

The Political Origins of Religious Liberty

Anthony Gill
University of Washington



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Introduction: Of Liberty, Laws, Religion, and Regulation

In a free government, the security for civil rights must be the same as that for religious rights. It consists in the one case of the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects.

– James Madison, *Federalist 51*

ON APRIL 13, 1598, King Henry IV of France signed a remarkable document. In a nation where the Roman Catholic Church reigned supreme, the Edict of Nantes gave French Protestants – the Huguenots – a guarantee that they would no longer be persecuted for their dissenting religious beliefs. Although it did not provide the Huguenots with a legal status equal to that of Roman Catholics, this document represented an important step toward greater freedom of conscience in Europe. Unfortunately, it would not last. Less than a century later (in 1685), King Louis XIV would rescind the Edict of Nantes, an act that resulted in a rush of violence directed at the Huguenots and the subsequent emigration of nearly four hundred thousand French Protestants to various parts of Europe and the British American colonies. Yet, while France was backtracking on its movement toward religious liberty, a neighboring country was moving forward.

Across the English Channel in Britain, King William of Orange proclaimed the Act of Toleration (1689), which marked a significant step

toward the gradual implementation of religious liberty in Great Britain. The rapid expansion of dissenting Protestant denominations (e.g., Presbyterians, Quakers, and Anabaptists) in England during the 1600s made a policy of continued persecution costly and impractical. Efforts to curtail the liberties of Catholics and Protestant dissenters early in the century resulted in an extended period of internecine warfare that hindered economic progress and made unification of the British Isles a difficult task. Not only was the Act of Toleration a response to the religious strife that tore violently at the fabric of English society during the seventeenth century, but also it was a reaction to the growing religious toleration shown by one of Britain's main economic rivals – the Netherlands. Dutch Protestants, having suffered persecution under Spanish rule, ensured that minority religions were protected after the Netherlands gained independence in 1579. Not only did this facilitate trade with other nations, enriching the Dutch economy, but also the Netherlands served as a safe haven for religious sects fleeing persecution in England. These religious refugees, which included the famed Pilgrims, were often the most creative and industrious citizens in their home nations; England's loss was the Netherlands' gain. The English Toleration Act helped address this situation.

Ironically, although dissenting sects long fought for religious toleration in England, some were rather hesitant to extend it to others in the American colonies. The Pilgrims may have found a haven from persecution by fleeing to America, but Quakers and Baptists did not fare well in the Puritan strongholds of New England. Anglicans, too, were quick to declare their religious dominion. Virginians were required to pay taxes to support the officially established Church of England, a fact that the followers of other denominations found to be quite distasteful. And Catholics were never much liked anywhere in the colonies outside of their enclave in Maryland. But by the dawning of U.S. independence, the environment had shifted noticeably. The rise of religious pluralism and tolerance in Pennsylvania pressured the New England assemblies to back away from the most egregious forms of religious persecution. Beginning in 1776, the Virginia Assembly suspended the payment of tax-supported salaries to Anglican priests and placed the official status of the Church of England in limbo. A decade later, a series of contentious debates in the Virginia Assembly finally resulted in the passage of Thomas Jefferson's Bill for Establishing Religious Freedom, which eventually served as the template for the First Amendment of the U.S. Constitution. Even Catholics witnessed improvement in their legal and social status by the late 1700s. During the Revolutionary War, colonial Catholics once derided as "papists" and "antichrists"

quickly became allies in the war against King George III. Nonetheless, Catholics still remained on the “least tolerated” list of denominations and faced ongoing discrimination throughout the nineteenth century.

Catholics fared better to the south in the Spanish colonies, albeit at the expense of Protestant freedoms. Roman Catholicism was granted an exclusive and privileged position in colonial Latin America. The Spanish Crown guaranteed that only one faith would be permitted in its section of the New World. Tithes were collected by the colonial government, Church officials tended vast landholdings granted to them by the Crown, and clergy were tried for misdeeds in separate ecclesiastical courts (*fueros eclesiásticos*), where they often received more favorable treatment. The *quid pro quo* for all of these benefits was that the Spanish monarch had the ability to appoint Church officials and approve of papal decrees that would apply to the colonies – a loss of religious freedom that the Vatican was willing to pay for its advantaged position. Circumstances changed dramatically for the Catholic Church in the decades following Latin American independence. During the mid-nineteenth century, Church landholdings were seized (often without compensation), and the rights of the clergy to conduct and collect fees for marriage and funeral services were revoked. Ecclesiastical *fueros* were abolished and priests came under the jurisdiction of civil courts. By the turn of the twentieth century, a handful of Latin American governments were allowing Protestant missionaries greater access to their countries, though enforcement of religious liberty was highly selective. Growing liberty and toleration throughout the mid- to late twentieth century led to a Protestant “explosion” in several parts of the region.

The Mexican Revolution ushered in perhaps the most dramatic change in church-state relations in Latin American history. The revolutionary constitution of 1917 prohibited the Church (and other religious denominations) from owning any property and clergy lost the right to run for office or vote, effectively making them second-class citizens, a situation immortalized in Graham Greene’s classic novel *The Power and the Glory*. Passions ran high over this new church-state regime. Enforcement of these constitutional provisions ignited a short-lived civil war in the country during the late 1920s. However, conflict between the Church and state eased by the 1930s and by 1992 the Mexican episcopacy, with help from the Vatican, compelled the government to rescind the most restrictive anticlerical provisions in the constitution. These changes not only benefited the Catholic Church but also helped non-Catholics seeking access to the country.

Anticlericalism wasn’t restricted to Mexico during the twentieth century. The fates of religious groups under the yoke of Communist rule are well

known. Although it did not completely eliminate religious practice in Russia and Eastern Europe, the Soviet regime implemented such highly restrictive conditions on churches that religious participation became a rarity in most of these nations. Then in 1989 the Berlin Wall crumbled. The Kremlin no longer controlled Eastern Europe. The Soviet Union collapsed two years later. Along with the process of constructing new democratic constitutions, politicians throughout the region set about drafting laws governing religious groups. Although the United Nations' (UN's) Universal Declaration of Human Rights served as a general template for codifying religious freedom in each country, the specific regulations emanating from the policy-making processes varied quite substantially throughout the region. In Russia, an initial regime of religious freedom gave way to restrictive legislation that primarily favored the Russian Orthodox Church (ROC) just a half decade later. The most interesting irony of this legislation is that it was supported by former members of the Soviet Communist Party who had previously suppressed the rights of Orthodox clergy. Although the Russian Orthodox hierarchy celebrated the new laws that came into being in 1997, religious minorities heard the door to a promising new mission field slam shut.

The Baltic States of Lithuania, Latvia, and Estonia offer an instructive comparison.¹ Admittedly, these three nations differ in terms of their religious and ethnic makeup and their historical experiences predating the Communist era. Nonetheless, all three suffered under a similar repressive Soviet rule devoted to reducing religious influence in society from the end of World War II to 1990. The leadership arising from the ashes of Communist rule in each nation faced a "blank slate" for writing laws regulating religious groups. Yet the regulatory regimes taking shape by the mid-1990s differed dramatically. Lithuania had one of the most aggressive activist groups promoting religious liberty for Catholics *and* religious minorities (such as Pentecostals) in the 1970s and 1980s, advocating their positions through the largest underground publication in the Soviet Union – the *Chronicle of the Lithuanian Catholic Church*. Yet when the newly independent Lithuanian government finally instituted its laws governing religious bodies in 1995, Pentecostals (and several other prominent religious minorities) did not make the list of nine officially recognized "traditional" religions receiving special legal status. A concordat with the Vatican firmed up the preferential status of the Roman Catholic Church five years later. Neighboring

¹ I am deeply indebted to Cheryl Žilinskas for her knowledge, insight, and work on Eastern European religiosity.

Latvia imposed similar restrictions on religious minorities, only providing legal recognition for six traditional religions and not allowing more than one organization within the same confession – that is, an officially established church – to register, making it all but impossible for highly splintered evangelical and Pentecostal faiths to gain equal status. Like their southern neighbor, the Latvian government claimed that the influx of dangerous sects was a primary motivation for its lack of flexibility with particular religious groups. By contrast, as of 2006, Estonia – with a mix of Orthodox and Lutherans and a smattering of other denominations – possessed no officially recognized religion and maintains comparatively minimal requirements for the registration of new religious communities, making it the most religiously free country in the former Soviet bloc according to a recent Freedom House ranking (Marshall 2000, 26). Despite this, the Estonian parliament has considered tightening regulations on religious groups in recent years.

The aforementioned cases represent significant historical changes in religious liberty. In most instances, the path has been toward expanded freedom for religious organizations. But the march of religious liberty certainly has had its setbacks over time, as witnessed by the revocation of the Edict of Nantes and the 1917 Mexican Constitution.² And a casual glance at nations today reveals significant variation in the nature and extent to which churches are regulated, as can be seen in the Baltic States. All of this raises a series of important questions central to this book. What accounts for the origins and development of religious liberty over time? How can we explain the differences in the nature of laws regulating religions throughout countries? Related to these questions, we must ask why governments would ever want to place restrictions on the free worship of its citizens in the first place. Why would politicians favor one confession over other denominations, effectively guaranteeing a religious monopoly over a population? And once a religious monopoly is established, what factors would motivate politicians to deregulate the religious economy (i.e., introduce religious liberty)?

The issue of religious liberty garnered growing attention in the latter decades of the twentieth century. The UN saw fit to reaffirm its commitment to religious liberty in 1981 with Resolution 36/55, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion and Belief. Seventeen years later, one hundred fifty representatives from various countries and religious groups gathered in Oslo to declare the

² Even in the United States, perhaps the cradle of religious liberty, the cause of religious liberty has arguably had its setbacks, a subject that will be examined in Chapter 6.

importance of religious freedom yet again. A plethora of nongovernmental organizations (NGOs) has arisen during this time to monitor religious freedom throughout the world, including the International Coalition for Religious Freedom, the International Religious Liberty Association, International Religious Freedom Watch, the Religious Liberty Commission and the Rutherford Institute (cf. Moreno 1996). Even the prestigious Freedom House, which has monitored economic freedom and civil liberties since 1941, created a separate division specifically for monitoring religious freedom in 1986 – the Center for Religious Freedom (cf. Marshall 2000).

