Abortion, Capital Punishment, and the Politics of "God's" Will

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ABORTION, CAPITAL PUNISHMENT, AND THE POLITICS OF "GOD'S WILL"

Kimberly J. Cook*

In her paper, Professor Kimberly J. Cook uses statistics to illustrate the role the Christian Right plays in the public discourse over two issues permeated with religious overtones: abortion and the death penalty. She shows how the Christian Right’s approach to these issues is based on an ideological notion of “justice” that is primarily focused on vengeance and punishment, to the exclusion of forgiveness. Professor Cook’s exploration of the modern roots of this ideology leads to a movement dating from the 1960s known as Christian Reconstructionism, which advocates using state action to enforce its unique interpretation of “God’s Will.” This interpretation not only advocates an expansive view of the death penalty, but also patriarchal gender roles backed by force of law, religious intolerance, and the manifest goal of establishing a global Christian theocracy. Though it has been publicly disavowed by mainstream Christian Fundamentalists, Professor Cook argues that Reconstructionism has become the cornerstone of the Christian Right. To support this assertion, she compares current Christian Right socio-political goals with Reconstructionist theology. Professor Cook concludes with a warning that the Christian Right’s political power, coupled with its Reconstructionist-influenced ideology, places our constitutional protections at risk.

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I. ABORTION, CAPITAL PUNISHMENT, AND “GOD”

“Mayday . . . It’s French, he said. From m’aidez.”
– Margaret Atwood, The Handmaid’s Tale

As a young woman I was advised not to discuss politics or religion in “polite company.” Here, I set aside that advice in order to analyze three topics about which I am deeply passionate: abortion, capital punishment, and “God.” Clearly, these

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* Associate Professor of Criminology, University of Southern Maine. I want to thank Christopher James Somma, an outstanding student who assisted in much of the research on Christian Reconstruction Theology for this Paper. I wish to thank Karan Singh, whose assistance as the primary Article Editor was greatly appreciated. I am also in debt to Chris Powell, my partner, for his suggestions, support, and the many other taxes that my research has levied on his resources.


2 Readers should keep in mind that this Paper is self-consciously polemical. On an important level, I take these issues personally, and mean to elaborate an analysis that is close
are among the most divisive issues in popular American discourse, and in companion with other issues such as gay rights, constitute some of the most controversial political debates of the twentieth century, and perhaps well into the twenty-first century. In fact, it is difficult to imagine two more contested issues in the United States than abortion and capital punishment. Among Protestant

to my heart yet comes from my head (one of the perils of modernity has been to create a schism between the two, unfortunately). As a woman of childbearing age in the post-Roe era, I have become accustomed to abortion availability and, in fact, have availed myself of this legal option. While going through this experience, I have been mentally assaulted by anti-abortion rhetoric that I find both compelling (on some limited moral grounds) and offensive to my personal circumstances. Though I have published in this area previously, see KIMBERLY J. COOK, DIVIDED PASSIONS: PUBLIC OPINIONS ON ABORTION AND THE DEATH PENALTY (1998); Kimberly J. Cook, A Passion to Punish: Abortion Opponents Who Favor the Death Penalty, 15 JUST. Q. 329 (1998); Kimberly J. Cook, Pro-Death Politics: Debunking the Pro-Life Agenda, in POLITICAL CRIME IN CONTEMPORARY AMERICA (Kenneth D. Tunnell ed., 1993), I have not publicly disclosed my personal history. Why do so now? At the contemporary confluence of socio-political realities surrounding the abortion controversy, I find I can no longer remain silent. Abortion patients have been silenced too long, unless their experiences were exploited by anti-abortion activists to advance the so-called “post-abortion syndrome,” which I do not believe exists as an across-the-board phenomena. I also have decided that hiding my personal realities out of fear of a rabid anti-abortion assault on my integrity and credibility, and perhaps personal safety, only affirms the claims that many anti-abortion activists make that abortion is “wrong” and “sinful.” I do not feel guilty, despite some people’s willingness, indeed eagerness, to condemn me. When conducting the interviews for my book, I discussed abortion, capital punishment, and many other issues with thirty people, some of whom would have preferred me dead had they known my personal story. Talking with such people inevitably led me to remain silent in public settings for fear of attack, as I was and remain a vocal advocate for legal abortion access (though for methodological reasons, I did not disclose my personal opinions on these issues during the interviews for my book). Why compound their motivations for attacking me? Without being reactionary, this paper is intended to analyze the serious threat to choice that is part of the New Christian Right, especially as it stems from Reconstruction Theology. This will open me for attack from the proponents of this belief system, which is fair enough considering my critique is likely to be viewed as an “attack.” I value intellectual debates; I deplore personal attacks.

Readers should not infer personal attacks on any of the public figures whose perspectives I criticize herein. Until this symposium, I had never met Pat Robertson. I know none of the other “celebrity” proponents of the New Christian Right personally. My criticisms should be seen as they are intended: honest intellectual and ideological disagreement. Yet, it is personal to me. I take it personally when someone who knows nothing about me seeks to restrict my freedom to determine my own destiny. All women of childbearing age are under assault by this movement. It is personal. It is political. And, this paper is unapologetically polemical.

See generally COOK, DIVIDED PASSIONS, supra note 2; Cook, A Passion to Punish, supra note 2; Cook, Pro-Death Politics, supra note 2; (all discussing the intersection of these issues).
fundamentalists, abortion has become the bellwether issue that evolution was eighty years ago, and that the "Red Scare" was fifty years ago, while the death penalty has become the hallmark of "White America's" commitment to fight crime. To the "true" believers, "God" seems to be staking a claim that is both anti-abortion and pro-capital punishment. Both of these issues are fraught with examples of state power as well as cultural symbolism surrounding state authority.

The contemporary battle over abortion rights has manifested itself more recently as a battle over abortion access. Since the Webster\(^5\) and Casey\(^6\) decisions in 1989 and 1992, respectively, the United States Supreme Court has redefined the parameters surrounding legal abortion in terms of "fetal viability" and restrictions that pose no "undue burden" on the woman seeking pregnancy termination.\(^7\) Outside the legal arena, however, the battle is being fought over maintaining security at health care facilities where abortions are available, and balancing the First Amendment rights of anti-abortion protestors with the privacy rights of women seeking health care at these facilities.\(^8\)

Since the Furman\(^9\) and Gregg\(^10\) decisions, capital punishment has not been challenged successfully, prima facie, in the legal arena.\(^11\) The battles over capital punishment are largely political: which candidate can be "toughest" on offenders and who is going to "preserve" the "American way of life" by reinforcing a specific version of "justice" and "virtue." Therefore, the battle is no-longer about whether we should permit the state deliberately to kill certain individuals, but \textit{which} individuals should be killed and whom do we trust to make those decisions.

\(^4\) Throughout this paper references to "God" will remain in quotation marks and refer to traditional conceptions of "God" as masculine, patriarchal and punitive, except when used in direct quotations from previously published documents. I do not intend offense toward religious beliefs, but recognize the diversity among believers (including myself) who perceive "God" as something other than masculine, patriarchal, and punitive, as well as respect those who reject either a belief in "God" and/or practice in organized religions.


\(^6\) Planned Parenthood of Southeastern Pa. v. Casey, 505 U.S. 833 (1992) (holding constitutional any state regulations that do not "unduly burden" a woman's right to terminate her pregnancy).

\(^7\) See id.


\(^9\) Furman v. Georgia, 408 U.S. 238 (1972) (holding the death penalty, as applied, unconstitutional).


Therefore, we witness court decisions that seemingly limit statutory aggravation, but actually impose vague standards that are fraught with problems.\textsuperscript{12} We witness death sentences being imposed on those who are minors at the time of their offenses,\textsuperscript{13} and the mentally impaired.\textsuperscript{14} We witness, as in the pre-\textit{Furman} days, people of color being condemned disproportionately, especially when the victims are white.\textsuperscript{15} We witness many of those who are charged with capital crimes being represented by attorneys who are ineffective.\textsuperscript{16} We witness those who are poor being ushered into execution chambers across the country without the benefit of adequate representation: our tax dollars at work—usually on the side of the state seeking executions. The lethal power of government is reinforced in the execution chambers across America, and as citizens we must come to terms with the fact that the state has life and death power over us. Religious convictions are an important linchpin in the confluence of debates on abortion and capital punishment.

In this Paper, I briefly discuss the current statistics on abortion access and protests, executions and death sentences in the modern era, and beliefs about "God." I also examine the role Reconstruction Theologians have in shaping anti-abortion and pro-death penalty perspectives. It should be kept in mind, however, that my own personal opinions on these two issues are in opposition to the Reconstruction Theologians. As a scholar firmly rooted in modernity, my aim in this Paper is to offer my analysis of this perspective and its impact on contemporary political campaigns.


