecration’. It suggests that although indigenous practitioners and advocates may employ a variety of discourses and categories of religion in their efforts to protect the San Francisco Peaks, these discourses are not necessarily secularising discourses. Most importantly, this article argues that Western categories do not apply to indigenous traditions and that even when indigenous peoples use these discourses and categories, they do not necessarily use them in the same way that Westerners do. Therefore, the question of whether discourses of religion may be considered secularising discourses is not applicable in the context of the San Francisco Peaks.*

For decades, various tribes in the southwestern United States have sought to protect the San Francisco Peaks from what have been described as continuing threats of ‘desecration’. However, in order to protect the San Francisco Peaks as a ‘sacred place’, native practitioners and advocates have employed the foreign categories of ‘religion’ and the ‘sacred’. In this paper, I consider whether this strategy of invoking explicitly (Christian) religious claims, may have simultaneously and inadvertently secularised indigenous discourses concerning the significance of the San Francisco Peaks. First, I demonstrate the complexity of distinguishing between that which might be considered secular or religious in the context of the United States in which each are contingent and mutually constituting categories. I then consider secular discourses of religion that confine religion to inconsequential belief and as a result consider how these discourses of religion may be secularising discourses. Finally, I ask whether discourses of religion might be considered secularising discourses in the context of the San Francisco Peaks case.

The collusion of Christianity and secularism in the United States

To begin, it must be noted that nothing is essentially 'religious' or, for that matter, essentially 'secular'.¹ Although these two categories depend on each other, scholars commonly make a number of mistakes in defining the relationship between them. In addition to the false assumption that the religious is somehow separate from the secular, numerous scholars have asserted that the secular, despite assertions to the contrary, is in fact religious.² Talal Asad argues that the secular 'is neither continuous with the religious that supposedly preceded it (that is, it is not the latest phase of a sacred origin) nor a simple break from it (that is, it is not the opposite, an essence that excludes the sacred)'.³ Between both of these essentialist definitions, Asad views the religious and the secular as culturally and historically contingent discursive categories whose boundaries are not fixed but rather are subject to contestation, and whose meanings are constantly changing.

Nonetheless, even though the secular is not essentially religious, there are significant continuities between Christianity and secularism that cannot be disregarded in the context of the United States. Tracy Fessenden argues that claiming, as Noah Feldman and others have, that the 'deep divide in American life' is over the appropriate role of religion in politics, 'is to potentially obscure the history by which Protestants have set the terms of this debate'.⁴ Therefore, in order to get at the complicity of Christianity and secularism in the United States, one must scrutinise Fessenden's 'unmarked Christianity' and Catherine Albanese's 'public Protestantism'.⁵ Fessenden asks:

How have specific forms of Protestant belief and practice come enduringly to be subsumed under the heading of 'Christian' – to the exclusion of non-Protestant and differently Protestant ways of being Christian – and how, in many cases does the 'Christian' come to stand in for the 'religious' to the exclusion of non-Christian ways of being religious?⁶

In response to this question, Fessenden asserts that '[p]art of the answer surely lies in the ability of a Protestantized conception of religion to control the meanings of both the religious *and* the secular'.⁷

To illustrate the complicity of Christianity, particularly in its Protestantised forms, with secularism in the United States, I turn to a critique of what Kenneth Craycraft calls the four myths of secular liberalism which he outlines in *The American Myth of Religious Freedom*.⁸ According to Craycraft, the first of these myths is:

that the American founding is essentially religious, and that it grants the highest possible respect and liberty to religious belief, especially to orthodox Christianity; indeed that it must be seen as favoring religion over irreligion... The second myth understands the strongly secular basis of the founding and celebrates it, but mistakenly thinks that it affords the orthodox religious person the same quality of freedom as the liberal religious or secular person... The third myth is that religious liberty is possible in any political regime... The fourth myth... [is that the modern secular liberal regime] is a product of Christianity.⁹

I argue that the current regime in the United States is best understood as simultaneously secular and religious, and that there is much collusion between the two in order to preserve the status quo. Thus, the only myth that I can accept is myth three – 'that religious liberty is possible in any political regime' – or, restated as a premise that I can accept, that religious freedom is an impossibility.