Policy makers have turned their attention to the issue of religious liberty, largely responding to pressure from constituents interested in the issue. In 1998, the 105th Congress of the United States passed the International Religious Freedom Act (P.L. 105–292) requiring the U.S. Department of State to provide an annual overview of religious liberty and persecution around the world for consideration in foreign-policy making. It has factored into debates surrounding the economic trade status of several countries, most notably the People’s Republic of China (PRC) where groups such as the Roman Catholic Church, various Protestant missionaries, and Falun Gong have suffered serious persecution. Domestically, a series of U.S. Supreme Court decisions throughout the 1990s prompted federal policy makers to pass legislation aimed at specifically defining and protecting the rights of religious individuals and institutions.³ Other countries such as Sweden have substantially modified the way in which religious groups are regulated and a number of other countries in Europe are trying to find ways to legally incorporate the Islamic faith of immigrants into their highly secular societies. Finally, the salience and increased visibility of religious-based conflict at the beginning of the twenty-first century has served only to reinforce our desire to understand all facets of religion, including the interactions between church and state – the institutional nexus of religious freedom.

To date, however, few scholars have sought to explain the rise of – or, more precisely, the change and fluctuations in – religious liberty in any theoretically systematic way. Most studies have either emphasized the consequences of varying forms and levels of religious liberty or regulation (cf. Monsma and Soper 1997; Stark and Iannaccone 1994; Chaves and Cann 1992), discussed the normative implications of varying interpretations

³ The two major pieces of legislation passed by the U.S. Congress were the Religious Freedom Restoration Act (1993), which was declared partially unconstitutional by the Supreme Court four years after its implementation, and the Religious Land Use and Institutional Persons Act (RLUIPA) (2000).

of religious freedom (cf. Segers and Jelen 1998; Instituto de Investigaciones Jurídicas 1996),⁴ or provided detailed historiographies (cf. Curry 1986; McLoughlin 1971) with little attempt to develop a generalizable theory for the emergence of religious liberty throughout time and space.⁵ Only a few scholars – such as Roger Finke (1990),⁶ Charles Hanson (1998),⁷ and John Anderson (2003) – have attempted to provide theoretically developed explanations for the rise of religious freedom, though each focused on specific case studies and did not seek greater generalizability for their ideas. Part of this general scholarly neglect can be attributed to the fact that the answer to this puzzle (if it is considered a puzzle at all) is thought to be obvious. The secularization paradigm, which has dominated social scientific studies of religion until recently, appeared to provide the solution. From this perspective, religious liberty was concomitant with religious pluralism and a general decline in spirituality and was considered a natural outcome of the process of social, political, and economic modernization. The question about the origins of religious liberty was not seen as much of a question at all. This book attempts to remedy the neglect of this important topic by providing a general theoretical framework for studying the origins and development of religious liberty.

Although the path toward religious liberty has often been considered a natural outgrowth of more “modern” thinking (i.e., the triumph of Enlightenment philosophy) over traditional thought, the overarching thesis presented here argues that *interests* play an equally important if not more critical role in securing legislation aimed at unburdening religious groups from onerous state regulations. Specifically, I will focus on the political and

⁴ The normative literature on religious freedom, centering mostly on interpretations of the U.S. Constitution’s First Amendment, is too voluminous to cite here. For the broad parameters of the debate, see Clarke Cochran’s detailed preface to Segers and Jelen (1998). Or, should the reader be more adventurous, I suggest a stroll down the BR and BX aisles of any major research library.

⁵ There are several edited volumes such as Sigmund (1999), Helmstadter (1997), and van der Vyver and Witte (1996) that deal with religious freedom in different eras and countries, but the nature of these volumes – with different authors emphasizing different aspects of religious liberty – make the promulgation of a reasonably unified theory difficult. This should not be seen as a critique of these volumes as they provide a wealth of detailed information in their own right. Moreover, had any of these works attempted to provide an overarching theory of the origins of religious liberty, I would not be writing this book.

⁶ Finke’s article on the *origins* and *consequences* of religious liberty tended to focus more on the latter than the former, though his initial thoughts on the topic of origins was a major inspiration for this work.

⁷ Hanson’s explanation for why American colonists yielded greater tolerance to Catholics during the Revolutionary War might be considered more of an emphasis on a particular factor – the need to win French support – than a deductive theory.

economic interests of politicians (rulers)⁸ and the institutional interests of religious leaders in the policy-making arena. As such, this book discusses the *political*, as opposed to the *intellectual*, origins of religious liberty. This is not to say that ideas are irrelevant when formulating policy; ideas do matter as will be discussed in Chapter 2. However, when competing ideas exist in society, it is often *political interests* that tip the balance of the debate in one direction or another.

The interests at play in determining the nature of religious liberty come from both the side of religious actors (church leaders, clergy, and parishioners) and secular rulers (legislators, presidents, monarchs, and dictators). Leaders of a dominant religion in society, I contend, are inclined to prefer a regulatory regime that discriminates against religious minorities, making it difficult for them to worship and/or gain converts.⁹ In contrast, religious minorities will favor regulations that make it easier for their clergy and members to openly practice their faith and proselytize.¹⁰ The degree of denominational pluralism in a society thus affects the likelihood that greater religious liberty will prevail. A religious market with a plurality of denominations (i.e., where no majority denomination exists) will be most favorable to the expansion of religious freedom, something that James Madison recognized in *Federalist 51*. An environment wherein religious minorities are gaining significant ground will also be amenable to the growth of religious freedom but not without conflict or attempts to restrict that freedom by leaders of the dominant religion. Societies where one denomination is hegemonic and religious minorities are of no consequence will tend toward a highly regulated environment favoring the dominant church. The one important exception to this latter situation is where political leaders see the dominant church as a potential threat to their political survival and seek to limit its societal influence. Such situations will also tend toward a highly regulated (less free) religious environment that does not favor the dominant church nor most other denominations.

⁸ The term *politician* will be used throughout the text in a generic manner to refer to any type of political actor – be it a democrat or a dictator.

⁹ As will be noted in the following text, this discrimination can be subtle yet very powerful. Although proclaiming favoritism toward religious freedom as a general principle, it is still possible to favor microregulations that inhibit an upstart church from gaining foothold in a certain area. Battles over land-use law and zoning regulations are common in religious freedom cases.

¹⁰ The scope of this book is largely limited to religious liberty in Christian societies wherein most of the religions examined are proselytizing. I realize that some faiths (e.g., Judaism) and denominations do not aggressively seek members. Nonetheless, the arguments made in this book still apply.

But religious leaders and activists are not the only ones who determine the degree of religious freedom in society. The role of government officials is essential too. After all, these secular rulers – be they democrats or dictators – are the ones who put pen to paper and define the legal parameters under which churches and their members operate. Understanding the motives and incentives of these rulers thus becomes crucial in understanding the origins of religious liberty. Moreover, policy makers do not make laws and regulations on a specific topic in a vacuum; in other words, policy makers often consider factors seemingly unrelated to the specific topic under debate when passing legislation. This is important to realize considering that many of the discussions related to religious liberty tend to center on the moral arguments surrounding different legal configurations of religious freedom (e.g., Harmin 2005; Pufendorf [1687] 2002; Segers and Jelen 1998; Tierney 1996; Locke [1689] 1955).¹¹ This leaves the impression that the nature of religious liberty is the result of an intellectual (and often esoteric) debate. To the contrary, I contend that political actors consider a set of other *interests* when deciding how to regulate religion. Specifically, I argue that politicians take into account their own political survival (i.e., ability to get reelected or stave off a coup), the need to raise government revenue, and the ability to grow the economy when writing laws pertaining to religious freedom. Whenever a rather restrictive set of laws governing religious activity affects any of these three interests, secular rulers will be more apt to liberalize regulations on religion – that is, promote religious liberty.

Defining the Scope of Religious Liberty

What constitutes religious liberty? As an outside observer, how can one tell whether or not a country has religious freedom? This latter question is perhaps misleading in that it assumes religious liberty is a simple dichotomy – that is, it is something that a nation either possesses or does not possess. Constitutional declarations pronouncing a “right to conscience” enhance this perception that religious freedom is an “either/or” concept. In reality, religious liberty is a large umbrella concept that covers a wide array of policies that affect worshipers, clergy, and spiritual institutions. Methodist Bishop G. Bromley Oxnam, in a 1947 article for the magazine *Churchman*,

¹¹ Again, this is most common in scholarly discussions about the First Amendment of the U.S. Constitution and the various cases that have come before the U.S. Supreme Court related to the subject of religion.

laid out what might be the best definition of *religious liberty* and helped to elucidate the scope of policies that affect such freedom:

When we speak of religious liberty, specifically, we mean freedom of worship according to conscience and to bring up children in the faith of their parents; freedom for the individual to change his religion; freedom to preach, educate, publish, and carry on missionary activities; and freedom to organize with others, and to acquire and hold property for these purposes. (Cited in Stokes 1950, 20–1)¹²

What Oxnam reveals here is that religious liberty involves more than the right of personal conscience; it includes a host of policies concerning property rights, education, media ownership, and public speech. The ability of congregants to come together, build a church, and reach out to nonbelieving members of the community is an essential part of religious freedom. Although religious freedom can certainly be framed in moral imperatives, it is important to understand that religious liberty is a matter of government regulatory policy and can touch on issues as diverse as citizenship requirements and land-use restrictions.

From this point forward, I will view religious liberty as a matter of government regulation. Thinking of religious liberty in regulatory terms has several analytical advantages. First, following up on the work of scholars studying regulatory policy, the analysis can be cast in terms of cost-benefit analysis. Government policies impose various costs and benefits on different individuals and groups. In a world where people have unlimited goals and face scarce resources, any increase in cost can be thought of as a restriction on one's liberty; making some activity more expensive reduces the ability of a person with fixed resources to pursue that activity.¹³ For instance, a

¹² The original citation is attributed to G. Bromley Oxnam, "Liberty: Roman or Protestant," *Churchman* (November 15, 1947). No page numbers provided.