\textsuperscript{16} See, e.g., Richard Klein, \textit{The Constitutionalization of Ineffective Assistance of Counsel}, 58 MD. L. REV. 1433, 1433 (1999) ("Many scholars and professionals have identified a crisis in the provision of defense services in this country.").
THE POLITICS OF “GOD’S WILL”

A. Abortion

“Behind this sign there are other signs, and the camera notices them briefly: FREEDOM TO CHOOSE. EVERY BABY A WANTED BABY. RECAPTURE OUR BODIES. DO YOU BELIEVE A WOMAN’S PLACE IS ON THE KITCHEN TABLE? Under the last sign there’s a line drawing of a woman’s body, lying on a table, blood dripping out of it.”

– Margaret Atwood, The Handmaid’s Tale

According to the Alan Guttmacher Institute (AGI) there were 1.37 million induced abortions in the United States in 1996. The annual rate of induced abortion declined modestly from 1980 through 1992, and since 1992 has been declining at a greater rate. AGI estimates that 43% of American women will have at least one abortion in their lifetimes. Fifty-two percent of abortions are obtained by women twenty-five years old or younger, and 60% of abortion patients are white women. Two-thirds of women who have abortions have never been married. Only a small fraction of all abortions in the United States are declared performed for pregnancies resulting from rape or incest (14,000/1,370,000 or 1.02%). The vast majority of abortions are performed in medical offices or clinics (93%), during the first twelve weeks of gestation (80% are first trimester abortions). Less than one percent of women obtaining abortions experience any medical complications afterwards, though risks increase with gestational age of the pregnancy.

Access to safe, legal abortion is under assault in the United States and, due to intimidation by some anti-abortion activists, many doctors have ceased practicing abortion. Others, however, have maintained their commitment to providing

17 ATWOOD, supra note 1, at 120.
18 The Alan Guttmacher Institute, Facts in Brief: Induced Abortion, at http://www.agi-usa.org/pubs/fb_induced_abortion.html (rev. Feb. 2000). These statistics are reported by the Alan Guttmacher Institute, which is hailed by pro-choice and anti-abortion groups as the best source of current statistics on abortion services in the world.
19 See id.
20 See id.
21 See id.
22 See id.
23 See id.
24 See id.
25 See id.
26 See id.
27 See id.
28 See id.
29 See generally CAROLE JOFFE, DOCTORS OF CONSCIENCE: THE STRUGGLE TO PROVIDE ABORTION BEFORE AND AFTER ROE V. WADE 6 (1995) (describing how violence and
abortion services to their patients despite the tactics of anti-abortion crusaders.\textsuperscript{30} While the majority of anti-abortion protests are peaceful,\textsuperscript{31} violent protests against abortion span the spectrum, from vandalism to simple assaults, attempted murders and completed murders of doctors and staff.\textsuperscript{32} Overall, there were nearly 2,500 incidents of criminal disruptions at abortion facilities between 1977 and 1999.\textsuperscript{33} These criminal acts include, but are not limited to death threats (328), murders (7), attempted murder (16), bombing (40), vandalism (859), and stalking (416).\textsuperscript{34} There have been over 46,000 reported incidents of hate mail, harassing phone calls, bomb threats and picketing,\textsuperscript{35} and nearly 34,000 arrests for clinic blockades since 1977.\textsuperscript{36} Escalation of anti-abortion violence in the early 1990s led to legal responses such as the Freedom of Access to Clinic Entrances Act,\textsuperscript{37} despite cries from some anti-abortion activists that such laws limit their freedom of speech.\textsuperscript{38} Anti-abortion Internet sites abound, some of which imply that lethal violence against abortion providers is "justifiable homicide" and revere those who are "prisoners of Christ."\textsuperscript{39} As abortion providers continue to struggle with the financial ramifications of these developments, women who seek their services are faced with fewer options because access to legal abortion is shrinking.\textsuperscript{40}

\begin{itemize}
\item\textsuperscript{30} See generally id. (publishing interviews with some of these doctors).
\item\textsuperscript{31} Carolyn J. Lockwood, Comment, Regulating the Abortion Clinic Battleground: Will Free Speech Be the Ultimate Casualty?, 21 OHIO N.U. L. REV. 995, 1040 (1995) ("The fact remains, despite the charges of violence, that anti-abortion protestors are generally peaceful.").
\item\textsuperscript{32} The data presented here comes from the National Abortion Federation, which reports annual statistics on violence against abortion providers throughout the United States. See National Abortion Federation, at http://www.prochoice.org (last visited Sept. 10, 2000).
\item\textsuperscript{34} See id.
\item\textsuperscript{35} See id.
\item\textsuperscript{36} See id.
\item\textsuperscript{38} This was the basis of the complaint in Hill v. Colorado, \_\_ U.S. \_\_, 120 S.Ct. 2480 (2000).
\item\textsuperscript{39} See, e.g., Pro-Life Virginia, at http://www.armyofgod.com (last visited Sept. 10, 2000).
\item\textsuperscript{40} National Abortion Federation, Access to Abortion Fact Sheet, at http://www.prochoice.org/acts/access.htm (last visited Sept. 10, 2000).
\end{itemize}
B. Capital Punishment

"Beside the main gateway there are six more bodies hanging, by the necks, their hands tied in front of them, their heads in white bags tipped sideways onto their shoulders. There must have been a Men's Salvaging early this morning. I didn't hear the bells. Perhaps I've become used to them."

-- Margaret Atwood, The Handmaid's Tale

There are currently 3,670 people under a sentence of death in the United States. At the time of the Furman decision there were approximately 600 people on death row in the United States whose sentences were then commuted to life imprisonment. Since Gregg, however, the number of those under death sentences has climbed steadily, from fewer than one thousand in 1976, to well over three thousand by the end of the century. Nearly half (47%) of those inhabiting death row are white, while a disproportionate number are people of color: 43% black, 9% Latino, and 2% are other ethnic minorities. When examined, though,

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41 ATWOOD, supra note 1, at 32.
42 Statistics for this section come from the Death Penalty Information Center (hereinafter DPIC), which maintains an internet site that is updated with every execution and compiles reports on a variety of issues related to capital punishment. DPIC, at http://www.deathpenaltyinfo.org (last visited Sept. 10, 2000). The DPIC is the best source of accurate statistical information available on capital punishment in the United States. The numbers reported here reflect activity up to July 1, 2000.
43 Furman v. Georgia, 408 U.S. 238 (1972). The United States Supreme Court decided that the death penalty, as it was then applied, violated the Eighth and Fourteenth Amendments to the Constitution. Id.
44 Gregg v. Georgia, 428 U.S. 153 (1976). In Gregg, the United States Supreme Court decided that under guided discretion statutes, which require weighing aggravating and mitigating factors and mandatory state and federal reviews, capital punishment could be resumed in compliance with the Constitution. This ushered in the modern death penalty process that is slow, cumbersome, and expensive. Despite their aims, guided discretion statutes have not alleviated problems of arbitrariness, capriciousness, nor racial bias. See Andrea Shapiro, Unequal Before the Law: Men, Women, and the Death Penalty, 8 AM. U. J. GENDER SOC. POL'Y & L. 427, 470 (2000) ("The imposition of the death penalty is always arbitrary and capricious."); Anthony Neddo, Comment, Prosecutorial Discretion in Charging the Death Penalty, 60 ALB. L. REV. 1949 (1977) (describing the decision-making process for choosing to seek the death penalty). Perhaps, most importantly, the guided discretion statutes have failed to prevent wrongful convictions or wrongful executions. See infra notes 51-52.
45 See DPIC, Size of Death Row By Year (Sept. 10, 2000), at http://www.deathpenaltyinfo.org/drowinfo.html#year.
the race of their presumed victims are predominantly white (83%), despite the fact that only half of murder victims are white. This indicates that capital punishment is used by a predominantly white court system to punish more severely the murders of white victims than the murders of ethnic minority victims.

Since Gregg, executions have resumed under “guided discretion” statutes and 664 people have been executed in the United States; sixty-six of those in the twenty-first century. The last year of the twentieth century was the deadliest in America’s courts since the modern death penalty was established: ninety-eight people were executed in 1999 alone. If this pace continues, we could witness ten thousand executions by the close of the twenty-first century. Perhaps most tragic are the executions of innocent people. Under the “guided discretion” statutes, there have been more than eighty people released from death rows around the country because they simply did not commit the crimes for which they were convicted. Insofar as the criminal justice system is fallible, wrongful convictions and wrongful executions will continue as long as the law permits capital punishment to continue.