Although I agree with Craycraft that 'the only regnant definition of religious liberty in American political discourse is one that has designs on marginalizing', I cannot agree that 'Christians have no stake in' the [secular] liberal argument for 'religious liberty'.¹⁰ To be sure, many Christians in the United States do in fact have a substantial stake in secular liberal regimes, particularly those Christians who constitute Albanese's 'public Protestantism' and Fessenden's 'unmarked Christianity'. However Craycraft proclaims an allegedly pre-secularised Christian

essence. Although one may sympathise with the impulse to lift a putatively ‘pure’ form of Christianity from the arbitrary standard that it shares with secular liberal regimes, such a project is not realistic; in the United States, a particular form of Protestantised Christianity has been established. Moreover, for many the arrangement of these Protestantised Christianities within the secular liberal regime is a relatively comfortable fit – far more comfortable than for many adherents and practitioners from traditions that are less accommodated.

Secularism’s discourses of religion and the impossibility of religious freedom

In spite of the often-compelling rhetoric of religious freedom, there can be little doubt that putatively secular regimes favour those religions that reassert secular norms and pose no threat to the secular state. For instance, Asad argues that:

from the point of view of secularism, religion has the option either of confining itself to private belief and worship or of engaging in public talk that makes no demands on life. In either case such religion is seen by secularism to take the form it should properly have. Each is equally the condition of its legitimacy.¹¹

Conversely, any ‘movement that aspires to more than mere belief or inconsequential talk in public’ effectively and directly comes into conflict with the power of the secular state.¹²

Winnifred Fallers Sullivan argues that mandating ‘[i]legally enforced religious freedom as a political goal denies and conceals the profound ambivalence toward religion.’¹³ More to the point, according to Eric Mazur, ‘the task of the American constitutional order is to provide religious freedom while preserving itself.’¹⁴ However, since the state’s preservation of itself trumps any of its concerns for ‘religious freedom’, if the ideal is to retain any meaning, it must be substantially restricted and rearticulated.

Sullivan asserts that '[w]hile the legal protection of religious freedom as a political idea was arguably once a force for tolerance, it has now arguably become a force for intolerance.'¹⁵ Craycraft similarly denounces the perverse irony that 'in the name of protecting individual religious liberty, individual religious liberty is abridged.'¹⁶ Therefore, if 'religious liberty is merely a means to the end of protecting the state', as Craycraft argues, then '[r]eligion which does not advance the good of the regime – including the regime of religious liberty which privatizes religion – is not [from the position of the secular state] legitimate religion.'¹⁷

Distinguishing between the secular and the religious is anything but a neutral act, perhaps especially when the secular state and its agents are doing the classifying. Sullivan asserts that most Americans 'would recoil at the idea that a federal judge should be deciding in a federal court, for the purposes of secular law, what does and what does not count as real religion.'¹⁸ Furthermore, any judicial test of what counts as religion is problematic: beyond the general difficulty defining religion, there is always the likelihood that courts will favour the familiar over the strange. This is perhaps especially a concern for American Indians. As Winona LaDuke remarks 'in the end there is no absence of irony: the integrity of what is sacred to Native Americans will be determined by the government that has been responsible for doing everything in its power to destroy Native American cultures.'¹⁹

As has already been suggested by Albanese and Fessenden, Tisa Wenger asserts that '[i]n the United States, the "secular" carries with it strikingly Protestant assumptions and norms.'²⁰ However, it is not only the secular that is characterised by Protestant assumptions and norms, but also the 'allowable religious', since each category implies the other. Therefore, since the Protestant origins of our notions of the secular and the sacred continue to exert such influence, they also limit the articulation of alternate visions of the role of religion in society.²¹ Because religion has largely been conceptualised within the American legal system as a private and individual affair, practitioners of communal and land-based traditions encounter much difficulty in their contemporary efforts to seek the protection and return of

sacred lands, the repatriation of human remains and cultural artifacts, and so forth, on the basis of freedom of religion.²²