¹³ I am aware of the argument that without a minimal restriction of liberty imposed by some form of government, humans would be living in a Hobbesian state of nature wherein life is solitary, nasty, brutish, and short. Such a world – free from all government restrictions – would not be conducive to liberty at all given that we would live in a perpetual state of fear of others. As such, some basic restrictions upon behavior – e.g., laws preventing murder, theft, and jaywalking – are necessary for humans to realize a more comfortable and expansive freedom. Institutions such as an independent judiciary are also necessary to guarantee that freely made economic contracts are respected. In order to recoup the costs for a government to provide the public good of security, it is necessary to coerce citizens into paying taxes. Paying taxes is a restriction on liberty in an absolute sense, but the sense of security that tax revenue buys does enhance our ability to enjoy freedom. The optimal level of taxation needed to provide for basic public goods that allow us to enjoy a comfortable freedom is up for eternal debate. Suffice it to say that I do not intend to resolve that debate here.

regulation requiring auto manufacturers to produce cars that meet certain mileage standards or pollution requirements limits the freedom of those firms to build the cars that they want. It also limits consumer choice. Drivers who prefer heavy and fast cars will have fewer options in the marketplace when car makers produce only light, slow cars to meet the new regulations. Moreover, the additional costs of making more fuel-efficient cars may mean that some individuals will no longer have the financial means to purchase a car and will be restricted to public transportation. A zoning law requiring church buildings to be no more than a specific size (e.g., 20,000 square feet) or located in a certain area are also likely to impact the abilities of clergy to attract the number of adherents they would like to. Regulations impose costs on Chrysler and Christians alike. Non-Christians are also subject to onerous government regulations (cf. Fetzer and Soper 2005).

Second, conceptualizing liberty as a matter of government regulation allows us to see the issue in multidimensional terms. Proclaimed freedom in one arena may be cut short by restrictions in another policy area. A government may allow its citizens to own land and build private houses. However, land-use requirements or zoning restrictions may limit the ability of people to choose where they want to live, how much of their land they can develop (as opposed to leaving it in a natural state), and what type of house they would like to build. Mandates on certain types of building materials (e.g., slate roofing) or construction features (e.g., energy-efficient windows) may also raise the cost of homes, thereby excluding some poorer individuals from the housing market. Conceiving of liberty as a multidimensional concept subject to numerous regulatory restrictions reveals that liberty is not simply a dichotomous variable – that is, something you either have or don't have. A constitutional guarantee of freedom of speech does not mean an absolute lack of restrictions on public speech. Laws punishing slander, prohibitions on copying intellectual property, and restrictions on campaign advertising all put limits on free-speech rights.

Understanding that religious liberty is multidimensional allows us to conceive of it as existing on a continuum. Fox (2005), Grim (2004), Grim and Finke (2006), Norris and Inglehart (2004), Barrett et al. (2001), Gill (1999a), and Chaves and Cann (1992) have recognized this fact as they have attempted to construct indices measuring religious freedom. Laying aside whether these indices are adequately comprehensive, covering all possible dimensions of religious liberty,¹⁴ they should be a reminder that

¹⁴ I should note that I have the utmost admiration for the efforts of all these scholars in measuring religious freedom and my comment here by no means implies a critical attitude toward their achievements. It is just that the mere fact of trying to capture every possible

subtle changes in any one dimension of religious freedom can move a country toward greater *or lesser* freedom. It is not necessarily the case that countries ultimately move toward greater freedom in a unilinear fashion, as evidenced by the revocation of the Edict of Nantes. A brief discussion of the various areas of regulation affecting religious organizations and their adherents will help illustrate the point that religious liberty is a multifaceted concept and how such regulations impact the cost-benefit calculations of religious individuals and institutions.

The broadest regulation relating to religious liberty would be a constitutional declaration stating freedom of conscience. Most, but not all, nations of the world maintain some statement of religious freedom in their constitutions. Even countries like the PRC and Cuba provide a constitutional guarantee for freedom of conscience, but it would be difficult to consider these nations as bastions of religious liberty. To use a worn cliché, when it comes to religious liberty, the devil is in the details. Let us further examine those details.

Regulations that affect the liberty of religious individuals and groups can be grouped into two broad categories – negative restrictions and positive endorsements of select denominations. The former category is relatively self-explanatory and includes specific regulations telling certain (or all) religious groups that they cannot undertake certain activities, making it difficult for them to gather for worship or proselytize. Positive endorsements of select denominations have a more subtle effect when it comes to restricting religious liberty. Here, favoritism shown to one faith tradition may make it implicitly more difficult for members of other groups to gain new adherents, as will be shown in the following text.

Negative Restrictions on Religious Liberty

Throughout history, governments have found a number of ways to limit the presence and/or expansion of “undesirable sects.” Simply banning religious clergy from living in or entering a country is probably the most obvious manner of achieving this goal. Immigration restrictions on Protestant missionaries were common in Latin America during the first half of the twentieth century (Pierson 1974, 177; Lodwick 1969, 103; Goff 1968, 3/27–36) and the current Russian and Chinese governments are careful about handing out visas to individuals seeking to spread their faith. One

dimension of religious liberty is an extremely difficult task, and one that I avoid. Grim (2004) constructs the most sophisticated of the indices. See also Grim and Finke (2006).

can clearly see how this would be a restriction of religious freedom; without leaders, churches are unlikely to get off the ground. Such restrictions also affect consumer choice and the ability of individuals to fulfill their own freedom of conscience. If clergy from certain denominations are prohibited from proselytizing, individuals who might prefer a certain type of religion (e.g., Pentecostalism and Mormonism) will not be able to easily find a group of like-minded believers. Such restrictions on consumer choice are difficult to see in practice given that it is hard to determine whether a person has a preference for a certain type of religion when that religion is not present. How can one know that they enjoy evangelical Protestantism when no evangelical Protestant options exist for them to try? Leaders of historically dominant religions in a nation often resort to claims that a nation's populace subscribes only to one true faith and that prohibitions on foreign sects are required to protect the citizenry from cultural contamination (cf. Kuznetsov 1996; Consejo Episcopal Latinoamericano 1984). This raises an interesting dilemma. If one religion truly defines a national culture, and people are deeply steeped in that culture, restrictions on foreign missionaries would be unnecessary; the populace would reject the new sect out of hand. In reality, such restrictions are often necessary because there is a variety of preferences for different types of religion in a society and because the dominant church has not done a sufficient job in capturing the loyalty of the citizenry, leaving the "unchurched" ripe for the picking.¹⁵ In addition to banning foreign religious personnel, governments have also been known to ban some of the primary equipment of those missionaries. In Latin America, many countries prohibited the importation of the Bible as it was commonly used by Protestant missionaries to teach people to read (Montgomery 1979, 89).

Once inside a country, politicians still control several policy levers that allow them to raise significant barriers to the religious freedom of both minority and historically dominant religious groups. Registration requirements for churches are a common avenue for government leaders to discriminate among denominations. Most governments require that various groups – both religious and nonreligious – register with the government to receive certain perquisites, which may include tax-exempt status, the ability to be represented as a corporation in legal proceedings, the ability to

¹⁵ Kuznetsov does acknowledge that although the "Russian nation has traditionally been Orthodox and considers itself belonging to the Russian Orthodox Church" (indicating that there is a unified national religious culture) the religious soul of Russians had been "spiritually weakened by the seventy-year onslaught of atheism" (1996, 10).

purchase property as a corporate body, and access to certain public institutions such as prisons, state-run hospitals, and the military.¹⁶ After struggling nearly a decade for a legal status that would put them on par with the Catholic Church and give them access to prisons and the military, Protestants in Chile finally obtained such recognition in 1999 (Isaacson 2003).¹⁷ In part, legal registration requirements are a matter of public safety. No government to my knowledge is willing to allow the legal registration of a religion that practices human sacrifice or may in any other way violate basic civil laws. This reveals that religious liberty is not absolute.¹⁸ But beyond simply restricting groups that could do public harm, the nature of registration requirements can subtly, yet significantly, affect the operating costs of churches and hence their freedom to practice their faith. Some governments mandate that a church must have a certain number of followers before it gains legal recognition. Setting this number high can exclude small startup sects or denominations that operate on a highly decentralized and congregational basis (e.g., Pentecostals), as compared to groups that have a more episcopal nature and can claim broad membership throughout distinct subunits such as parishes (e.g., Catholics). For example, the Czech Republic's parliament, overriding a presidential veto, recently increased the standards a church must meet for legal recognition.

[A] church seeking registration must submit a petition containing the personal data and signatures of at least 300 Czech Republic residents. In order to obtain additional specific rights, however, the church must have existed for at least 10 years and must have a membership equal to at least 0.1 percent of the population of the Czech Republic. Priests' confessional secrecy is protected only after a church has existed for 50 years. (Pajas 2003)

Membership of 0.1 percent of the Czech population in 2003 would be roughly equivalent to ten thousand adherents, a figure that even the largest independent "megachurches" would have a difficult time achieving. Not surprisingly this requirement favored the Catholic Church, the largest

¹⁶ Religious personnel frequently seek access to such public institutions. Oftentimes prisons, hospitals, and military barracks are places where people need consoling due to stressful situations. They also offer a potential recruiting ground for new converts.

¹⁷ I confirmed this in a number of interviews conducted in Santiago, Chile in 1999.