Anti-capital punishment activists and scholars have been pointing out the flaws and problems of death sentencing in the United States for decades. Those who protest against executions, in contrast to some of those who protest against abortion, do not use violent tactics to stop executions: no executioners have been killed on their way to work, no bomb threats have been reported under the modern death sentencing scheme, and no guards have been harassed by anti-death penalty activists. Some death penalty advocates, however, have revered the violence of the execution chamber, as was seen in the “celebration” of the Ted Bundy execution.

See id. See id.
For a thorough and gripping analysis of the problem, see Michael L. Radelet et al., In Spite of Innocence: Erroneous Convictions in Capital Cases (1992).
Robert Greene Eliot, prison electrician and executioner in the Northeast during the 1920s and 1930s, however, was the victim of a nighttime bomb explosion in his home while he and his family were asleep. See Robert G. Elliot, Agent of Death: The Memoirs of an Executioner 114-18 (Albert R. Beatty ed., 1940).
See, e.g., David Von Drehle, Among the Lowest of the Dead: The Culture of
C. "God"

"God is love, they once said, but we reversed that, and love, like heaven was always just around the corner. The more difficult it was to love the particular man beside us, the more we believed in Love, abstract and total. We were waiting, always, for the incarnation. That word, made flesh."

— Margaret Atwood, *The Handmaid's Tale*

At the end of the twentieth century, the majority (62%) of adult, English-speaking Americans believe in "God," as measured by the General Social Survey. A smaller majority, however, stated that they pray at least once a day (55%). There appears to be a significant degree of consensus on what "God" looks like or what political agendas "God" would support. The wide majority of respondents view "God" in predominantly masculine terms: as Father (62.3%), as Master (55.4%), and as Judge (47.1%); as opposed to Mother (24.9%), or Spouse (16.6%). A minority of respondents were "neutral" on their gendered images of "God." When asked their views of the Bible, 34.4% believe it to be "the actual


ATWOOD, supra note 1, at 225-26.


Without the empirical evidence to support it, I would expect that most of these respondents would also view "God" as white.


See id. at frame map: group headings/personal concerns/religion/"Image of God as Master."

See id. at frame map: group headings/personal concerns/religion/"Image of God as Judge."

See id. at frame map: group headings/personal concerns/religion/"Image of God as Mother."

See id. at frame map: group headings/personal concerns/religion/"Image of God as Spouse."

See id. at frame map: group headings/personal concerns/religion/"Contrast Between Father and Mother" (when asked to place "God" on a Mother/Father continuum, 25.9% picked the midpoint while 49.7% picked "Father").
word of ‘God’ and is to be taken literally, word for word,“ whereas 49.3% believe it to be “the inspired word of ‘God’ but not everything in it should be taken literally, word for word.” and 15.6% believe the Bible to be “an ancient book of fables, legends, history, and moral precepts recorded by men.” Over 60% of respondents disapproved of the United States Supreme Court ruling that schools could not require students to participate in prayers or recite Bible verses. Though it is too soon to have empirical grounding, these believers probably disapprove of the recent Supreme Court decision banning prayers at public school sporting events. Unfortunately, the General Social Survey does not incorporate a question regarding the visions of “God’s” will, though we can speculate that those adherents to a traditionally masculine image of “God” would be more likely than others to perceive “God’s” will as being enforced in the anti-abortion and pro-capital punishment political agendas of recent years.

II. PRIOR RESEARCH

“Better never means better for everyone, he says. It always means worse, for some.”

– Margaret Atwood, The Handmaid’s Tale

In previously published research, I argued that abortion and capital punishment are really about “the politics of God’s will.” Viewing “God” in traditionally masculine and judgmental terms leads one to believe (and possibly act on the belief) that punishment is justified as a means of enforcing “Godly” order. Therefore, we may see some anti-abortion activists engage in “justifiable homicide” of abortion providers, and we see the state engage in executions because they are seen as authorized by “God” in scripture. Furthermore, people are punished simply for their membership in certain demographic groups. Women are punished for failing to be “proper” women, and “[j]ust being a woman is a crime.” Within this

67 See id. at frame map: group headings/personal concerns/religion/“Feelings about the Bible.”
68 Id.
69 Id.
70 See id. at frame map: group headings/personal concerns/religion/“Bible Prayer in Public Schools” (61 %).
72 See National Opinion Data File, supra note 61, at frame map: group headings/personal concerns/religion/“Standard Variable List.”
73 ATWOOD, supra note 1, at 211.
74 COOK, DIVIDED PASSIONS, supra note 2, at 188.
75 See DAVID GARLAND, PUNISHMENT AND MODERN SOCIETY 111-30 (University of Chicago Press 1990); COOK, DIVIDED PASSIONS, supra note 2, at 195.
76 See GERALD T. STRAUB, SALVATION FOR SALE: AN INSIDER’S VIEW OF PAT
framework, man's superiority over women is just punishment for Original Sin. More specifically, "Pat Robertson wants the government to act as God's law-enforcement agent on earth, and there is no reason to wait for Hell to start punishing sinners; we can throw them into the slammer now." As an insider, Straub came to understand that:

it is impossible for fundamentalists to accept liberal abortion laws when they firmly believe abortion is murder; they cannot idly stand by as the state becomes a partner in a deplorable crime against the creative powers of God—even though they do support such "justifiable" homicide as the death penalty and war . . . . Moreover, a free exchange of ideas with a person who believes he or she has a monopoly on the truth is impossible.

A punitive, vengeful mentality is part of an overall framework within which opinions on abortion and capital punishment emerge. Insofar as the fundamentalist interpretations of a patriarchal monotheism establish and reinforce "God's Will," a culture of blame, guilt, and punitiveness will remain the dominant theme through which the law will be enforced in civil authority and religious practice, especially as it relates to women's sexuality, resulting in violent assaults on human beings.

Modern Christian Fundamentalism in Western society is rooted in notions of masculinity and machismo. A fundamentalist system of interpreting Christianity becomes problematic within the constitutional guarantee of religious freedom because of fundamentalism's "aggressive opposition to alternate understandings of the Christian traditions." Mark Meusse defines Christian fundamentalism as:

ROBERTSON'S MINISTRY 42 (1986).

77 Id. at 296.

78 Straub was formerly employed as a television producer with the Christian Broadcasting Network (CBN) and worked closely with Pat Robertson. He was also a "true believer" of the messages promoted by the Network, and labored to spread that message as far and wide as possible. Eventually, after experiencing his own "fall from grace," he left CBN and embarked on a personal journey to make sense of his experiences there. His book was part of that process.

79 STRAUB, supra note 76, at 302.


81 See generally KAREN ARMSTRONG, THE BATTLE FOR GOD 311-12 (2000); Howard Eilberg-Schwartz, God's Phallus and the Dilemmas of Masculinity, in REDEEMING MEN 36 (Stephan Boyd et al. eds., 1996) (both describing these themes).

82 Mark Meusse, Religious Machismo: Masculinity and Fundamentalism, in REDEEMING MEN, supra note 81, at 89-90.
a particular manifestation of twentieth-century American Protestantism that upholds certain formulations of Christian doctrine as essential for salvation and militantly opposes variant interpretations of Christianity and the perspectives of non-Christian world views. Among these doctrines are: the deity and virgin birth of Jesus Christ; his literal, bodily resurrection and second coming; the vicarious sacrifice of Jesus for the atonement of sin; and the divine inspiration of the Bible as the inerrant word of God.83

Karen Armstrong argues that this manifestation of Christian Fundamentalism has evolved as a specific reactionary protest against modernity and the all-encroaching emphasis on scientific rationalism.84 Fundamentalism of the modern era, according to Armstrong, results in part from a rejection of mythos and a passionate embrace for logos.85 By dismissing the mythological and allegorical values of religious traditions, modernity has insisted that in the Age of Reason even religion must be interpreted through a filter of logic and rationality, thereby discarding the mystical value of spiritual experience. Development of a “literal” interpretation of scripture has resulted from this predicament of lost mythos, as theologians steeped in modernity have attempted to reconcile biblical stories within an empirical scientific framework of understanding. “Protestant fundamentalists . . . had turned the Christian myths into scientific facts, and had created a hybrid that was neither good science nor good religion.”86

There exists within fundamentalist Christianity a celebration of (white) heterosexual masculinity, both in terms of superiority over others and as a barometer of “normalcy” and “reasonableness” within the context of decision-making.87 This “hyper-masculine religion” is characterized as being completely rational and in “control.”88 According to Meusse, “[F]undamentalism strives . . . for well-defined boundaries to demarcate and order human experience. The fundamentalist mind has a low tolerance for ambiguity. Binary oppositions are commonplace . . . .”89 As such, distinctions between male and female are seen as cornerstones upon which Creation rests.90 To deny these fundamental distinctions between men and women, then, would require fundamentalists to embrace gay rights and abortion rights; denial of those rights is one means by which the

83 Id.
84 See ARMSTRONG, supra note 81, at 89-90.
85 See id. at 366.
86 Id. at 355.
87 See Meusse, supra note 82, at 90-91 (“[F]undamentalism prides itself on its rational, hardheaded foundations.”).
88 Id. at 91.
89 Id. at 91-92.
90 See id. at 92.
distinctions between male and female are maintained.