Thus, in order to better understand the kind of religion that is given preferential treatment within secular regimes, it is useful to turn to Winnifred Sullivan and Bruce Lincoln's differentiation between two ideal polarised models of church–state relations. What Sullivan calls 'protestant' and 'catholic' models of church–state relations may also be productively understood as more or less equivalent with what Lincoln calls 'minimalist' and 'maximalist' models of religion.²³ According to Sullivan, the 'protestant' or 'minimalist' model understands religion as being 'private, voluntary, individual, textual, and believed', as opposed to 'catholic' or 'maximalist' models of religion as '[p]ublic, coercive, communal, oral, and enacted'.²⁴ Whereas the 'protestant' or 'minimalist' model came to be understood as 'true' religion, and therefore 'free', the 'catholic' or 'maximalist' model came to be understood as 'false' and therefore in need of regulation by the secular state.²⁵ Consequently, 'free' religion is always already regulated, in that it is individualised, privatised, depoliticised, dematerialised and spiritualised. Concerning 'minimalist' religion, Wenger argues that once '[s]eparated and abstracted from other spheres of life, "religion" becomes the picturesque repository of tradition and sentiment, made irrelevant to what appear as the more real-world concerns of land and government.'²⁶

As Russell McCutcheon has argued, the categorisation of what counts as religion in a secular legal context is essentially a distinction between that which is:

more allowable than prohibited, more private than public, more religious than secular – simply put, more empty, more inconsequential, more tolerable, and therefore in less need of governance, or more full, more consequential, more intolerable, and thus in greater need of regulation.²⁷

Similarly, in relation to modern secular law defining for its own purposes what may count legally as religion, Sullivan argues that ‘when the government gets into the business of defining religion, it gets into the business of establishing religion. The result is necessarily discriminatory. To define is to exclude, and to exclude is to discriminate.’²⁸

In order to differentiate and discriminate between the legally allowable religious and that which must be prohibited, secular states have developed discourses of religion that work by ‘excluding some utterances and practices and including others.’²⁹ Elizabeth Shakman Hurd, following Asad’s understanding of traditions as discourses, argues that there are:

two trajectories of secularism, or two strategies for managing the relationship between religion and politics... laicism and Judeo-Christian secularism. The former refers to a separationist narrative in which religion is expelled from politics, and the latter to a more accommodationist narrative in which Judeo-Christian tradition is the unique basis of secular democracy. These forms of secularism are discursive traditions.³⁰

However, I suggest that Hurd’s differentiation between separationist and accommodationist modes are merely two rhetorical strategies within a single discursive tradition of an undeniably Christian American secular liberalism. These two discursive modes are strategies with which the secular state constantly reconstitutes the contingent boundaries of the legally allowable religious, incorporating only those traditions that have been sufficiently Protestantised and secularised, while excluding those traditions that have not.

Religion as a discourse of secularisation

According to Tomoko Masuzawa, ‘[t]he modern discourse on religion and religions was from the very beginning – that is to say, inherently, if also ironically – a discourse of secularization; at the same time, it was clearly a discourse of

othering.³¹ While I have already begun to address the ‘othering’ capacities of discourses of religion, I have not yet addressed how discourses of religion may also be considered discourses of secularisation, or secularising discourses, in and of themselves. However, before I can begin to attend to whether something may be considered to be a secularisation, I must define what I mean by using the term. Therefore, I will briefly describe various ways in which the term has generally been used and then define secularisation as I use it.