¹⁸ One of the problems with the short-lived U.S. Religious Freedom Restoration Act (1993–7) was that it allowed for the proliferation of nonmainstream sects and cults that maintained practices allowing incarcerated felons to opportunistically avoid prison regulations or make onerous requests upon penitentiary administrators. For examples, consult the following U.S. District Court cases: *Hamilton v. Schriro*, 863 F. Supp. 1019; *Rust v. Clark*, 851 F. Supp. 377; and *Campos v. Coughlin*, 854 F. Supp. 194.

religion in the Czech Republic.¹⁹ The inability to achieve legal status for small or congregationally based groups may imperil their survival as they would have to pay taxes (which are not an insignificant cost for organizations that often rely on voluntary contributions) and might not receive permission to obtain a church building. Governments can also set historical restrictions on churches, requiring them to have had an institutional presence for some designated period before granting them legal status. The 1992 legal reforms in Mexico imposed such a historical requirement, putting many Protestant congregations in a Catch-22 situation – in order to gain legal status church groups needed to show they had a historical presence of five years, but such a presence could not be easily verified because those organizations were not legal before the reforms took effect (Gill 1999; Scott 1992a).²⁰

Although allowing the legal presence of religious groups, governments can also have a negative effect on religious liberty by banning specific religious practices. In the infamous *Smith v. Oregon* case, the Supreme Court ruled that the state of Oregon could legally prevent Native Americans from using a sacramental drug (peyote).²¹ France currently prohibits Muslim women from wearing the traditional head scarf in public schools, and Turkey bans the wearing of Islamic head scarves in public institutions altogether (Kuru 2006). Some have argued that prohibitions on prayer in public school – whether it be a public prayer or time allocated for private reflection – also violates the basic tenets of religious freedom by discriminating against religion in general in favor of secularism (Monsma and Soper 1997, 33).²²

¹⁹ Jews did not meet the 0.1 percent requirement because they are not numerous in the Czech Republic and do not have an overarching organization. Nonetheless, the state granted Jewish synagogues legal status because they were recognized by the state prior to 1989. Muslims have not received similar recognition to date. See U.S. State Department (2004).

²⁰ See also Chapter 4.

²¹ The full title of the case is *Smith v. Employment Division, Department of Human Resources of Oregon*, 484 U.S. 872. The actual issue being contested involved two employees who worked for a drug rehabilitation center and were fired for using peyote during their off hours. The employees were denied unemployment benefits because the firing was considered just according to Oregon law.

²² This author, although admittedly a proponent of religious freedom generally, takes no normative position on the issues of sacramental use of controlled substances or of prayer in public schools. But even without taking a position, it is still possible – in a positivist sense – to see how such prohibitions restrict religious liberty. One's normative opinion regarding the legality of a certain practice need not stand in the way of determining whether criminalizing those practices would be a restriction of freedom. In this way, I can both oppose human sacrifice on normative grounds and contend that making that practice illegal is a restriction of someone's religious freedom.

Property-rights regulations offer another means wherein the freedom of churches can be restricted. Manipulation of property rights represents one of the most common areas wherein government officials affect religious liberty. As the quote from Bishop Oxnham reveals, the ability to hold and use property as one sees fit is crucial to a church's goal of serving its parishioners and expanding its membership. This is crucial not only to religious leaders who would like to construct church buildings but also for individual believers who wish to have a place where they can meet on a regular basis. Outright property-ownership restrictions on religious organizations present an obvious example of a restriction on the freedom of churches, particularly if other similar organizations (perhaps private nonprofit groups or government services) are granted ownership. Turkey forbids private ownership of mosques; all (officially recognized) mosques are closely regulated by the state (cf. Kuru 2006). The same was true for Christian churches in Mexico prior to the 1992 reforms. The inability of Catholics to build new churches put costly limitations on the clergy's outreach efforts. It was even more difficult for Protestant missionaries who could only meet in rented gymnasiums or someone's private home. Such space limitations obviously restricted church growth. In former Communist countries, the restitution of church property seized by dictatorial governments has become a major issue of contention and one that many clergy see as a fundamental issue of religious freedom (Földesi 1996, 250).

Although outright restrictions on property ownership for churches represent fairly obvious violations of religious liberty, other more subtle property regulations can be just as deleterious. Zoning laws may represent one of the most frequently used forms of legislation used to curb the freedom of churches. Simply dictating where a church can build, and how big the building must be, can have a dramatic impact on church growth. In the United States, zoning regulations have been used to prevent Jehovah's Witnesses – who require adherents to evangelize door-to-door – from constructing church buildings near residential communities and from canvassing neighborhoods.²³ A 2001 moratorium on church construction in unincorporated King County (Washington), followed by a size restriction of twenty thousand square feet, drew such furor among religious leaders that the county executive had to back down from his plan (Lewis 2001; Modie 2001). In Europe, obtaining the proper building permits for nontraditional religious groups can take nearly a decade (cf. Fetzer and Soper 2005; Stark

²³ See the U.S. Supreme Court cases *Martin v. Struthers*, 319 U.S. 141 (1943), *Murdock v. Commonwealth of Pennsylvania*, 319 U.S. 105, and *Watchtower Bible v. Village of Stratton*, No. 00-1737 (2002).

and Iannaccone 1994). And in Latin America, local governments have been known to block the construction of Mormon temples,²⁴ prohibit loudspeakers from being placed outside of Pentecostal churches, and prevent evangelicals from parading around a neighborhood singing (Scott 1992b), two techniques often used to attract new adherents (cf. Gill 1999b).

Ownership issues not only relate to buildings but also to media access. Because many religions seek to “spread the Word,” possessing an efficient means of spreading – through print or electronic media – is often crucial. As Finke and Iannaccone (1993) note, changes in U.S. telecommunications laws in the 1960s had a dramatic effect in advancing the evangelical movement in the United States and giving rise to televangelism. In Latin America, evangelicals have had difficulty obtaining broadcasting permits for religious radio programs.²⁵ The Mexican government maintained an outright ban on religious broadcasting and other forms of media for most of the twentieth century (Gill 1999c), and the regime of Juan Perón did so selectively against Protestants for several years in the 1940s and 1950s (Canclini 1972, 84–5). And the British parliament stirred controversy in 1996 when it promulgated a new law regulating digital media that excluded religious groups from entering that burgeoning market (Blackman 2003). Yet despite significant changes various evangelical groups still find it difficult to purchase broadcasting licenses (Wilson 2003).

On top of all of this, governments can impose office-holding restrictions on individuals, requiring them to be a member of a particular faith (or not a member as it may be) to hold a public office (Hutson 1998, 62–3; Curry 1986, 79–80). This was quite common in colonial America where only members of the Church of England in good standing were permitted to sit on legislative councils. The same was true in parts of New England where Puritans were the favored denomination. Likewise, Lutherans (or members of the Reformed Church) were the only individuals who could hold civil-service positions in the Nordic countries for most of the nineteenth century.²⁶ Until recently, the Argentine constitution barred any non-Catholic (sometimes interpreted broadly as non-Christian) from becoming president (Bonino 1999, 199), a situation that was mildly troubling for Carlos Menem who was rumored to have an Islamic heritage (Marshall 2000, 56). The situation was reversed in the former Soviet Union wherein known membership in a religious organization was grounds for denying one access

²⁴ “Temple Construction Blocked,” *National Catholic Reporter* (April 26, 1996), 7.

²⁵ Interview with Paul Finkenbeiner, Director of Hermano Pablo Ministries, Costa Mesa, CA (March 16, 1993).

²⁶ I am grateful to Steve Pfaff for this observation.

to Communist Party membership. Given that membership in the Communist Party was a necessity if one wanted to have improved housing and job prospects, this requirement created a huge disincentive for affiliating with any denomination.

All told, there are numerous regulations and requirements that increase the costs of practicing religion on individuals and organizations. Any increase in such costs due to government policy should be viewed as a restriction on religious liberty, for better or worse.²⁷ It should be remembered that because most religions tend to be community oriented, any restriction that raises the costs to a religious organization or institution will have a negative impact on the individual members (or potential members) of that group.

Positive Endorsement of Specific Denominations

Government policy in the religious arena not only centers on negative prohibitions on groups but also can involve positive actions toward religious groups. Such positive actions usually imply an official endorsement (beyond the basic registration requirements noted in the preceding text), financial subsidization, and/or some other form of public assistance in promoting the faith. When all religious groups in a country are given equal endorsement and/or equivalent subsidization (in proportion to their share of the population) then no significant infringement on religious liberty exists, although the matter of whether secular and atheist groups are included in this mix becomes a sticky definitional issue. Monsma and Soper (1997), in their examination of such policies throughout five nations, do make the case that secularism should be considered akin to a religion. They further note that in places like the United States secularism tends to get preferential endorsement in the public square, whereas countries like the Netherlands and Australia do a reasonable job in balancing religious and secular interests in public policy.²⁸

²⁷ To reiterate, I do not take a normative stand here on whether a restriction of religious liberty is good or bad. I simply seek to show that an increase in regulatory costs on religion represents an infringement on religious liberty. Although I personally find the practice of human sacrifice to be objectionable, government policies that forbid such practice are considered a limitation on religious freedom. The same could be true of sacramental drug use or other activities that governments deem unacceptable.

²⁸ I would like to note that the work by Monsma and Soper (1997) provided a major impetus for this current study. Their detailing of religious policies in five democratic nations, and what that implied for religious freedom, was an eye-opening experience for me, and the text remains one of my favorite works in the study of religion and politics.

It is possible, however, that positive endorsements of a specific denomination (or denominations) to the exclusion of others can impose a significant cost on the nonfavored faiths. For instance, some governments provide substantial financial assistance to official state churches or to churches that have had a long historical presence in the nation. These funds may be paid for clerical salaries, church building maintenance, or other programs. This was common in many parts of Latin America during the nineteenth and twentieth centuries (Mecham 1966, *passim*). The administration of Juan Perón even went so far as to purchase limousines for Catholic bishops (Sweeney 1970, 11), and the Argentine government to this day provides funds for refurbishing Catholic churches.²⁹ Although this may not seem to be a substantial burden on any other religion's religious liberty, it does contain an implicit cost. If a portion of an individual's tax dollars are being used for the maintenance of a specific denomination, those individuals will be less likely to join another denomination that will require them to pay (through voluntary contributions) for the upkeep of that church. This goes under the common economic principle that government subsidization of some activity will have a "crowding out" effect of an equivalent service in the private sector (Gill and North 2005; Hungerman 2005, 2004). An official government endorsement of one religious group as a "state church" (e.g., the Church of England) could have a similar effect. The psychological or social costs of associating with a dissenting sect could be significantly high as to prevent some people from joining a denomination that they may more likely prefer; if one decides to join a religion other than the official state religion, they may feel less attached to that particular nation and may be ostracized from their community.³⁰

The issue of state-assisted tax collection poses a related issue in the realm of religious liberty. Religious groups rely heavily on voluntary contributions to pay their clergy and maintain their facilities (see Chapter 2) and therefore often have difficulty in raising revenue (cf. Della Cava 1993; Harris 1993). Having the help of the state with its coercive tax-collecting power can prove to be an enormous asset to a church. If the state provides this service for some historical religions but not other, particularly newer, denominations, those "upstart sects" may have a hard time "up and starting." Not only would the new religious groups have to convince potential adherents that

²⁹ Author's observation of a sign outside of the Argentine National Cathedral (Catholic) in Buenos Aires declaring that public funds were being used to renovate the building.