Patriarchal masculinist social order depends on the willing ("gracious") submission of women in conjunction with authoritarian leadership of men throughout society. Framing such a hierarchy within a rhetoric of inerrant religious beliefs allows men to proclaim a higher (read: noble) purpose, while using strategies of oppression to cement their grip on power. This power will be defended to the death (i.e., capital punishment, killing women's health care workers, and taunting mourners at the funeral of Matthew Sheppard). All of this is done in the name of "God" to preserve what the New Christian Right believes to be "God's will." Militant language is used to defend these aggressive masculinist strategies, whether by employing military metaphors to describe their agendas, or by "putting on the armor of 'God'" for protection while engaged in activism, because the Christian Right is engaged in a battle with an "enemy:" namely secular humanism.91

Overlaid concerns about gender dualisms and the social construction of masculinity and femininity is racial superiority and the very real experiences of white privilege and class privilege. It is not surprising, therefore, that the Christian Right has joined forces with political elites who are not necessarily "true believers." Both Reagan Administrations, the Bush/Quayle Administration, Dole's unsuccessful presidential campaign, and the recent campaign by George W. Bush have been eager to welcome the Christian evangelical and fundamentalist activists into the GOP. This is ostensibly due to their common goal of maintaining white male class privilege, and not necessarily the GOP's buying into the religious activists' belief system that draws their constituents to the polls, or their lobbyists to the legislatures, or their contributors to the fundraisers.

What are the theological roots of these belief systems and religious/political agendas? Examining the ideological roots of the Christian Right will illuminate not only its past and present, but also what the future might hold if those campaigns for "God" are successful. I focus the ensuing analysis on Reconstruction Theology, which is a neo-Calvinist theological approach that advocates government policy adhering to Reconstructionist doctrine, while at the same time mandating that campaigns for social change incorporate their conservative interpretation of the "will of God." Christian Reconstruction has emerged as an even more extreme version of Protestant fundamentalism than the financial and sex scandal-laden, highly-profitable organizations operated by Bakker, Swaggert, Falwell, and others.92 Even while described as "extreme" by most observers,93 Reconstruction Theology

91 See ARMSTRONG, supra note 81, at 270 ("During the 1960s and 1970s, protestant fundamentalist ideologues defined the enemy as 'secular humanism.'").
92 See id. at 361.
93 See, e.g., David M. Smolin, The City of God Meets Anabaptist Monastacism: Reflections on the Twenty-Fifth Anniversary of Wisconsin v. Yoder, 25 CAP. U. L. REV. 841,
must be taken seriously by scholars and activists. To underestimate this recent social development would be to risk the violent holy wars seen in other parts of the world where fundamentalism was initially ignored, only to later ignite in flames of political terror.94

III. RECONSTRUCTION THEOLOGY

“We are for breeding purposes: we aren’t concubines, geisha girls, courtesans. On the contrary: everything possible has been done to remove us from that category. There is supposed to be nothing entertaining about us, no room is to be permitted for the flowering of secret lusts; no special favors are to be wheedled, by them or us, there are to be no toeholds for love. We are two-legged wombs, that’s all: sacred vessels, ambulatory chalices.”

– Margaret Atwood, The Handmaid’s Tale95

Christian Reconstruction is emerging as a main theological cornerstone of modern Protestant fundamentalism, though few contemporary evangelicals care to admit it.96 One Reconstruction mission is to recapture what they deem “lost” in United States, including biblical roots for everyday life, advocating a “return to” Bible-based society, and maintaining a covenant with “God.”97 The Christian Bible would then become the basis for all ethics, laws, and social issues in accordance with their interpretation of scripture.98 The Creed of Christian Reconstruction states that a “true” Christian would adhere to five beliefs: Calvinism, Theonomism, Presuppositionalism, Postmillennialism, and Dominionism.99

855 (1996) (describing Reconstructionism as being one “extreme” on the continuum of Christian thought concerning the modern applicability of biblical laws).

94 See ARMSTRONG, supra note 81, at ix (“[R]eligious resurgence has taken many observers by surprise.”).

95 ATWOOD, supra note 1, at 136.


97 See, e.g., MARTIN, supra note 96, at 353-54. The romanticized image of a more peaceful past where social order (read social structure and inequalities) was carefully preserved through a cultural consensus of values, never existed according to family sociologist Stephanie Coontz. See STEPHANIE COONTZ, THE WAY WE NEVER WERE (1992).

98 See MARTIN, supra note 96, at 353-54.

99 Andrew Sandlin, The Creed of Christian Reconstruction, at http://www.chalcedon.edu/creed.html (last updated Jan. 3, 2000). First, a “true Christian” must be a Calvinist: “He [sic] holds to historic, orthodox, catholic Christianity and the great reformed confessions.” Id. According to Calvin, the Bible contains all that “man” needs to know regarding “God’s”
According to leading Christian Evangelicals in the United States, everyone is at risk from "God's" wrath because the world has entered into a state of "moral decay." To them, humanity faces total annihilation, as evidenced by the AIDS epidemic, explosive population growth, world-wide starvation, disease, and poverty, as well as a variety of other "evils." Reconstructionists believe that something...
radical must be done to save humanity from the consequences of “Original Sin.” Its conservative understanding of “Original Sin” comes from the Old Testament, in which Eve disobeyed “God” and “coerced” Adam into doing likewise; therefore, “man” has fallen into a state of sinfulness. Due to this transgression, namely man’s association with woman, especially her vice, the world is now in a state of chaos. Many fundamentalist Christians fear the world will not survive this chaotic state and the gospel of Jesus Christ will die. As a result, a new fundamentalism has emerged for the future: its ideas encompass Calvinist theology as well as theonomy, Presuppositionalism, Postmillennialism and Dominionism and has been named “Reconstructionist.” Its aims are to reconstruct Christianity:

[[Its advocates are erudite, self-assured, and adamant: Rousas Rushdoony, the chief theoretician, with his Chalcedon Foundation; Gary North, Rushdoony’s son-in-law, with his Institute of Christian Economics; and several other influential leaders such as Gary DeMar and John Whitehead, each with his own nonprofit organization or think tank, and each a strict Creationist.]

Reconstructionists are “training themselves to take control when the secular humanist state is destroyed.”

Because Christian Reconstructionists use a literal interpretation of the Bible, it is quite logical to read scripture so that “God” supports capital punishment and opposes abortion. In Reconstructionist theology there is sufficient evidence to suggest, in both the Old and New Testament, that “God” is in support of the death penalty.

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102 See, e.g., Andrew Sandlin, Join Chalcedon’s Cause, (describing the need to combat modern anti-Christian forces) at http://www.chalcedon.edu/join_chalcedon.htm (Sept. 9, 2000).

103 Evidence is seen in Genesis 3:17-19 (Revised Standard Version [hereinafter RSV]): And to Adam he said, “Because you have listened to the voice of your wife, and have eaten of the tree of which I commanded you, ‘You shall not eat of it,’ cursed is the ground because of you; in toil you shall eat of it all the days of your life; thorns and thistles it shall bring forth to you; and you shall eat the plants of the field. In the sweat of your face you shall eat bread till you return to the ground, for out of it you were taken; you are dust, and to dust you shall return.”

104 See, e.g., Sandlin, supra note 102 (“Man’s sin has polluted every area of life.”).

105 See, e.g., Robertson, supra note 100 (“[F]alse religions and cults from all over the world are invading America . . . . He’s [God’s] not going to destroy this land or allow it to be destroyed by all these forces as long as we are faithful in getting the Gospel around the world.”).