Perhaps the most pervasive understanding of secularisation has been the notion that secularisation is a process of religious decline. Moreover, it has commonly been understood that this notion is an historical inevitability. Despite the innumerable prophecies of many secularisation scholars, religion is not about to disappear. When I use the term secularisation, I do not mean the decline of religion. I prefer to conceptualise secularisation as the differentiation of the mutually constituting secular and religious spheres.³² According to Richard King:

Other cultures and pre-Enlightenment Western culture did not view the human social world in this [segmented and differentiated] manner – they simply did not carve up the world in the way that we do. Religious phenomena were always seen as part and parcel of political, social and other cultural forms. The separation of religion from these is founded on a secular Enlightenment approach.³³

Thinking of secularisation as the differentiation of spheres is useful, so long as these spheres are understood to be socially constructed and not mere essences.³⁴

Additionally, secularisation may also describe a process of the privatisation and concomitant marginalisation of religion.³⁵ In a sense, secularisation as differentiation, privatisation and marginalisation dovetail nicely with one another as constructivist theories. As King argues, ‘while it is not true to say that religion is dying out in the Western world, it is certainly true to say that religion has been increasingly located at the margins of society, that is, away from the major centres of

power and authority.³⁶ Similarly, Masuzawa conceives of secularisation as depoliticisation and spiritualisation.³⁷ When I use the term secularisation – and I use it as a descriptive rather than a prescriptive category – I mean these associated processes of differentiation, privatisation, and marginalisation.

However, I conceive the term secularisation more broadly. Charles Taylor discusses what he calls the secularisation of ‘the conditions of belief’. According to Taylor, ‘[t]he shift to secularity in this sense consists, among other things, of a move from a society where belief in God is unchallenged and indeed, unproblematic, to one in which it is understood to be an option among others, and frequently not the easiest to embrace.’³⁸ In this view, as a result of secularisation, ‘belief is an option’.³⁹ Because I do not think of religion as belief – indeed, to do so is to adopt and promote a prescriptive form of secularisation in which religion is properly confined to the domain of belief – I prefer a slightly altered form of this secularisation theorem. With Michel de Certeau, I have come to think of secularisation as a process of changing conditions of the thinkable.⁴⁰ Lamenting the effects of secularisation upon the thinkable as a Jesuit theologian, de Certeau protests ‘one writes religious history *because* one is a Christian (or a priest, or a member of an order), while one can no longer write it as a Christian.’⁴¹ Moreover, criticising secular modernity’s marginalisation of religion and scientific invasion of the thinkable, de Certeau complains, ‘a society which is no longer religious imposes *its* rationality, *its* own categories, *its* problems, and *its* type of organization upon religious formulations.’⁴² As I see it, secularisation as the changing conditions of the thinkable complements and nuances conceptualisations of secularisation as differentiation, privatisation, and marginalisation. When I use the term secularisation, these are the interrelated processes to which I am referring.

Therefore, to speak of ‘religion’, especially as a private affair, as something that is supposedly somehow separate from other domains of life – for instance, the notion of religion as belief – may itself constitute a secularising discourse, reconstituting a privatisation of religion and a differentiation and segmentation of everyday life that

are hallmarks of secularisation. In light of this, discourses of religion may also be considered secularising discourses, functioning both descriptively and prescriptively.

Secularisation by the ‘sacred’ at the San Francisco Peaks?

If discourses of religion are secularising discourses, then can one reasonably speak of a secularisation by the mere employment of the category of religion and associated concepts such as the ‘sacred’? Or, stated more precisely for my purposes, do contemporary indigenous discourses asserting the sacredness of the San Francisco Peaks constitute a process of secularisation, understood as changing conditions of the thinkable?

For over four decades, various tribes in the southwestern United States have sought to protect the San Francisco Peaks from what have been described as continuing threats of ‘desecration’. However, in order to protect the San Francisco Peaks as a sacred place, American Indian practitioners and advocates have employed the foreign categories of ‘religion’, ‘sacred’ and the like, all of which are implied by the employment of the term ‘desecration’. While the employment of such discourses has resulted in some limited gains in the present dispute over the use of treated sewage effluent in the manufacture of snow by the Arizona Snowbowl ski resort that is located on the mountain, these limited gains have not come without costs. Although it may be too early to adequately assess these costs, one might suppose that one of these costs has been the increased secularisation of indigenous discourses of the San Francisco Peaks. For example, rather than speaking of the Peaks as a ‘person’, the Peaks have been commonly and perhaps even increasingly described as a ‘church’. If traditional religious practitioners and indigenous advocates are referring to this mountain as a ‘thing’ (a ‘sacred place’, a ‘church’, etc.) rather than as a ‘person’ (a living other-than-human entity with the power to help and harm human persons), might this be considered a secularisation of the thinkable in which what might be described as an animistic worldview has become disenchanting, increasingly conforming to Western secular scientific forms of thought?⁴³