³⁰ No study of this possible effect exists to my knowledge, but the relationship is possible. An enterprising graduate student might consider this as a thesis topic worthy of exploration.

their “religious brand” is better but also they would have to convince those same people either to pay additional financial contributions to the new church or find a way to opt out of the current tax structure. Germany is a case in point. The German government collects a mandatory tax from individuals for the Evangelical (Lutheran) Church, the Catholic Church, and Jewish synagogues (Monsma and Soper 1997, 173–4). Although it is relatively easy to opt out of this system, it poses a similar (if not more direct) set of incentives as public subsidization of religious groups – if I’m already paying for one religion, why bother to join another? One of the disadvantageous aspects of this type of policy is that it is difficult to implement for congregationally organized or decentralized religions, such as Pentecostals or Muslims. Monsma and Soper detail the problem and show how it can create a situation wherein a government tries to impose a situation on a religion that religious leaders don’t want.

The failure of the Muslim community to attain public corporation status [and be eligible for tax collection], given the fact it is the third largest religious community in Germany, is especially noteworthy. This failure is due, not primarily to overt discrimination against Islam, but to the fact that the Muslim organizational structure does not fit the prevailing German pattern. Both the Catholic and Evangelical churches are hierarchical in nature and thus they have centralized councils and leaders who can deal with centralized governmental bureaucratic bodies and leaders. But Islam is not hierarchical in nature. . . . This has led to an impasse, with German authorities for the most part saying the Muslims need to organize themselves in such a way that they can qualify for public corporation status and many Muslims saying the Germans need to make allowance for their organizational structures. (1997, 172–3)

A similar situation troubles leaders in the Netherlands.

Finally, the issue of public education is another key arena where public favoritism toward one faith, even in an environment relatively free of negative restrictions on religious minorities, can lower the general level of religious liberty in society. One of the enduring principles in the sociology of religion is that individuals who are steeped in a religious tradition early tend to stay in that tradition as they mature (Iannaccone 1990). If a government allows children to be taught one specific “brand” of religion in public schools or if generic religion classes are only taught by the clergy of a specific faith (a practice common in Latin America until recently), it will become difficult for minority sects to recruit them later on. Although imposing no normative claim on this practice, it is possible to see how preferential access to public education given to one religion is viewed as a

significant disadvantage by other religions. Beyond schooling, governments can also give special recognition to some religious marriages, but not others, creating disincentives for lovebirds who might otherwise want to join a different denomination from converting. Such was the case in much of Latin America until the late twentieth century (Mecham 1966, *passim*).

The Separation of Church and State

It should be noted that up to this point I have avoided using the phrase “separation of church and state,” which is frequently bandied about in conversations of religious liberty. In the United States, Thomas Jefferson’s famous “wall of separation” is frequently seen as commensurate with religious freedom; the higher and more impenetrable the wall, the more religious liberty supposedly exists. However, as Monsma and Soper (1997) and Mary Segers (Segers and Jelen 1998) argue, a strong wall that excludes religion from the public square can have the effect of privileging secularism over religion in general, a potential violation of religious liberty. In more extreme cases, such as the Soviet Union, an aggressive separation of church and state can be consistent with severe restrictions on religious liberty. In short, “separation of church and state” does not tell us much about the differential costs and benefits imposed on religious groups and individuals, which forms the primary basis for a definition of religious liberty here. For these reasons, I will endeavor to avoid the phrase “separation of church and state.”³¹

Nor do I intend to address theoretically the issue of religious persecution and harassment in this work. Although I provide instances of such persecution in the discussion to come, I am not concerned primarily with the psychological or social motivations that make one individual or group hate another. My main concern is to understand why politicians would legally commit themselves on paper to changing the way they manage religious groups. The issue of persecution, if not a matter of legal policy,³² raises concerns regarding the enforcement of rules. This is a fascinating topic

³¹ There are instances in the discussion of Latin America where I will use the term *separation of church and state* to indicate when a government ended official (often constitutional) recognition of the Roman Catholic Church. Likewise, the term *disestablishment* as used in the case of the United States will refer to a “church-state separation.” The separation of church and state does not necessarily imply religious freedom.

³² Few countries to my knowledge actually have laws that state they will persecute religious individuals. Even places such as Saudi Arabia and the PRC, which place severe restrictions on certain types of religious practice, do not have laws that state they will physically harm or harass dissenting sects.

unto itself – why do governments choose to ignore enforcement of laws they have written down? However, my more immediate concern is with official policy making, and I do not intend to devote much attention to the important topic of persecution in so far as it relates to nonenforcement of existing law. I do understand, however, that many religious groups consider written legal restrictions on their behavior to be a form of persecution, so in that regard I do address this concern.

Scope and Methodology

With the main topic and thesis of this work and a definition of religious liberty out of the way, it is now time to elaborate on the goals of this book. The primary intent of this book is to propose a general deductive theory regarding the political origins of religious liberty that incorporates the role of human agency through the use of rational choice theory. This theory places interests, as opposed to ideas (or culture), at the center of the analysis. Without denying a role for ideational factors (e.g., values, ideologies), rational choice theory provides a useful starting point – the self-interested, utility-maximizing individual – from which to build more complete theories. Assuming that humans have some degree of control over their own history (as opposed to having their actions predetermined by some structural arrangement), it makes sense to begin with a theory that places human agency at its core.

The success of building a general theory not only will rest on its empirical accuracy but also will be determined by its ability to be applied widely throughout space and time. This approach yields an immediate tension. Placing emphasis on empirical validity and human agency pushes one in the direction of “thick description,” wherein the specific actions of individuals in unique historical situations become all-encompassing in the explanation. Generality is hard to achieve because individuals (with varying interests and calculating capacities) change over time, and historical situations rarely repeat themselves exactly. Nonetheless, it is reasonable to assert that humans behave in patterned ways, and any pattern is subject to generality. Striking a balance is critical to gaining maximum explanatory “leverage” (cf. King, Keohane, and Verba 1994; Lave and March 1975). The theory laid out here attempts to strike such a balance by arguing that, in general, political actors respond to changing opportunity costs that affect their ability to remain in office and maximize revenue. It will be argued that these are relatively ubiquitous goals that are shared by almost all political actors irrespective of time or place. Laws pertaining to religious freedom

will be affected by how politicians respond to these changing opportunity costs and some specific historical conditions. As for the latter, I will outline a general set of conditions that appear to have a general impact on the degree to which religions are regulated. I hope this theory will be useful as a general framework for scholars examining specific cases and in building a broader research agenda designed to examine the issue of religious liberty (and “liberty” more generally) from a more theoretical perspective.

In terms of methodology, I will be employing a technique recently termed *analytic narrative* (Bates et al. 1998). The point is to wed historical description with a deductive theoretical framework that guides the historical tales told. Given that I am interested in exploring the dynamic emergence of religious freedom over time, this is an ideal method. Although I am a partisan of quantitative methods in teasing out statistical relationships (cf. Gill and North 2005; Gill and Lundsgaarde 2004; Gill 1999a), the subject matter here is more amenable to qualitative methods. This is not to say that religious liberty cannot be measured and examined in a quantified manner. Several noble and informative attempts have been made in this direction (Grim and Finke 2006; Fox 2005; Barro and McCleary 2004; Grimm 2004; Gwin and North 2004; Norris and Inglehart 2004; Barrett et al. 2001; Marshall 2000; Chaves and Cann 1992). However, given the focus and spatial and temporal dimensions of this project, quantifying religious freedom would not necessarily be fruitful. First, although the aforementioned attempts to measure religious freedom are instructive, it remains difficult to weigh the different components of the indices that different researchers create. Who is to say that the relaxation of immigration restrictions on missionaries is more important than altering the property rights imposed on religious organizations? Second, and perhaps more importantly, the focus here is on the political decisions to deregulate (or in some instances reregulate) the religious market in whatever form that regulatory change may take – whether it be altering registration requirements for religious groups or rolling back financial subsidies to state churches. This study is rather ambivalent as to which type of regulatory reform took place, although the general realm of policy making (e.g., immigration law, property-rights regulations) may be of historical interest.

The cases chosen here represent identifiable and significant changes in religious regulation and provide a wide range of spatial, temporal, and cultural variation to test a generalized theory regarding the origins of religious liberty. The United States is an obvious place to start given that the U.S. Constitution’s First Amendment represents a major landmark in the legalized establishment of religious freedom (cf. Jaffa 1990). Nonetheless, events

in the American colonies and Europe prior to 1789 played a significant role in shaping the interests involved in the emergence of religious liberty in America. Latin America was chosen as a second area of examination because the cultural, political, and economic conditions there differed substantially from the United States. As compared to a country that arose amid an environment of religious pluralism (the United States), Latin America came to independence with a dominant religious monopoly – the Catholic Church. The course of religious liberty in Mexico is given specific attention because of the dramatic changes in religious regulations – from a period where the Catholic Church was favored, to an era where extreme anticlerical laws were enacted constitutionally, and, finally, to a general environment of religious freedom for both Catholics and non-Catholics. Finally, I (with the help of Cheryl Žilinskas) examine the former Soviet bloc, with a detailed comparison of the Baltic States of Estonia, Latvia, and Lithuania. The rise of Communism in this region ushered in an era where religious organizations were crushed under the weight of state control and attempts at annihilation. Following the collapse of the Soviet empire, the independent nations that emerged were faced with what were essentially a “blank slate” and the task of writing new laws that regulated religious groups. No uniform system emerged, and examining the variation throughout states comes as close to a natural experiment that any social scientist studying history is going to get.