106 See Sandlin, supra note 102.

107 Moore, supra note 99, at 62.

108 ARMSTRONG, supra note 81, at 361.
penalty. The Pentateuch enumerates laws governing the use of capital punishment, most of which are "responses" to bloodshed and killing. Rousas J. Rushdoony, in his cornerstone publication The Institutes of Biblical Law, sees biblical law as the primary foundation for all life choices and judgments. According to him, when people choose badly, or engage in immoral behavior, the punishments must be based on biblical law, often capital punishments from the Old Testament. Rushdoony’s advocacy for capital punishment covers the following "offenses:" murder, adultery, homosexuality or sodomy, abortion, practicing witchcraft, rape of a betrothed virgin, striking or cursing a parent, incorrigible delinquency or habitual criminality, Sabbath desecration and blasphemy, propagation of false doctrines and sacrificing to false "Gods," and denying the law by refusing to obey the court. Armstrong writes:

Their vision is a complete distortion of Christianity in its abandonment of the ethos of compassion. When the Kingdom comes, there will be no more separation of church and state; the modern heresy of democracy will be abolished, and society reorganized on strictly biblical lines. This means that every single law of the Bible must be put literally into practice. Slavery will be reintroduced; there will be no more birth control (since believers must “increase and multiply”); adulterers, homosexuals, blasphemers, astrologers, and witches will all be put to

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109 See, e.g., Genesis 9:6 (RSV) ("Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his own image."); Exodus 21:12 (RSV) ("Whoever strikes a man so that he dies shall be put to death."); Exodus 21:15 (RSV) ("Whoever strikes father or mother shall be put to death."); Exodus 21:16 (New International Version) ("Anyone who kidnaps another and either sells him or still has him when he is caught must be put to death."); Exodus 21:22-25 (New International Version):

If men who are fighting hit a pregnant woman and she has a miscarriage, but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise;

Numbers 35:31 (RSV) ("Moreover you shall accept no ransom for the life of a murderer, who is guilty of death; but he shall be put to death."); Numbers 35:33 (RSV) ("You shall not thus pollute the land in which you live; for blood pollutes the land, and no expiation can be made for the land, for the blood that is shed in it, except by the blood of him who shed it.").

110 ROUSAS RUSHDOONY, THE INSTITUTES OF BIBLICAL LAW (1973). This book is a compiled series of his studies of the Ten Commandments. Of particular interest to my research are his examinations of the Sixth Commandment ("Thou Shall Not Kill"), Exodus 20:13, and ancillary analysis of other commandments as they relate to regulations of personal life.

111 See id. at 2.

112 See id. at 2, 76-77, 402.

113 See id. at 76-77, 402 (listing biblically-mandated death penalty offenses).
death. Children who are persistently disobedient must also be stoned, as the Bible enjoins. A strictly capitalist economy must be enforced; socialists and those who incline to the left are sinful. God is not on the side of the poor.

Rushdoony sees the “obvious fact that law once had a divine sanction and rested on God’s will.” Therefore, society experiences that the “struggle is between God’s absolute justice and His law-order and man’s lawless self-assertion and autonomy. God’s law-order requires the death penalty for capital offenses against that realm.” “Ransom or pardon” is not obtainable under this reading of “God’s” law; nor do mental illness, mental retardation, insanity, youthfulness or any other special circumstances provide for exemptions from this law-order. Anyone who opposes the death penalty, then, has a hostility toward “God’s” law, and “hostility to the death penalty is humanism’s hostility to God’s law. But God’s government prevails, and His alternatives are clear-cut: either men and nations obey His laws, or God invokes the death penalty against them.”

Later, Rushdoony tackles the often sensitive issue of wrongful convictions and executions by arguing:

To avoid enforcing the law, or to break down the law, because of such cases of injustice, is to compound the injustice. The enforcement of civil and criminal law is in the hands of sinful and fallible men; it cannot be made infallible. To improve the quality of law enforcement, and to bring about greater obedience, it is necessary that we have more Godly men . . . . To use cases of injustice to destroy the law is itself a very great and deadly act of injustice.

Regarding abortion, Rushdoony does not offer a very sophisticated analysis of the issues; he simply opposes abortion in all circumstances, equates it to murder, and advocates capital punishment for those who commit these “murders.” Using Exodus 21:22-25, he argues that “the penalty for even an accidental abortion is death. If a man who, in the course of a fight, unintentionally bumps a pregnant woman and causes her to abort, must suffer the death penalty, how much more so any person who intentionally induces an abortion?"
The misogynistic features of Rushdoony's theology are especially apparent when he condemns adultery. The Seventh Commandment leads Rushdoony into a larger discussion about marriage in general. Married women are to be subservient to their husbands' authority because women need to be protected and secured by men; a woman's welfare depends on it. It is in this state of biblical submission that women will experience "freedom" through "God's" grace. Married men must lead their families as Christ leads the church. Throughout this theology, "God's" law-order is upheld by punishments against any and all who squander the "order" as "God" proclaims it; "God" makes promises and threats. "In a world without submission to law and to authorities under law, very quickly only lawless force would prevail, and nothing could be more destructive of a woman's welfare, or a man's, for that matter." Viewing women's roles as strictly dualistic, he argues that "[t]he alternative to [wifely] submission is exploitation, not freedom, because there is no true freedom in anarchy. The purpose of submission is not to degrade women in marriage, nor to degrade men in society, but to bring to them their best prosperity and peace under God's order." And, when women have other ideas or become too demanding, Rushdoony warns:

[A] woman can make no greater a mistake than to assume that she can take priority in her husband's life over his work. He will love her with a personal warmth and tenderness as no other person, but a man's life is his work, not his wife, and the failure of women to understand this can do serious harm to a marriage.

Rushdoony argues that women are not so "frail" as to require great protection from "God's" required submission, but that women are strong enough to withstand their husband's authority over them. He criticizes feminism, however, for arguing that women are so strong that they do not require a man to have authority over them. After quoting Sojourner Truth's famous speech, Ain't I a Woman?, Rushdoony opines that

122 See id. at 394 ("[A]dultery is a violation . . . and an abnormal, criminal act . . . ").
123 See id. at 334-35.
124 See id. at 334-37
125 See id. at 335.
126 See id. at 337-38.
127 Id. at 337.
128 Id. at 338.
129 Id. at 345.
130 See id. at 347 ("Her subordination is also her symbol of authority.") (emphasis added).
131 Id. at 351.
instead of restoring women to their rightful place of authority beside man, women’s rights became feminism: it put women in competition with men. It led to the masculinization of women and feminization of men, to the unhappiness of both . . . To return to the Biblical doctrine, a wife is her husband’s help-meet. . . . The true meaning of this is that a true help-meet is man’s counterpart, that a cultural, racial, and especially religious similarity is needed so that the woman can truly mirror the man and be his image.  

Of course, this implies that “cross-cultural” (i.e., interracial or interfaith) marriages are an abomination before “God.” And, women must put men’s needs above their own and above children’s: “God Himself defined Eve’s basic function as a help-meet; important as motherhood is, it cannot take priority over God’s own declaration.”

When marriages fail, Rushdoony suggests specific forms of divorce and circumstances that justify divorce. Of particular interest to this project is what he calls “divorce by death [penalty].” He writes that “[d]ivorce by death made remarriage possible, and freed the innocent partner from bondage to a guilty and unclean person.” For example, women (but not men) are subject to this “divorce by death” for their “unchastity before marriage.”

As Rushdoony believes is indicated by scripture, the death penalty must be instituted for a variety of infractions, the most serious being murder, the definition of which includes pregnancy termination. “Both the giving and the taking of life are aspects of man’s [sic] religious duty. This means that a man must not only avoid committing murder, and seek the apprehension of a murderer, but he must also seek the death penalty for murder.” Rushdoony believes that each of these laws is in accordance with the Ten Commandments. According to these laws, infractions that are punishable by death include lethal acts against an individual or infractions against parents (read: “father”). Reconstructionists also use scripture

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132 Id. In an odd flow of “logic,” after extolling the virtues of Christian marriage as he sees it, Rushdoony writes “[i]t is not an accident of history that in Christian countries women are more responsible, more capable of productive work, and far more attractive than in other cultures. Christian monogamous marriage is marriage in its truest form because it is faithful to the laws of creation.” Id. at 367.

