

When Is It Right for Christians to Disobey the Law?

Twenty years ago this month, the late Chuck Colson published an article that has proven to be prophetic in describing the blatant abuse of power by the courts as well as the increasing marginalization of those holding to biblical morality. Colson laid out the various forms of resistance that may become necessary when the government demands what God prohibits. The following is a portion of Colson's article.

In America today, we have very nearly reached the completion of a long process I can only describe as the systematic usurpation of ultimate political power by the American judiciary—a usurpation that compels evangelical Christians and, indeed, all believers to ask sobering questions about the moral legitimacy of the current political order and our allegiance to it. Among the questions we must address is whether millions of Americans are still part of the “We the People” from which democratic authority is presumably derived.

A little more than 200 years into the American experiment, cultural conservatives stand convicted of unspeakable crimes in the eyes of most of America's media commentators. The opponents of abortion on demand, in particular, have felt the whip. Some columnists charge them with fostering a climate of hatred responsible for the Oklahoma City bombing and the Michigan militia. One claimed that “the main form of political terrorism in the United States is perpetuated by right wing opponents of abortion,” while another added that “most anti-abortion activists” are “religious fanatics who want to impose their version of God's Word on the rest of us.”

Hostility against pro-lifers seems now to have spilled over

into a distrust of any group of citizens seeking to connect public policy with a transcendent moral order. Writing the decision for the Ninth Circuit Court of Appeals in *Compassion in Dying v. Washington*, which overturned a state ban on euthanasia, Judge Stephen Reinhardt slammed the door on people “with strong moral or religious convictions,” as he put it. “They are not free,” he wrote, “to force their views, their religious convictions, or their philosophies on all the other members of a democratic society.”

The Supreme Court itself has expressed similar sentiments. In overturning Colorado’s prohibition of local civil rights statutes based on sexual preference, the court in *Romer v. Evans* effectively branded a bigot any citizen who considers homosexuality immoral. Writing for the majority, Justice Anthony Kennedy declared, “Laws of the kind before us raise the inevitable inference that the disadvantage imposed is born of animosity toward the class of persons affected.”

Without any supporting testimony or findings of fact, Justice Kennedy managed to divine that the sponsors of the referendum and the voters who ratified it must have been motivated solely by bias.

Are citizens—whether Protestants, Catholics, Jews or Mormons—who seek to apply transcendent moral values to public life welcome in political, legal and cultural debates? Are citizens free to “impose” such values by referendum or legislative means in their respective states, or are their efforts inherently unconstitutional? Does religion have any role to play in the law?

The answers to these questions have ominous implications for cultural conservatives. Writing in the *Baylor Law Review* before the *Romer* decision, David Smolin of Samford University Law School argues that the present court—rejecting “religiously based” claims as inherently particularistic—is increasingly dismissing “traditional theists” as too

absolutist to join in public debate in a pluralistic society.

This dismissal of religion (coupled with what he considers the court's abandonment of the rule of law) helps explain the "frustrated religious patriotism" that drives much conservative political action. With political prospects increasingly out of reach, Smolin predicts traditional theists with political interests will be forced to abandon their religious beliefs and accommodate themselves to an amoral, libertarian regime. The only alternative seems to be an abandonment of their political interests, becoming what the theologian Stanley Hauer was has called "resident aliens" in America—no longer concerned about the fortunes or misfortunes of a flawed republic, no longer considering this land their country.

But utter political despair, at least, may be premature. Believers may have been told that their convictions disqualify them from public debate, but the news is news they've heard before. During the parliamentary struggle to curtail the British slave trade in the late 18th century, Lord Melbourne sounded much like the U.S. Supreme Court today when he huffed on one occasion, "Things have come to a pretty pass when religion is allowed to invade public life." Yet Christian reformers pressed on, rolling back, one by one, features of the slave trade until it was abolished in 1807 and slavery itself in 1833.

Unfortunately for us, however, events in America may have reached the point where the only political action believers can take is some kind of direct, extra-political confrontation of the judicially controlled regime. Following the logic in *Romer*, the Supreme Court can in time strike down state statutes barring polygamy, sodomy and incest.

A court empowered to judge a statute's constitutionality by that court's own inference of the animus of the statute's sponsors is a court set free from any limitations on its

power—its power, on the one hand, to strike down any law enacted with the political aid of believers, and its power, on the other hand, to move directly against churches and denominations that display a perceived animus in their teaching toward certain behavior.

The free exercise clause of the First Amendment poses no obstacle to a judge with any creativity, and—given the demonstrated animus of the current judicial regime against believers—a showdown between church and state may be inevitable. This is *not* something for which Christians should hope. But it is something for which they need to prepare.

When considering the relation of church and state, we must remember first, of course, that in the 13th chapter of his letter to the Romans, Paul has written what must remain for Christians the classic admonition of obedience to the governing regime. Most scholars and pastors, however, recognize that this admonition needs to be balanced with other Biblical passages that suggest individuals will at times face a very clear choice between God and Caesar.

In the New Testament book of Acts, Peter and John refused to stop preaching the gospel even as they recognized the state's right to punish them. The biblical evidence suggests that where a state either demands what God prohibits or prohibits what God demands, the believer is to obey God and graciously accept the state's imposed consequences.

If, after prayerful deliberation, Christians corporately determine that our present government has violated its God-given mandate, what then? After the pattern of the confessing German church, the church would first have to separate herself and declare her independence, disavowing any moral legitimacy indirectly or unofficially provided for the state in the past. Through her teaching and preaching office, the church would need to expose the nature of the state's rebellion against God—in effect, bringing the state under the transcendent

judgment of God.

But what if all these actions fail to deter the state? Churches must then consider a higher level of resistance. In the campaign against slavery in the 19th century, Protestant churches used internal discipline and external pressure. The revivalist Charles Finney refused communion to slaveholders. Others organized the Underground Railroad and rescued fugitive slaves from prison. Many ministers broke the law, were arrested, and some were imprisoned.

But would even active disobedience be effective against our current judicial state? When peaceable means and limited civil disobedience fail—at least according to the Protestant theologians [John] Knox and [Samuel] Rutherford—revolution can be justified from a Christian viewpoint. While Knox called for the overthrow of a ruler in the interest of the Reformation, Rutherford advocated revolt in any instance when a king or ruler acted contrary to the written law.

The same standards Augustine used to evaluate the justice of a war apply to the justice of a revolution: No other alternative is feasible; the advantages outweigh the suffering caused; and the evil employed in the revolution prevents far greater evil. Churches would have to be convinced that our present government had become totally opposed to God's purposes and that there was no other solution to prevent massive evil.

The fervent and ceaseless prayer of every Christian should be that the discussion of resistance and revolution remains an academic exercise. We must continue for now to work relentlessly within the democratic process. Abhorring a confrontation, we should be engaged in a search for wisdom and a consensus to help us respond to the crisis of the time.

We dare not at present despair of America and advocate open rebellion. But we must "slowly, prayerfully, and with great deliberation and serious debate" prepare ourselves for what

the future seems likely to bring under a regime in which the courts have usurped the democratic process by reckless exercise of naked power. {eo}

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Charles Colson (1931-2012) was founder of Prison Fellowship and the Colson Center for Worldview.