My empirical examples are chosen primarily for historical interest. This opens up the study for a critique based on biased case selection. The fact that I restrict my examination to countries that are predominantly Christian may also be a matter of concern for someone claiming the mantle of generalizability. Likewise, even among Christian nations, I could have chosen to examine a number of countries and historical situations to which I devote little or no attention. The intriguing case of the Netherlands is given only brief treatment in Chapter 3. Admittedly, it could have easily served as a case deserving of a chapter unto itself. The reader can undoubtedly think of numerous other examples that are not addressed here. Nonetheless, in the spirit of Harry Eckstein’s (1975) oft-cited chapter on case studies, what I hope to do here with my case selection is to show that the theory advanced in the [following chapter](#) presents a plausible explanation for a wide span of historical situations. Should this theory seem adequate to the reader, it is hoped that it will inspire further case studies and other forms of methodological inquiry. I welcome such inquiries and would be most enthused by scholarly efforts to extend this research agenda into the non-Christian world.

The evidence presented in the case studies primarily relies on secondary sources although some primary documentation and interviews are used.³³ My extensive reading on the subject of religious liberty has shown me that evidence for the theoretical hypotheses I wish to test are scattered throughout historical literature. What I claim to do is not to discover these empirical nuggets for the first time but rather to put them into a well-developed theoretical framework and give the understanding of those facts some logical consistency. This has been the methodology of some of my favorite works in the social sciences, including Barrington Moore's *Social Origins of Dictatorship and Democracy* (1966) and Rodney Stark's *The Rise of Christianity* (1996), *One True God* (2001), and *For the Glory of God* (2003). I can only hope to aspire to the influence that their scholarship has inspired in me.

With all this stated, it is now time to explain the political origins of religious liberty.

³³ I decided to exclude the possibility of conducting interviews for my chapter on colonial America with the reasonable expectation that many of the most interesting people that should be interviewed are not talking anymore.

The Political Origins of Religious Liberty

The laws concerning corn may every where be compared to the laws concerning religion. The people feel themselves so much interested in what relates either to their subsistence in this life, or to their happiness in a life to come, that government must yield to their prejudices, and, in order to preserve the publick tranquillity [*sic*], establish that system which they approve of. It is upon this account, perhaps, that we so seldom find a reasonable system established with regard to either of those two capital objects.

– Adam Smith, *The Wealth of Nations*

IN HIS TIME and day, the great political economist Adam Smith considered laws regulating the conduct of religious individuals and institutions as akin to agricultural subsidies and the free trade of grain. Since his time, economists and political scientists have devised numerous theories to explain the origins of free trade. But substantially less attention has been paid to developing theories regarding the regulation and deregulation of religion. This is perhaps understandable given that the preceding passage from Smith's classic work has all but disappeared from library shelves. Abridged versions of *The Wealth of Nations* are quick to cut his musings on religion.¹ It was in these sections that Smith discussed the sovereign's proper

¹ These musings were developed in *The Wealth of Nations*, ch. V, pt. III, art. II and III.

role in maintaining public education and other institutions. Given the large role that the Church of England had in the educational infrastructure of Britain at the time and the fact that spiritual instruction was considered an important part of the education for all Britons (schoolchildren and adults alike), it was natural that Smith's discourse on religion would be found in that section of his book.

The theory regarding the origins of religious liberty proposed here is inspired in large part by the writings of Adam Smith. As evidenced by my conceptualization of religious liberty in Chapter 1 and the following text, I declare kinship with Smith in seeing similarities in the laws regulating religion and other forms of economic activity. Laws restricting religious liberty should be conceived of as raising the costs associated with practicing a religion just as tariffs are associated with raising the costs of economic trade. The presentation developed in the following text, then, is rooted in a classical (or perhaps neoclassical) economic view of the world wherein interests predominate over ideas. This is not to say that ideas (including values and moral imperatives) are irrelevant (a topic that I will briefly discuss later in this chapter). Smith was a proponent of the important role of ideas in his other major work, *The Theory of Moral Sentiments*. However, I owe my intellectual (but not blind) allegiance to a school of thought that economists since Smith's time have developed to study interest-based behavior and to which Nobel Laureate Gary Becker has extended more broadly into the social sciences – rational choice. Scholars such as Rodney Stark, Laurence Iannaccone, Roger Finke, Steve Pfaff, Paul Froese, Carolyn Warner, and I have extended the rational choice perspective to encompass the study of religion.²

It may seem odd to study religion from a rational choice perspective. Mancur Olson, one of the great economists of the twentieth century who helped extend rational choice theory to other social sciences, declared that economics had little to say about religious groups and behavior (1965, 159–61). Religion, after all, is about faith. It concerns itself with philosophical (theological) ideas about the meaning of life and death and the moral imperatives – the “shalls” and “shall nots” – that humans need to obey. These ideas and moral directives guide the behavior of people adhering to them and generally are not subject to empirical evaluation. And without the ability to empirically evaluate those ideas, the behavior that results cannot possibly be subject to the cost-benefit analysis of which economists are so fond. Moreover, it may be the case that a firmly held religious belief may

² See the bibliography for references to their work.

prompt a person to act against what otherwise might be in his best self-interest. A person may be discouraged from stealing money (a net financial gain) by a religious belief even in a situation where the probability of being caught and punished is zero. In other words, when people behave under the influence of religion and religious institutions it is commonly believed that they are not calculating the self-interested costs and benefits of their actions.

Rational choice theory, at its essence, is simple.³ The theory assumes that people have varying needs and desires – that is, preferences. Rational choice has little to say about the content of those preferences. Some people prefer to drive blue Jeeps to work, while others prefer pedaling red bikes. Some people prefer to sing the praises of God for hours on a Sunday morning, while others would rather stay at home and watch football. What rational choice theory says, though, is that *given those preferences*, people will try to achieve their goals (i.e., their preferential needs and desires) in the least costly manner possible given the various environmental and strategic constraints that they face.⁴ Everybody faces constraints; it is a fact of life. No matter how rich a society or an individual is, there is never enough time or resources to achieve everything we want in life. Rational choice theory is concerned with analyzing how individuals make choices to achieve their goals through a cost-benefit calculation determined by the constraints that they face. As constraints change, so do the cost-benefit incentives faced by different individuals, and hence the strategic choices they make.

Rational choice theory can easily be applied to religious individuals and the institutions that they staff. Remember, rational choice theory says little about the content of an individual's preferences; it is incumbent on the research to assume a reasonable set of preferences for the various actors under investigation. In the case of religious behavior, we can start with an assumption that priests and parishioners alike seek to learn about, live according to, and possibly spread⁵ the Word of God. Not all individuals in

³ I have discussed rational choice theory more extensively elsewhere (Gill 1998, 193–202), and there are a number of excellent summaries of the approach as pertains to religion (Stark and Finke 2000; L. Young 1997; Iannaccone 1995).

⁴ Examples of environmental constraints include such things as one's financial resources, inherent skills, and limits on time. Strategic constraints involve the fact that other individuals are trying to achieve goals that may or may not be similar to your own; the goal-oriented actions of others may affect your own cost-benefit calculations for achieving your objectives. For instance, an incumbent politician facing a charismatic challenger may force that incumbent to vote for certain policies to appease critical constituents; whereas the incumbent may not have supported such policies in the past.

⁵ As will be discussed later, not all religions are proselytizing.

society will have these same goals, and many people who consider themselves religious may share different intensities for achieving these goals.⁶ Nonetheless, this information can be worked into a rational choice account of religious behavior. Once we make our assumptions about the preference content of various individuals, our analysis focuses on the abilities, resources, and constraints that face those individuals in their pursuit of their goals.

Religious believers live in the real world. And life in the real world is constrained in a number of different ways including limited time, money, and other resources. A devout churchgoer will have to make decisions about how much time to commit to volunteer activity at church and how much money to tithe given other commitments and budgetary constraints (cf. Azzi and Ehrenberg 1975). Iannaccone (1990) demonstrates how church participation is more likely to be time intensive (i.e., volunteering) when individuals have low income earning potential (i.e., for youth or retired folks); people in the prime of their professional careers show a higher propensity to participate through financial donations. As the different demands on our time change as we move through the life cycle, we often change the way we are involved in religious organizations. Iannaccone also shows that in mixed religious marriages, one spouse is more likely to convert to the other's faith as it simplifies the mundane costs of traveling to two different churches on Sunday.

Likewise, a pastor seeking to increase attendance at Sunday services may have different options available to him – for example, direct mail advertising, hiring popular musicians, providing an extensive youth ministry, or building more comfortable pews. Each option has different costs and is likely to yield different outcomes (benefits). And each of them must be weighed against one another in accordance to budgetary constraints. Trade-offs must be made. Capital improvements on the actual church building might have to be delayed while the pastor hires a youth ministry staff. Church leaders must also consider the various costs and benefits of sending missionaries to

⁶ This relates to the concept of “price elasticity,” which asserts that individuals will react differently to changes in price depending on how much they value or need the good. A person who will do anything to live the Word of God can be considered someone who has an inelastic demand for religion. If the price of one's faith requires meeting with lions in a Roman coliseum, they will be there. Such folks – often referred to as zealots or martyrs – are often crucial to the early success of a religious movement (cf. Stark 1996, 163–90). Somebody who has an elastic demand for religion will balk at the prospect of going to church if there is a half inch of snow on the ground and the Steelers are playing an early Sunday game.

different nations around the world, a fact that is illustrated by the presence of Christian-owned firms that specialize in “missionary insurance.”⁷ If you are seeking souls for God, you have to weigh the different payoffs between sending missionaries to China or Saudi Arabia, where Christian proselytizers are likely to be jailed or killed (and hence largely ineffective), or placing them in countries like Uruguay or a more liberalized Hungary. In short, just because religious individuals are people of deep faith and may be motivated by desires that are hard to empirically verify (e.g., obtain salvation) does not mean they are immune from worldly considerations of trying to manage budgets and achieve goals.⁸

The benefit of rational choice analysis is that it begins by examining the simple cost-benefit calculations and trade-offs posed under different conditions (or constraints). When conditions change, we can readily calculate the general changes in costs and benefits and predict how individuals may alter their behavior. For instance, if long-term gas prices rise, we could predict that consumers will switch to more fuel-efficient cars or ride public transportation in order to save money. We could further predict that people with more discretionary funds to spend (i.e., rich people) will be less affected by increases in gas prices and hence will be slower to trade in their gas guzzlers or jump on the bus. If real gas prices fall over time, our interest-based prediction would suggest that people would switch back to less fuel-efficient cars.⁹ If our prediction is not supported by the evidence then we might be

⁷ One firm is even called the Missionary Insurance Group, Inc. (<http://www.migi.net>, accessed May 15, 2007) and offers such services as policies that cover the price of cancelled mission trips.