In short, tribes have familiarised their own claims with a secularised Christian establishment by invoking numerous Christian analogies.⁴⁴ However, by invoking explicitly Christian religious claims, this strategy may inadvertently secularise indigenous discourses concerning the significance of the San Francisco Peaks while at the same time reinforcing secularised Christian standards of what counts as religion.

Alternatively, Christian Smith argues that one of the major problems with many secularisation theories is that numerous scholars have overemphasised religious self-destruction. Smith contends that:

[t]he irony of the idea of religion becoming its own gravedigger might have been too irresistible for secularization theorists not to accentuate. But this thematic overemphasis on the *religious* sources of secularization obscures other important actors also involved in the process.⁴⁵

Jonathan Z. Smith provides a useful analytical model for studying how courts differentiate between permissible and impermissible religious claims and how practitioners, advocates, scholars, and others utilise strategies of ‘familiarisation’ and ‘defamiliarisation’.⁴⁶ In the words of Bruce Lincoln, the purpose of these discursive strategies is ‘evoking previously latent sentiments of *affinity* or *estrangement*’.⁴⁷ These strategies are employed, most often through analogy, in court rooms and other public venues, as McCutcheon explains, in order:

to extend free exercise rights already enjoyed by some group members to a new sub-group (so long as their practices were classed as ‘religious’ and thereby carried out in private, of course), while they allowed the particular beliefs, practices, and institutions of the culture’s dominant group to be further established.’⁴⁸

According to Greg Johnson, '[t]he study of indigenous traditions and law is, then, fundamentally devoted to analyzing the strategies people(s) pursue in the process of identity articulation in the course of legal struggles.'⁴⁹ These strategies and articulations are tactical and historically contingent claims, situated within particular socio-political contexts.⁵⁰ Johnson argues that 'it is the bridge-building capacity of indigenous discourse that deserves analysis, for occasionally indigenous representatives are able to reach across... historical, geo-political, and conceptual gulf[s]'.⁵¹ Restated more generally by McCutcheon, '[t]he interesting thing to study... is not what religion is or is not, but the "making of it" process itself – whether that manufacturing activity takes place in a courtroom or is a claim made by a group about their own behaviors and institutions'.⁵²

As I see my own role as a scholar of contemporary indigenous religious traditions, I need to contextualise and analyse these discursive strategies by which indigenous peoples familiarise their own claims with non-indigenous audiences, particularly focusing on those claims made in legal contexts. But in my pursuit of yet another secularisation theory, I came close to forgetting the context in which these claims had arisen. These discursive strategies of familiarisation occurred in courtrooms and during legal battles when much was at stake and the possibility of settlement out-of-court had long ago passed. These were contingent rhetorical strategies made in court, not creedal statements chanted in unison at church.

Mazur bemoans that '[b]ecause of marked differences in worldview orientation, they [American Indians] do not readily have at their disposal the means to translate their claims into concepts acceptable to the [secular] constitutional order... In a very real sense, they are damned if they do and damned if they don't.'⁵³ To the contrary, indigenous advocates and practitioners have at their ready disposal a variety of means for translating their claims into terms that non-indigenous audiences often find not only acceptable, but also quite appealing. And while the prospects do not look good for protecting the San Francisco Peaks and so-called 'sacred lands' more generally, the situation is not as grim as Mazur supposes. Furthermore, as far as I

can tell, the employment of discourses of religion and the sacred has not necessarily changed how contemporary indigenous practitioners view their own traditions. As Wenger argues,