133 Id. at 353.

134 See id. at 402.

135 Id. at 403.

136 Id.

137 Id. at 402.

138 See id. at 2.

139 Id. at 221.

140 See id. (“[I]t involves no murder to take life on God’s terms and under His law.”).

141 See id. at 123 (“The family, as God’s central law-order, even when parents are most
to determine the consequences for not quickly executing someone in the event of a serious infraction and to demonstrate "God's" anger when the "good" do not punish the actions of the "wicked."\(^{142}\) "Only the Christian Reconstructionists today affirm the continuing validity of Old Testament law. They alone insist that the civil laws of the Old Testament commonwealth also applied to all nations of the earth, not just to Israel."\(^{143}\)

However, problems occur in Reconstructionist theology when incorporating the teachings of Jesus Christ. "God" gave Moses the laws concerning the justification for capital punishment.\(^{144}\) Many mainline Christians believe that violence is unacceptable in the eyes of "God," yet Reconstructionists teach that "[c]ontrary to pacifism, reverence for life is not the highest value. The highest value is reverence for "God" (note the First Commandment)."\(^{145}\) As argued by Christian Reconstructionists, human life cannot be placed above "God's" laws, otherwise "God's" commandments are being broken.\(^{146}\) This; however, does not diminish respect for human life, for if human blood is shed through murder, the murderer's life shall then be taken through capital punishment, which serves to underscore the value of life.\(^{147}\)

Modern critics argue, however, that the new covenant of Jesus Christ is a law of love and thus should be observed accordingly.\(^{148}\) According to a Reconstructionist perspective, if this were true, then humans could no longer pass judgments on others, and no punishment would be possible for anyone within the criminal justice system. This is argued on two levels. First, "God" has not changed and has always been the "God of Love" and the "God of Wrath."\(^{149}\) The Old and New Testament are equally important concerning "God's" laws.\(^{150}\) The New Testament is seen as an interpretation guide on how the Old Testament's laws

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\(^{142}\) See Ecclesiastes 8:11 (RSV) ("Because sentence against an evil deed is not executed speedily, the heart of the sons of men is fully set to do evil."); Ezekiel 13:19 (RSV) ("You have profaned me among my people for handfuls of barley and for pieces of bread, putting to death persons who should not die and keeping alive persons who should not live, by your lies to my people, who listen to lies.").

\(^{143}\) NORTH & DEMAR, supra note 99, at 43.

\(^{144}\) See Exodus 21:23-25.


\(^{146}\) See id. ("Life cannot be placed before God or our duty to obey His law.").

\(^{147}\) See RUSHDOONY, supra note 110, at 225-38.

\(^{148}\) See Wilson, supra note 145 (criticizing this argument).

\(^{149}\) See id. ("He is eternally the God of love, just as he is eternally the God of justice and wrath.").

\(^{150}\) See NORTH & DEMAR, supra note 99, at 87.
should be applied. Second, as Reconstructionists point out, Jesus himself endorsed the use of capital punishment. It is often argued that Jesus actively endorsed the law of love rather than the law of "God" and of the Old Testament. However, scripture demonstrates Jesus said that "God" did not change from a "God of Wrath" to a "God of Love," rather "God" has been both. The law that Jesus came to fulfill is at the heart of the argument for Christian Reconstructionists. Wilson argues that:

"God's" love gave us the law, just as His love gave us the gospel, and as there is no spiritual life for us to save through the gospel, which points us to Christ the Savior, so there is no spiritual health for us save as we seek in Christ's strength to keep the law, and practice the love of "God" and neighbor for which it calls.

Within this statement there appears to be an inconsistency regarding Jesus' words about judging within our human limitations. Christian Reconstructionists reexamine this in light of Jesus' words in the Gospel of Matthew regarding judgment of others. Therefore, Christians can only judge if they themselves have not committed the crimes which they are judging. According to Reconstructionist theology, if in fact they do judge others while they themselves have committed such crimes then that would make them hypocrites and, as a result, they would be subjected to the same judgment that they themselves inflicted upon the guilty.

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151 See id.
152 See Wilson, supra note 145 ("Jesus underscored the binding validity of this provision [for capital punishment].").
153 See id.
154 See Matthew 5:17-19 (RSV):
Think not that I have come to abolish the law and the prophets; I have come not to abolish them but to fulfill them. For truly, I say to you, till heaven and earth pass away, not an iota, not a dot, will pass from the law until all is accomplished. Whoever then relaxes one of the least of these commandments and teaches men so, shall be called least in the kingdom of heaven; but he who does them and teaches them shall be called great in the kingdom of heaven.
155 See Wilson, supra note 145.
156 Id.
157 See Matthew 7:1-5 (RSV):
Judge not, that you be not judged. For with the judgment you pronounce you will be judged, and the measure you give will be the measure you get. Why do you see the speck that is in your brother's eye, but do not notice the log that is in your own eye? Or how can you say to your brother, 'Let me take the speck out of your eye,' when there is the log in your own eye? You hypocrite, first take the log out of your own eye, and then you will see clearly to take the speck out of your brother's eye.
party. In this analysis it is appropriate that the death penalty should be used in the case of grave capital offenses so that equitable justice can exist. Christian Reconstructionism does not end with Jesus’ instruction on how to judge, but on what are the most heinous of crimes that must be punishable by death, which in itself is “God’s” law.

As Reconstructionists examine scriptures, Jesus is seen as having endorsed the use of capital punishment for moral offenses committed against “God’s” law. At the crucifixion, the dying man on Jesus’ right knew his sin and asked for Jesus’ forgiveness and salvation. This, however, represents not a rebuttal of the law of the Old Testament, but rather a fulfillment, as Reconstructionists view the scripture. Because of his crime, the condemned man still had to die: “Civil penalties and spiritual penalties are not the same.” That method of dying, however, does not exclude him from the kingdom of heaven if in fact he has asked for “God’s” forgiveness. Regarding the Reconstructionists’ view of lex talionis (law of vengeance), “death itself is the only satisfactory penalty for murder,” and for a variety of other moral offenses against “God’s” law.

According to Christian Reconstruction, laws invoking punishment of death serve as a deterrent. Each time someone is executed, it prevents others from committing similarly forbidden acts, thus leading more people to salvation. “Thus, when New England passed laws requiring the death penalty for the incorrigible delinquents and for children who struck their parents, no executions were necessary: the law kept children in line.” For Reconstructionists, government that operates under biblical law, then, eliminates the incorrigibles and recidivists and allows the

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158 Cf. Matthew 7:5 (RSV) (“You hypocrite, first take the log out of your own eye, and then you will see clearly to take the speck out of your brother’s eye.”).
159 See Matthew 15:4 (RSV) (“For God commanded, ‘Honor your father and your mother,’ and, ‘He who speaks evil of father or mother, let him surely die.’”); Luke 23:40-41 (RSV) (“But the other rebuked him, saying, ‘Do you not fear God, since you are under the same sentence of condemnation? And we indeed [have been condemned] justly; for we are receiving the due reward of our deeds; but this man has done nothing wrong.’”).
160 See Wilson, supra note 145.
162 See NORTH & DEMAR, supra note 99, at 43 (“The coming of Jesus Christ in history did not alter these laws.”).
163 See Wilson, supra note 145.
164 Id. (“If it is genuine, God will forgive and receive[] the individual into heaven when he or she is executed.”).
166 See supra note 113 and accompanying text.
167 See Wilson, supra note 145 (“Will [capital punishment] deter crime? You bet it will.”).
168 RUSHDOONY, supra note 110, at 236.
“good” to follow a “godly” character and ultimately to live in accordance with the law.

Reconstruction theology requires a Calvinist interpretation of scripture since Calvin first developed the theory of a “true” way. Many death penalty advocates and abortion opponents unknowingly adhere to a Reconstruction theology regarding the “law” and their perception of “God’s Will.” The public rhetoric contains elements of Calvinist, Theonomist, Presuppositionalist, Dominionist, and Postmillennialist ideals. Death penalty advocates argue, for example, that it is legitimate for capital punishment to be expanded and used with full force to fulfill “God’s Will” and ensure that offenders are served their “correct” form of equitable justice. If devout death penalty advocates ignored that some murders went unpunished by the death penalty then they would be committing a grave offense against the “will of God” and thus would be subject to the “wrath of God.” Finally, they argue that because Jesus Christ was crucified for committing an offense against the Roman state, and because laws exist at the “will of God,” “[f]or us to say capital punishment is inhumane is to accuse God of being diabolical.” Therefore, “God” is nothing but just, and “justice” must be served as Reconstruction theology dictates.

IV. RECONSTRUCTION AND THE CHRISTIAN RIGHT

“Somehow the Wall is even more foreboding when it’s empty like this. When there’s someone hanging on it at least you know the worst. But vacant, it is also potential, like a storm approaching.”

– Margaret Atwood, The Handmaid’s Tale

Reconstruction theologians see themselves as maligned and misunderstood at best, and deliberately misrepresented at worst. Their interpretation of scripture is the “only” correct interpretation, where most who disagree with their interpretation are simply dismissed as “wrong.” For instance, North and DeMar criticize “moral pluralism” and praise the virtues of “moral absolutism” so long as it is based on their understanding of “God-centered” morality. Thus, they assert their claims are the true and only voice of “God.” They also claim that every

169 See, e.g., CALVIN, supra note 99, at 75 (“If only we could calm down and set ourselves to learn the true situation, we would see that God’s plan is highly rational.”).

170 See Wilson, supra note 145 (“We do not execute an individual for driving through a stop sign. We are not to slap the wrist of a murderer.”).