⁸ I often illustrate this to my classes with an example involving Mother Teresa, a person most folks would recognize as being deeply spiritual and guided by altruistic motives. I ask students to imagine that they are Mother Teresa and that they received a substantial monetary reward from the Nobel Peace Prize committee – e.g., \$1 million. I ask them how they (Mother Teresa) would use that money. The students invariably come up with a number of creative ideas, which we then evaluate for their effectiveness. Some students say they would simply “give the money to the poor.” I ask them if they should give one dollar to one million people or ten dollars to one hundred thousand people. They begin to see the trade-offs involved. Other students suggest using the money to build a school or improve a hospice. Each solution has a different set of short-term and long-term payoffs. We then discuss which strategies would yield the greatest benefits, which is the essence of cost-benefit calculation. Mother Teresa’s altruism did not exempt her from making difficult decisions about how best to serve the poor.

⁹ This appears to have been the case between the 1970s and 1980s. As real gas prices rose in the 1970s, smaller, more fuel-efficient cars became popular. But as real gas prices fell in the late 1980s and 1990s, consumers tended to purchase larger sports utility vehicles (SUVs). Had there been a general shift in societal attitudes toward more fuel-efficient cars, SUVs would not have become as popular as they did in the 1990s. The underlying explanation

encouraged to consider other, nonrational choice explanations. The same holds with religious and political leaders. As I will assert in the following text, clergy and politicians possess a number of easily identified personal and institutional goals that they seek to achieve. Given that theologies and ideologies tend to be relatively resistant to change, particularly in the short term, we would first look for some policy change to be the result of some environmental change that has affected an individual's interests. If behavior changes in the predicted way according to the new environmental incentives, we probably can attribute the change to interest-based behavior. If behavior is not in accordance with the predicted interest-based calculations, the role of ideas can likely be accorded with greater explanatory power. The critical task will be to properly specify the interests of both religious and political actors.

In this chapter I briefly review some of the previous perspectives on the origins of religious liberty to keep the rational choice explanation advanced here in perspective. I then propose a theory of why religious liberty would emerge in a society based on a rational choice perspective.

Secularization, Modernity, and the Rise of Religious Liberty

The primary alternatives to an economic approach to human behavior are ideational and structural. An ideational approach emphasizes the (largely independent) role of ideas in shaping conduct. Creative and thoughtful people develop new ideas about how the world operates (through scientific reasoning) or should operate (through normative argumentation). These

of this would appear to be that consumers like powerful engines that burn more gas but are more willing to trade them for fuel-efficient autos when gas prices rise. An alternative, ideational (i.e., nonrational choice) explanation for the switch to fuel-efficient cars in the 1970s would focus on shifting preferences. Rather than the high cost of gas and limited household budgets being the cause for the shift, an ideational argument would assert that individuals have shifted their priorities (or values) toward more environmentally friendly vehicles. This, however, would create a difficulty in explaining the movement of consumers back to SUVs in the 1990s, when gas prices fell. Of course, there is always the possibility that a synergy exists between changes in external constraints and shifting preferences (cf. Elster 1983) – e.g., high gas prices pushed individuals into fuel-efficient cars whereupon those same people discovered that they preferred such vehicles. Sorting out that synergy can be a difficult methodological task for researchers, so the usual approach is to hold one of these elements constant (preferences) while allowing the other to vary (environmental constraints) and make predictions based upon those changes. Should those predictions not hold up to empirical scrutiny it would be incumbent on the researcher to investigate the factor that was held constant.

ideas then are disseminated throughout society in some manner (e.g., news media, parliamentary debate). If the new ideas are convincing to others, traditional behavior patterns will change. For instance, if colonial American Quakers developed a belief that slavery is immoral and argued forcefully for its abolition, and if they were successful in spreading these beliefs, the institution of slavery would have withered away.¹⁰ Structural explanations emphasize large social processes and relationships that tend to have automatic behavioral outcomes. Karl Marx was probably the preeminent structuralist in that he argued the way a society produces and distributes goods leads to certain social and political outcomes. To Marx, the logic of capitalism and the profit motive drove employers to suppress the wages of workers to the point where a proletarian revolution was inevitable. Other structuralist theories have emphasized a variety of “large structural” variables that influence behavior, including industrialization, urbanization, and population growth.

One of the most dominant social scientific theories of religious behavior in the past century – secularization theory – shares, in its various forms, elements of both ideational and structural explanation (cf. Norris and Inglehart 2004). Not surprisingly, secularization theory has often formed the basis for how we understand religious liberty and may be a reason why a general theory of religious liberty has not been promulgated. To a large extent, a general theory for the rise of religious liberty has not been advanced in the social sciences largely because the reason for the spread of religious freedom seemed to be rather obvious – it was the natural outgrowth of the secularization process. Secularization theory, which dominated the sociological literature on religion for more than a century, conditioned the scholarly belief that religious freedom was the natural outgrowth of the demise of spirituality in the public square. Commenting on the general state of the field, Richard Helmstadter notes that

secularization, in the sense of putting the secular aspects of life at the center and marginalizing religion, has been fitted into the master narrative as a kind of extension of Protestantism, progress, and modernization. To see the decline of religion and the secularization of society as inevitable, was . . . the logical postscript to the narrative in which *liberalism and religious freedom are seen as predestined goals in the progress of mankind*. (1997, 7; emphasis added)

¹⁰ Consider Rodney Stark (2003, 291–366). Although Stark is categorized as a rational choice scholar, he undoubtedly recognizes the powerful role that ideas play in society and develops a detailed theory of how such ideas can matter.

The “inevitable” and constant global process of modernization is seen as the principal cause of religious freedom. From a structural perspective, modernization produces greater functional differentiation of social roles and results in a multiplication of state agencies and bureaucracies staffed by experts and charged with specific tasks – for example, child welfare services, mental health services, monitoring business practices, and environmental protection. Traditionally, many monarchs and rulers relied on religious institutions to provide many of these goods, and states would often support these religious institutions. With the rise of the bureaucratic expertise and the modern welfare state came the elimination of the public need for church-provided welfare services. Separation of church and state became the first step toward religious liberty (as it is difficult to have true religious liberty where there is one officially sanctioned church).¹¹

At the ideational level, modernization purportedly coincides with a certain set of values privileging the role of individual (as opposed to communal/corporatist) choice. Such choice is not possible without freedom of conscience. José Casanova summarizes this uniquely Western notion:

[R]eligious freedom, in the sense of freedom of conscience, is chronologically “the first freedom” as well as the precondition of all modern freedoms. Insofar as freedom of conscience is intrinsically related to “the right to privacy” – to the modern institutionalization of a private sphere free from governmental intrusion as well as free from ecclesiastical control – and inasmuch as “the right to privacy” serves as the very foundation of modern liberalism and of modern individualism, then indeed the privatization of religion is essential to modernity. (1994, 40)

Other scholars have emphasized the development of particular theological notions that justified the movement toward religious freedom. Historian Fred Hood, for example, in explaining why Virginia was the heart and soul of religious liberty in the American colonies, argued somewhat paradoxically

that conservative Protestants, as represented by a majority of the Presbyterians in Virginia, conceived of religious liberty as a religious dogma compatible with an established religion and that the legal separation of church and state did not alter that belief or its influence. The dogma of religious liberty emphasized the Protestant belief that every man had the right to interpret the Bible for himself and affirmed the authority of Scripture for the common life of the

¹¹ See Monsma and Soper (1997) for the nuanced exceptions in Europe. Ironically, many of the states that are considered to be highly secular still manage social welfare programs through traditional confessions (e.g., Germany, Belgium).

nation. The government's surrender of coercive powers in matters of religion, while viewed as a less than satisfactory solution was nevertheless understood as the acceptance of this religious dogma as the law of the land. (1971, 171)

If Hood is correct in his description of Presbyterian views during the late eighteenth century, the logical pretzel twists needed to explain how a religious establishment was compatible with religious freedom seem more of a post hoc accommodation to a reality – religious pluralism – with which Presbyterians were uncomfortable.

Consider also W. Cole Durham's argument. He puts forth the idea that the spread of Enlightenment philosophy (most notably that of John Locke) was the principal determinant for religious freedom:

Contrary to what might initially be thought (and what had been thought for centuries), Locke contended that respect for freedom of choice in matters of religion (and more generally with respect to comprehensive world views) is a source of both legitimacy and stability for political regimes. This insight constituted a kind of Copernican Revolution in political theory. . . . Locke revolutionized politics by suggesting how religious (and by extension, political) freedom could sow political order from religious seeds that had always been assumed to be the ultimate source of anarchy. The Lockean insight thus opened up the possibility of seeing the political cosmos from a new perspective. By placing respect for freedom at the center of the constellation of values, and by recognizing that respect for freedom and dignity of individuals is itself a moral and religious truth of the highest order, this revolution transformed the grounds for legitimizing and stabilizing political communities. . . . This idea was initially theoretical, but it became a central aspect of the "lively experiment" with religious freedom in the United States. (1996, 8–9)

Durham continues by noting that a general process of "globalization" (a structural process caused by expanding technology) is facilitating the acceptance of this ideal:

Growing consensus on religious freedom reflects a more general need to address the reality of pluralism in the global setting. . . . [G]lobalization itself is enhancing our sense of pluralism. . . . These patterns of global demographic pluralism are likely to be conducive to religious freedom and application of the Lockean insight into the stabilizing force of respected pluralism in much the same way that American pluralism paved the way for meaningful institutions of religious freedom two centuries ago. (1996, 11)

Other such explanations (cf. Chadwick 1975, *passim*; Sandler 1960; Pauck 1946) have a similar ideational and structural bent.