When Native Americans and others define indigenous traditions in terms of religion, this is a conceptual shift which may also have implications within the tradition... However, the language of religion and the sacred has become too deeply embedded in contemporary Native American cultures to consider its abandonment. These concepts have become indigenous ones, and Indians have actively reinterpreted them to fulfill indigenous needs... In the end, Native Americans may redefine the language of religion more than it changes them.⁵⁴

Not only might indigenous peoples use these concepts for their own purposes, changing discourses of religion more than discourses of religion change them, but they might also persist in finding ways of avoiding these categories altogether. For example, when Vincent Randall, a Tonto Apache (*Dilzh'e*) elder and former chairman of the Yavapai–Apache Nation was asked about his religion by a lawyer, during the eleven day bench trial of the San Francisco Peaks case, he responded, 'I don't call it a religion. I call it a way of life... if you want to call it a religion, that's your language. It's a way of life.'⁵⁵ Moreover, when the same lawyer asked if the San Francisco Peaks are sacred to his tribe, Randall said, 'We call it *Godwhi*... *Godwhi*... is a holy place.'⁵⁶ Significantly, according to anthropologist Keith Basso, the western Apache word *godwhi*, or *godiyih* may be translated both as 'holy' and 'potentially harmful'.⁵⁷ For Western Apaches, I suspect that 'things' described as *godiyih* are in fact, not 'things' at all, but rather powerful and potentially harmful other-than-human persons. If *godiyih* is a characteristic of all sources of power, as Basso asserts, and power within the Apache worldview cannot be impersonal, then Randall has not only rejected Western discourses of religion and the sacred, he has also asserted the personhood of what non-Natives call the San Francisco Peaks, and he has consciously done so in his own language and on his own terms.

Of course this is only one example, but it is an illustrative case that undermines the proposition that American Indian pleas to protect the San Francisco Peaks as a sacred place have resulted in an ironic secularisation of their traditions, resulting from their unconscious use of Western discourses of religion. Such a process of secularisation has not occurred – at least in this case – and as long as indigenous languages remain intact and American Indians continue to indigenise Western conceptual categories for their own purposes, such a process of secularisation, in my estimation, is unlikely ever to occur.

More broadly, the time has come for scholars to critically reassess previous attempts to understand indigenous traditions by using our own ethnocentric secularised Christian jargon. Employing Western categories and discourses of religion is liable not only to misconstrue indigenous understandings, but also to reinforce restrictive standards of legally permissible religion in familiarising indigenous traditions through discourses developed by a secularised Christian establishment. Moreover, it is particularly important that these attempts at familiarisation do not unduly confine indigenous articulations of those places that many contemporary American Indians have described as sacred. Alternative indigenous discourses that critically engage Western conceptual categories, illustrated only briefly by Randall's statement, are possible and in fact, already exist. In light of these other discourses, particularly those discourses of the Peaks as 'person', it is crucial to reconsider whether it is strategic to perpetuate discourses of familiarisation that are no longer effective in accomplishing indigenous goals such as the protection of the San Francisco Peaks. In continuing to uncritically employ these categories and discourses, we may not only fail to protect these so-defined 'sacred places', but we may also fail to comprehend what indigenous traditions are all about and we may find ourselves asking questions that are largely inapplicable and irrelevant to indigenous traditions, such as: are indigenous discourses of the sacredness of the San Francisco Peaks paradoxically resulting in a secularisation of indigenous traditions?

¹ Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity*, Stanford University Press, Stanford, 2003, p. 22.

² For example, Carl Schmitt pronounces the illegitimacy of the modern secular age with the declaration: 'All significant concepts of the modern theory of the state are secularized theological concepts.' Asad, *Formations of the Secular*, pp. 36, 189.

³ Asad, *Formations of the Secular*, p. 25.

⁴ Tracy Fessenden, *Culture and Redemption: Religion, the Secular, and American Literature*, Princeton University Press, Princeton and Oxford, 2007, p. 220 n. 9; Noah Feldman, *Divided by God: America's Church-State Problem – and What We Should Do About It*, Farrar, Straus and Giroux, New York, 2005, pp. 6, 253 n. 3.