171 Id.

172 ATWOOD, supra note 1, at 166.

173 NORTH & DEMAR, supra note 99, at 10-23.

174 Id.

175 See id. at 172.
Christian is a Reconstructionist to some extent: "If you believe that the Bible applies to issues beyond personal salvation, then you are a Reconstructionist in some sense."176 "Evangelism through law" is another component of this perspective. "Politics is the working out of religious first principles in the civil realm (covenant). It is a battle over the true nature of God, man, law and time [sic]."177 Reconstructionists apparently believe that all humans must be controlled either by "God" or by government in order to ensure a level of "morality." Or, as North and DeMar borrow from Robert C. Winthrop: "Men, in a word, must necessarily be controlled, either by a power within them, or by a power without them; either by the word of God, or by the strong arm of man; either by the Bible, or by the bayonet."178

It is clear that Reconstructionists desire to expand their perspectives throughout the United States and the world. North and DeMar point out that:

Christian Reconstruction is a relatively small Christian intellectual movement which is now beginning to influence Christian activists. While it began in the United States in the late 1960s, it is self-consciously internationalist in perspective, for its members believe that God calls the whole world to repentance. Its theology provides the biblical support for the idea of Christian activism, political and otherwise. It teaches that every area of life apart from God's healing grace is in sin, under Satan's covenant, and therefore under God's judgment, in history and eternity.179

According to Straub, who spent several years working for the Christian Broadcasting Network founded by Pat Robertson, "we saw God, not as a loving father, but as a military leader who had appointed Pat commander-in-chief of his earthly forces. Pat led us into battle, and, as good soldiers, we followed."180

The question remains: to what extent does this perspective influence the visible Christian Right in the United States? North and DeMar believe that "[p]olitics is a ministry of God," and "true believers" ought to be active in their local communities to bring about the mass conversion of popular thought to their view of Bible-based government: [a] theocracy for a wrathful “God.”181 Despite public disavowal of the theonomy advocated by Reconstructionists, prominent members

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176 Id. at 89.
177 Id. at 40 (citing GARY NORTH, UNCONDITIONAL SURRENDER: GOD'S PROGRAM FOR VICTORY (3d ed. 1994)).
178 Id. at 188.
179 Id. at 78.
180 STRAUB, supra note 76, at 117.
181 NORTH & DEMAR, supra note 99, at 44.
of the Christian Right have paid significant attention to Rushdoony, North, DeMar, and others in the movement.\(^{182}\) Martin reports one activist stating that "[t]hough we hide their books under the bed, we read them just the same."\(^{183}\) It is perfectly clear that Jerry Falwell and D. James Kennedy have endorsed Reconstruction theology, while Pat Robertson frequently makes use of the Dominionist theme within Reconstruction theology.\(^{184}\) Randall Terry, founder of anti-abortion Operation Rescue, has been heavily influenced in his anti-abortion activism by Reconstructionism.\(^{185}\) As a Postmillennial fundamentalist, Terry has engaged in some of the most aggressive anti-abortion protests of the last decade,\(^{186}\) which he believes are a means of ushering in the new millennium where Christianity would dominate for a thousand years, after which Christ's Second Coming would occur.\(^{187}\)

Given recent anti-abortion violence and the rise in executions within the context of this religious fervency, it is clear that we have our own religious jihad in the United States. Our own pro-death penalty and anti-abortion domestic terrorists are attempting to instill one version of "God's Will" on a population unaware of the extent to which civil and personal liberties are sacrificed on the altar of an angry and vengeful "God." The efforts of Christian Right activists convey a message that "God" is on their side, and only their side, and that they have a monopoly on understanding and interpreting "God's Will." To them, within the context of American politics, "God" endorses Republicans who advocate redefining abortion as murder and applying capital punishment to these "murders" as well as many other offenses. In fact, within a meeting of the Christian Coalition, "the most thunderous applause" reportedly came when speakers advocated expanding capital punishment in the United States.\(^{188}\)

How is this message of the jihad being disseminated? Through Christian radio programs such as "Focus on the Family," organizational newsletters, internet websites such as the Christian Coalition's, and through television programming such as Robertson's 700 Club and the Christian Broadcasting Network. Another key component of the Christian Right is higher education; colleges and universities


\(^{183}\) Id.

\(^{184}\) See id. at 354.


\(^{186}\) See id. at 320-25.

\(^{187}\) See id. at 354-55 (describing Reconstructionist Postmillennialism, and Terry's general "affinity" for Reconstructionism).

\(^{188}\) See id. at 367 (describing Harvard theologian Harvey Cox's observation of a Christian Coalition meeting broadcast on cable television).
affiliated with the Christian Right are abundant and powerful in this movement. "The fundamentalist ministers have become—thanks to television—mainline, powerful and beyond criticism. They know God; and, more importantly, they can deliver votes." According to Justin Watson’s research, the Christian Coalition wants to “bring our nation back to God,” and to destroy religious pluralism by imposing its interpretation of “God’s Will” into laws and practices of everyday life. Central to the agenda of the Christian Coalition and other like-minded organizations, are the goals of outlawing abortion rights altogether and expanding the death penalty to include more offenses, perhaps even homosexuality.

Straub claims that “[Pat] Robertson is quietly and deliberately establishing a secret kingdom of believers whose goal is to make the invisible kingdom of God become a visible kingdom on earth so that the world will see the way God intended his universe and his society to function.” This includes government’s “responsibility to punish evil-doers—both the evil individuals within the country and entire countries that are considered evil.” Armstrong, one of the foremost contemporary scholars on modern monotheistic movements, refers to Pat Robertson as a “transitional figure” between Reconstructionist theology and the lay public. This “transition” is partially accomplished through Robertson’s conservative Bible college, Regent University, where the purpose is to “prepare its seven hundred students to take over when the Kingdom arrives.”

The absolutist belief system advocated by Reconstructionists and the Christian Right involves an open hostility toward other (equally legitimate) points of view:

The Robertson doctrine, besides being divisive, gives birth to a form of spiritual bigotry that is as hateful and menacing as anything ignited by the Ku Klux Klan, Hitler or the Ayatollah Khomeini. Hatred, whether wrapped in white sheets or the scriptures, is still hatred and fundamentalist hatred speaks a language of condemnation.

By hijacking a vision of “God” in such terms, they claim a superior grasp on “truth” and a subsequent “right” to reorganize social change to fit this restrictive model of control, censure, and vengeance. Espousing a certain notion of “God’s Will” that means no reproductive freedom for women, and state murder for anyone

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189 STRAUB, supra note 76, at 259.
191 See id. at 107, 119-21.
192 See id. at 217 n.196; MARTIN, supra note 182, at 194, 367.
193 STRAUB, supra note 76, at 19.
194 Id. at 20.
195 ARMSTRONG, supra note 81, at 362.
196 Id. at 362.
197 STRAUB, supra note 76, at 26.
who "offends" these very strict rules, is intentionally politicizing religion to gain power. One only need recall Margaret Atwood’s dystopian novel The Handmaid’s Tale to envision what such a world would look like.\footnote{See ATWOOD, supra note 1.}

Given this "battle" over "God’s Will," what might the future hold for abortion and capital punishment in the United States? As I read the situation, I am not terribly optimistic that abortion will fade away as a political issue in the near future. Of course, some of the future depends on the presidential election in November 2000 between George W. Bush, a lukewarm opponent of abortion rights, and Al Gore, a seemingly strong supporter of abortion rights and heir-apparent of the Clinton Administration’s pro-choice track record. Their influence will have a significant impact on the United States Supreme Court as it continues to struggle through constitutional interpretations of abortion rights.

The presidential election might have little impact, however, on the future of capital punishment in the United States. Both Republican and Democratic candidates are solidly in favor of executions; in fact, Bush has presided over more than 130 executions in Texas during his tenure as governor.\footnote{See Eric Slater, Texas Inmate Gets New Death Date, L.A. TIMES, Aug. 16, 2000, at A8.} In addition, Gore has indicated his support for capital punishment.\footnote{See Ramesh Ponnuru, The Gore Straddle, NAT’L REV., Sept. 11, 2000, at 31.}

However, a strange thing seems to be happening. There may be a sea of change taking place with respect to the nearly 100 innocent people having been released from death row. Bush has already faced some intense scrutiny in light of Illinois Governor George H. Ryan’s moratorium on executions.\footnote{See Slater, supra note 199, at A8.} Ryan, as a Republican, is closely associated with Bush, who has been put in an unenviable position of having to declare his certainty that all those executed in Texas while he has been governor were actually guilty.\footnote{See, e.g., Rick Pearson, Ryan’s Woes Leave Bush Treading Lightly in Illinois, CHI. TRIB., July 18, 2000, at 1.} When no politician running for the highest political office in the United States wants to be put on the defensive with respect to his use of lethal justice, it indicates the public’s unwillingness for unmitigated support of executions. Though some people in the general public may be willing to tolerate some level of error in capital sentencing,\footnote{See COOK, DIVIDED PASSIONS, supra note 2, at 176.} few politicians would want to sully their reputations with avoidable executions of innocent people.

Outside of the political arena, the battle wages on for control of the “moral high ground” on these issues. Whichever side is successful at controlling that terrain will likely be victorious in this battle for “God.” The anti-abortion campaign in recent years has attacked what they call “partial-birth” abortion.\footnote{See, e.g., id. at 47-50.}
professionals do not recognize this term, but nonetheless have engaged in the public debate using the terms defined by anti-abortion activists. Insofar as those opposed to abortion are able to define the terms of the debate, they have won. Using language that is emotionally-charged, even though it is inaccurate and technically non-sensical, abortion opponents have created a moral crusade on whose bandwagon many people are jumping, even those who would define themselves as "pro-choice." The anti-abortion crusaders have been successful at passing bans on "partial-birth" abortion services in Nebraska, despite the statutory language's vagueness and patent unconstitutionality. However, the Nebraska ban was struck down by the U.S. Supreme Court in the June 2000 decision of Stenberg v. Carhart. The real tragedy emerges when women who need or want abortion services are then too afraid to pursue this legal option, and when doctors are harassed out of business as a result of the increasingly volatile threats against them and their families.

Over the last several decades, with the re-establishment of executions in the United States, the moral high ground seems to have been won by those public officials who argue for "victim's rights" and "justice" on behalf of victims. Co-opting this language of victims' rights and shrouding it in a cloak of concern for those who are victimized is little more than a scurrilous manipulation of vulnerable people for political gain. But, because those who are "victims" or their survivors need something we casually refer to as "closure" (or so we believe from the politicians advocating the death penalty) the lethal gears of "justice" are greased. The judicial engines chug along, and some people are killed in order to make us feel "safe" once again. The language is again using a populist rhetoric of vengeance often justified in specific religious terms.

A shift in the moral high ground, however, seems to be occurring with respect to capital punishment. I am slightly more optimistic that the death penalty will be abolished than I am optimistic that unfettered access to abortion services will be maintained. The reason for my guarded optimism is simply due to the recent cases of innocent people who have been released from prisons around the country.

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206 See, e.g., Mary Shaffrey, Democrats Accept Pro-Life Members, HILL, Aug. 13, 2000, at 47 (describing U.S. Senator Evan Bayh's opposition to so-called "partial-birth abortion," while otherwise favoring abortion rights).
207 See Wes Hills, Doctor Defends Late-Term Abortion Procedure, DAYTON DAILY NEWS, Sept. 6, 2000, at 1B.
209 See, e.g., Editorial, 30 Pieces, RICH. TIMES-DISPATCH, Jan. 12, 1999, at A8 ("harassment by anti-abortion extremists is driving many doctors out of business.").
210 See DPIC, supra note 42.
There is something ghastly about deliberate state killings of guilty convicts, and something even more grisly about deliberate state killings of innocent men and women. We are closer now than we ever have been in the post-Furman era to generating a climate of concern surrounding state use of lethal violence against its own citizens.

CONCLUSIONS

“Maybe none of this is about control. Maybe it isn’t really about who can own whom, who can do what to whom and get away with it, even as far as death. Maybe it isn’t about who can sit and who has to kneel or stand or lie down, legs spread open. Maybe it’s about who can do what to whom and be forgiven for it. Never tell me it amounts to the same thing.”

— Margaret Atwood, *The Handmaid’s Tale*

The Christian Right and its leaders are like billowing smoke: their message gets in the eyes and blurs the vision of millions of people. The power of smoke must not be underestimated and neither nor should the power of the Christian Right. Smoke inhalation can be deadly, and the Christian Right attracts passionate activists who apply their theology by doing “battle” against legal abortion by killing, threatening to kill, and bombing health care facilities around the country. Despite the mainstream Christian Right’s public disavowal of violent anti-abortion protests, rhetoric from Christian Reconstruction fuels the fire and generates a smoke screen of justification for more killings than any other religious movement present. The “true believers” are thus inspired to act on “God’s Will” in the world, however they see it.

But, like smoke, Christian Reconstruction is essentially without substance. Reconstructionists have lost sight of important religious tenets of confession, redemption, and forgiveness as primary acts of faith, all the while passing judgment and condemnation on others because they perceive themselves as above reproach.

This stance is fueled by deeply punitive and vengeful mentalities towards others whose beliefs are different from their own. Those of us who criticize the Christian Right may be subject to their ridicule at best and harassment at worst, but

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211 ATWOOD, supra note 1, at 135.
213 See ARMSTRONG, supra note 81, at 361-62.
214 See COOK, DIVIDED PASSIONS, supra note 2, at 194; Cook, *Pro-Death Politics*, supra note 2, at 341-42; Cook & Powell, supra note 2.
our criticisms come from a place of spiritual power that threatens the basic structure upon which Christian Reconstruction is founded.

Unlike the Christian Right, those of us who adhere to pluralistic and eclectic belief systems accept other belief systems as valid. The Christian Reconstructionist does not tolerate the diversity of thought on matters of social life or theological debate; their perspective is simply “right” while others are “all wrong.” Debate is neither possible nor advisable, as it would likely result in a stalemate. The Christian Reconstructionist refuses to see through the smoke, believing that the smoke itself is “The Truth,” when in fact it is without substance or form, toxic to spiritual health and well-being, and lethal when ingested in large doses.

The danger comes from the electoral power this brand of Christianity has. Reconstructionists are terribly successful at marshalling vast financial resources for the political campaigns of conservative Republicans or others outside the two-party system. The Christian Right, aided by television (especially the Christian Broadcasting Network founded by Pat Robertson) and by radio (especially “Focus on the Family,” created by James Dobson) have mailing lists with millions of people to whom they plead for money and electoral support. Despite the fact that the Christian Coalition claims a non-partisan status (partly to avoid taxes), its “voter guides” are notoriously aimed at promoting the political campaigns of those who would continue the “judicial slaughter” in American courts, turn a blind eye toward the slaughter of American abortion providers and a deaf ear to any other theological tradition (even within Christianity) whose conclusions differ from its own.

What would alternative conceptions of “God” mean? Until we re-imagine “God” in less masculine, punitive, wrathful and war-like terms, we will continue to struggle with these problems. As a multicultural country, we have a constitutional obligation to protect the freedom of religion for followers of religions such as Judaism, Islam, Hinduism, Buddhism, Wicca, and indigenous belief systems, as well as Christianity. Christian Reconstructionists, as we have seen, view these other religions as serious threats to the well-being of Christians, and they are unwilling to consider any other images of “God” aside from their own. The freedom of religion clause in the Constitution also implies freedom from religion...
for those who reject organized religious practice.\textsuperscript{220} Under Christian Reconstruction, these freedoms (indeed, democracy itself) would be eradicated; people would not be permitted to legally practice alternative traditions, nor would people be free to avoid organized religion altogether.\textsuperscript{221} Great religious traditions of the world are all represented in the United States and contribute to the vibrant diversity of our society. Tolerance of alternative images of "God" is an important advance in our cultural relationship with the Divine.

As an eclectic spiritualist and believer in the New Testament message of love, I value lessons from other faith traditions: that "God" is more than just a "man" as imagined and experienced; that all humans are loved by the Divine regardless of dogmatic adherence; and that we are all co-Creators with the Divine in our world. As such, we are obliged to respect the co-creative power in others while at the same time respecting individual diversity in spiritual paths.

From my strictly spiritual perspective regarding abortion, I believe it is within the personal judgment of the individual woman when to bear children, and if religious freedom is to be protected, it is outside the state's authority to limit that choice for women in any way. Regarding capital punishment, I believe it is also outside the jurisdiction of the state to terminate the Creator-given life-power of those convicted of violating the law, under any circumstances. State-sanctioned killings, in this context, violate human rights and impose a set of religious views on others, thereby offending the Constitution.

"In 'God' We Trust"?

- Treasury Department, United States of America
  (per federal law, 31 U.S.C.S. §§ 5112(d)(1) & 5114(b)(2000))

\textsuperscript{220} See, e.g. Pat M. Holt, \textit{Keep All Religion Out Of Campaigns}, \textsc{Christian Sci. Monitor}, Sept. 7, 2000, at 11 (restating the general principle that "freedom of religion necessarily means freedom from religion.").

\textsuperscript{221} See supra text pages 128-29.