⁵ Fessenden, *Culture and Redemption*, pp. 3, 5; Catherine L Albanese, *America: Religions and Religion*, Wadsworth Publishing, Belmont, California, 1998, pp. 395, 398.

⁶ Fessenden, *Culture and Redemption*, p. 4.

⁷ Fessenden, *Culture and Redemption*, p. 4. My emphasis.

⁸ Kenneth R. Craycraft Jr., *The American Myth of Religious Freedom*, Spence Publishing Company, Dallas, 1999, p. 23.

⁹ Craycraft, *The American Myth of Religious Freedom*, p. 24.

¹⁰ Craycraft, *The American Myth of Religious Freedom*, pp. 24-25.

¹¹ Asad, *Formations of the Secular*, p. 199.

¹² Asad, *Formations of the Secular*, p. 200.

¹³ Sullivan, *The Impossibility of Religious Freedom*, p. 154; reprinted in part in Fessenden, *Culture and Redemption*, p. 215.

¹⁴ Eric Michael Mazur, *The Americanization of Religious Minorities: Confronting the Constitutional Order*, Johns Hopkins University Press, Baltimore and London, 1999, p. 142.

¹⁵ Sullivan, *The Impossibility of Religious Freedom*, p. 151.

¹⁶ Craycraft, *The American Myth of Religious Freedom*, p. 17.

¹⁷ Craycraft, *The American Myth of Religious Freedom*, pp. 18, 152.

¹⁸ Sullivan, *The Impossibility of Religious Freedom*, p. 4.

¹⁹ Winona LaDuke, *Recovering the Sacred: The Power of Naming and Claiming*, South End Press, Cambridge, 2005, p. 11.

²⁰ Tisa Wenger, *We Have a Religion: The 1920s Pueblo Indian Dance Controversy and American Religious Freedom*, University of North Carolina Press, Chapel Hill, 2009, p. 15. Many other scholars, including Albanese, Fessenden, and Sullivan, have of course also made this point.

²¹ Fessenden, *Culture and Redemption*, p. 6; Wenger, *We Have A Religion*, pp. 15-16.

²² Wenger, *We Have a Religion*, pp. 15-16.

²³ Bruce Lincoln, *Holy Terrors: Thinking about Religion after September 11*, University of Chicago Press, Chicago and London, 2003, pp. 5, 60; Sullivan, *Impossibility of Religious Freedom*, pp. 7-8; Although

Sullivan does not state this, it is likely that her distinction between 'protestant' and 'catholic' is adopted from Stanford Levinson, whose *Constitutional Faith* uses the same terms in a different, but related sense. Sullivan was undoubtedly familiar with his work and she cites his book on p. 275 in her bibliography. Levinson's distinction is discussed, although not in relation to Sullivan's in Mazur, *The Americanization of Religious Minorities*, p. 15.

²⁴ Sullivan, *Impossibility of Religious Freedom*, p. 8; for Fessenden's reading of Sullivan, see Fessenden, *Culture and Redemption*, p. 220.

²⁵ Sullivan, *Impossibility of Religious Freedom*, p. 8

²⁶ Wenger, *We Have a Religion*, p. 7.

²⁷ Russell T. McCutcheon, "'They Licked the Platter Clean": On the Co-Dependency of the Religious and the Secular,' *Method and Theory in the Study of Religion*, Vol. 19, 2007, p. 192.

²⁸ Sullivan, *The Impossibility of Religious Freedom*, p. 101.

²⁹ Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*, Johns Hopkins University Press, Baltimore and London, 1993, p. 44.

³⁰ Elizabeth Shakman Hurd, *The Politics of Secularism in International Relations*, Princeton University Press, Princeton and Oxford, 2008, pp. 5, 156 n. 26; On 'the invention of the Judeo-Christian', see Feldman, *Divided by God*, pp. 164-169.

³¹ Tomoko Masuzawa, *The Invention of World Religions: Or, How European Universalism Was Preserved in the Language of Pluralism*, University of Chicago Press, Chicago and London, 2005, p. 20.

³² José Casanova, *Public Religions in the Modern World*, University of Chicago Press, Chicago and London, 1994, p. 19.

³³ Richard King, *Orientalism and Religion: Postcolonial Theory, Indian and 'The Mystic East'*, Routledge, London and New York, 1999, p. 10.

³⁴ Asad, *Formations of the Secular*, p. 200.

³⁵ Casanova, *Public Religions in the Modern World*, p. 20.

³⁶ King, *Orientalism and Religion*, p. 13.

³⁷ Masuzawa, *The Invention of World Religions*, p. 20.

³⁸ Charles Taylor, *A Secular Age*, Harvard University Press, Cambridge and London, 2007, p. 3.

³⁹ Taylor, *A Secular Age*, p. 3; see also Sullivan, *The Impossibility of Religious Freedom*, p. 156.

⁴⁰ Michel de Certeau, *The Writing of History*, trans. Tom Conley, Columbia University Press, New York, 1988, pp. 34, 132-133, 137.

⁴¹ de Certeau, *The Writing of History*, p. 139.

⁴² de Certeau, *The Writing of History*, p. 141.

⁴³ On two different excellent treatments of Native American concepts of personhood, see A. Irving Hallowell, 'Ojibwa Ontology, Behavior, and World View', in Dennis Tedlock and Barbara Tedlock (eds.), *Teachings from the American Earth: Indian Religion and Philosophy*, Liveright Press, New York, 1975,

pp. 141-178; Maureen Trudelle Schwarz, *Molded in the Image of Changing Woman: Navajo Views on the Human Body and Personhood*, University of Arizona Press, Tucson, 1997.

⁴⁴ Seth Schermerhorn, 'Regulating Desecration and the San Francisco Peaks: Native American Sacred Land Claims and the Problem of Authenticity', M.A. Thesis, University of Colorado, 2008.

⁴⁵ Christian Smith, 'Introduction: Rethinking the Secularization of American Public Life', in Christian Smith (ed.), *The Secular Revolution: Power, Interests, and Conflict in the Secularization of American Public Life*, University of California Press, Berkeley, Los Angeles, and London, 2003, p. 20.

⁴⁶ Jonathan Z. Smith, 'God Save this Honorable Court: Religion and Civic Discourse', in *Relating Religion: Essays in the Study of Religion*, University of Chicago Press, Chicago, 2004, p. 375-390.

⁴⁷ Bruce Lincoln, *Discourse and the Construction of Society: Comparative Studies of Myth, Ritual, and Classification*, Oxford University Press, Oxford, 1989, p. 174; emphasis mine.

⁴⁸ McCutcheon, "'They Licked the Platter Clean'", p. 196.

⁴⁹ Greg Johnson, 'Law and Religion: Law and Religion in Indigenous Cultures,' in Lindsay Jones (ed.), *Encyclopedia of Religion*, Macmillan Books, New York, 2005, p. 5340.

⁵⁰ 'Religion and law do not exist as abstractions, but only as articulations of historical orators.' Johnson, 'Law and Religion in Indigenous Cultures', p. 5340.

⁵¹ Johnson, 'Law and Religion in Indigenous Cultures', p. 5341.

⁵² McCutcheon, "'They Licked the Platter Clean'", p. 185.

⁵³ Mazur, *The Americanization of Religious Minorities*, p. 119.

⁵⁴ Wenger, *We Have a Religion*, pp. 265-266.

⁵⁵ *Navajo Nation v. U.S. Forest Service*, Before: The Honorable Paul G. Rosenblatt, Judge, Reporter's Transcript of Proceedings, Bench Trial – Day #4, CIV 05-1824-PCT-PGR, p. 690.

⁵⁶ *Navajo Nation v. U.S. Forest Service.*, p. 692.

⁵⁷ *Navajo Nation v. U.S. Forest Service.*, p. 692.