The ideational perspective of Hood and Durham is clearly echoed by two legal scholars of the U.S. First Amendment – albeit with a focus on different sources from where the notion of liberty came.

The American Founders were *influenced greatly by theologians and philosophers* who reflected on the religious conflicts that occurred in the wake of the Reformation. From Martin Luther and John Calvin they *inherited the view* that God had instituted “two kingdoms” – a heavenly one where the church exercised spiritual authority and an earthly one where the civil magistrates exercised temporal authority. A liberal Roman Catholic tradition represented by Erasmus and Thomas More *also exerted influence* in the colonies, inspiring the Lords Baltimore and the Carrolls of Maryland to *rethink* the proper relationship between church and state. . . . From [Roger] Williams, John Clarke, and William Penn, the Founders *learned* that state control of religion corrupted faith and that coercion of conscience destroyed true piety. From the theorists Algernon Sidney and John Locke, they *appropriated concepts* such as inalienable rights, government by popular consent, and toleration for the religious beliefs of others. (Adams and Emmerich 1990, 3; emphasis added)

The term “rethink” is critical in the preceding passage as it reveals the primacy that the authors place on the role of intellectual debate. McConnell (1990) presents a similar view of why religious freedom developed most extensively in the United States by arguing that Locke’s ideas combined with evangelical thought during the First Great Awakening (ca. 1730–50)¹² to provide a more radical notion of “religious free exercise.” McConnell asserts that the most fervent evangelicals (i.e., Baptists and Quakers) developed “essentially religious arguments based on the primacy of duties to God over duties to the state in support of disestablishment and free exercise” (1990, 1442). Combined with Locke’s more secular notions in favor of toleration, this new evangelical line of thinking created a potent ideological milieu – a perfect ideological storm, so to speak – in the American colonies that helped shape the eventual drafting of the First Amendment. Marc Arkin (1995) follows suit by emphasizing the influence David Hume had on James Madison in the late 1700s.

It is also noteworthy that Adams and Emmerich recognize that theologians and philosophers developed their ideas by looking at European religious wars. This reveals that ideas do not necessarily pop up in a vacuum isolated from harsh reality; ideas come from reflecting upon reality and, as

¹² Scholars debate the exact beginning and end of the Great Awakening, though the most fervent period of revival occurred with the wanderings of George Whitefield in the 1730s and 1740s (see Finke and Stark 2005).

I will argue, reality is filled with self-interested behavior. Historian Charles Mullett recognized how ideas were often the function of interests, specifically in reference to the writings of the Enlightenment philosophers. “The struggles for religious toleration in England show that this idea [religious freedom], like others, cannot be treated *in vacuo*. No writer on liberty of conscience, to be sure, failed to emphasize his belief in abstract toleration, yet often the ideal was conceived in self-interest, born in faction, and grew up amid indifference” (Mullett 1938, 24). In other words, political and social context matters.

In contrast, Owen Chadwick, in his classic work *The Secularization of the European Mind in the 19th Century*, places even more emphasis on the role of ideas than Adams and Emmerich, downplaying the influence of historical events on the thought of great philosophers.

The ultimate freedom was liberty to worship God as the conscience called. Modern ideas of freedom, as they stemmed from John Locke in the later seventeenth century, were founded in religious toleration. Locke’s intention, after the age of intolerance and party conflict which he experienced as a young man, was to justify religious toleration. *He based his argument, not upon policy – such as, we cannot hold England together as a state unless we allow Protestant dissenters to worship God as they please – but upon the principle of a natural right. . . .* Of course Locke depended on a long tradition of political thought in Europe. But his statement of it founded liberal convictions in the form in which they conquered the Europe of the nineteenth century. The expression of them was widened, adjusted, expanded to new circumstances. But this way of thinking about freedom and the power of government ran henceforth in a continuous tradition. (1975, 25; emphasis added)

Although Chadwick implies that the English Civil War (1642–9)¹³ impacted Locke to some degree, he emphasizes Locke’s thinking on the “principle of natural right” and deemphasizes the role of “policy.” Secular philosophers then influenced the dominant religious thought, which had previously favored rather illiberal forms of regulation over confessions.

Part of the development of Christian doctrine was forced upon the churches by *advances in knowledge* which in other directions made men’s minds more ‘secular.’ And part of the development of Christian doctrine, during the nineteenth century, contributed to the growing ‘secularity’ of men’s minds. (Chadwick 1975, 17; emphasis added)

¹³ Scholars differ upon the exact start and end dates for this conflict. The boundaries mark the beginning of military fighting and the execution of Charles I.

Chadwick thus sees a dialectical pattern of new ideas giving way to secularization, not only within the society but also within the churches, which all in turn pushes the separation of church and state, and religious liberty, further.¹⁴

In all the aforementioned explanations, the process giving rise to religious freedom is relatively straightforward. Modernity – a result of various structural variables including urbanization, industrialization, and technological progress – gives rise to certain ways of thinking (namely, Enlightenment liberalism), which, when adopted by a sufficient number of people, alters the political environment in favor of religious liberty. The thesis linking modernity, secularization, and religious liberty is a close cousin to modernization theory popularized in the social sciences during the 1950s and 1960s. However, whereas modernization theory has come under critical scrutiny at both the theoretical and empirical levels, secularization theory has come under attack only in the last two decades of the twentieth century (cf. Swatos and Olson 2000; Berger 1999; Warner 1993).¹⁵ However, ideational explanations for the rise of religious liberty, heavily influenced by secularization theory, have yet to face such strict examination.

Although this type of explanation is seemingly convincing at a general level, particularly when one considers the role of intellectuals and philosophers in justifying religious toleration, it has a number of theoretical and methodological problems. First, methodologically speaking, a constant cannot explain variation. Both the degree and nature of religious liberty have exhibited extensive variation across nations and throughout time. Modern countries have dramatically different forms of church-state relations and policies on religious freedom (cf. Monsma and Soper 1997). The obvious counter-critique is that “modernization” also varies throughout spatial and temporal dimensions. Yemen is much less modern today than the United States on a number of different measures (e.g., per capita income, literacy rates, accessibility of telecommunications); therefore we should not expect the two to have similar degrees of religious freedom. Unfortunately, without using independent measures of “modernization,” this explanation risks becoming tautological: The presence of modernity is associated with religious liberty, whereas one of the conditions for being “modern” is having religious liberty. Moreover, a casual glance at variations

¹⁴ Admittedly, Chadwick does not deal with the issue of religious liberty directly, but his account of the secularization of the European mind certainly conflates the issues of religious freedom, separation of church and state, and the secularization of society.

¹⁵ Also consult the extensive work of Rodney Stark dating back to the 1960s. Stark was perhaps the first and most fervent opponent of the secularization thesis.

in religious liberty using relatively commonsense measures of “modernization” (e.g., level of industrialization, gross domestic product [GDP] per capita) suggests that little if any correlation exists between these two variables. Stephen Monsma and Christopher Soper (1997) detail how five Western nations,¹⁶ all of which could be considered equally “modern,” maintain distinctly different forms of church-state relations. Some of these relationships, they argue, lead to distinct disadvantages for some denominations in terms of religious liberty.¹⁷ Mark Chaves and David Cann (1992) and Rodney Stark and Laurence Iannaccone (1994) note similar variation across highly modernized West European countries. In prior work (Gill 1999a), I have quantified the substantial variation in religious liberty across countries in Latin America and noted that more “modern” nations such as Argentina, Colombia, and Mexico possess substantially lower levels of religious liberty than “less-developed” countries such as Ecuador, Guatemala, and Nicaragua. Although none of these studies measure “modernization” comprehensively,¹⁸ a casual examination of the different data used to measure this amorphous concept suggests a poor correlation between the level of “modernity” and religious freedom.

Cross-national comparisons are not the only piece of evidence to cast doubt on ideational explanations of religious freedom. These explanations also run into problems when viewed over time. If modernization is considered to have a unilinear direction, we should not anticipate any setbacks with religious liberty once it is institutionalized. Yet we know that the Edict of Nantes, giving French Protestants greater legal protections, was revoked nearly a century after it was decreed, despite the promulgation of liberal

¹⁶ The countries are the United States, the Netherlands, the United Kingdom, Germany, and Australia.

¹⁷ Monsma and Soper argue that in the cases of Germany and the Netherlands, state sponsorship of multiple denominations is potentially discriminatory toward Islamic groups, which, because of their decentralized nature, cannot be worked into the traditional means of financing these groups. Likewise, they argue that in the United States, a strict separationist interpretation of the First Amendment privileged secularism over religion, thereby acting in a potentially discriminatory manner. Without commenting on the normative implications of their study, the central point I want to make for this study is the substantial variation in how religious organizations are regulated (including subsidization) by the state.

¹⁸ Gill (1999a) includes various measures of “industrialization” and “urbanization” in a regression analysis in which religious pluralism was the dependent variable, though the intent was not to measure “modernization” per se but to measure “social anomie.” The theoretical argument under scrutiny was that rapid industrialization leads to social anomie, which in turn prompts people to convert to new religious movements. Although the link between industrialization and religious liberty was not tested explicitly, no significant collinearity existed between these variables when included in the same regression.

ideas from Locke and Montesquieu, and the increasing bureaucratization (read: modernization) of the French monarchy under Cardinal Richelieu. Religious toleration for minority denominations also took a negative hit in Argentina during the latter half of the twentieth century, both under Juan Perón and subsequent military governments.¹⁹ And early efforts in the Baltics and Eastern Europe to provide new religious groups with legal status equal to that of historical confessions fell apart as registration requirements were made more onerous.²⁰

Another pitfall of ideational explanations of religious liberty is that they often do not consider the presence of opposing viewpoints floating about in society, and, if they do, they fail to provide an explanatory mechanism detailing why one argument won out over the other in the intellectual debate. James Madison and Thomas Jefferson are widely credited with promoting the disestablishment of the Anglican Church in Virginia and promoting religious liberty in the new U.S. republic. However, they were not the only voice in the debate; none other than the great orator Patrick Henry took a position against general disestablishment.²¹ The vote count favoring Madison's side was by no means secure when the issue was brought before the Virginia legislature in 1776, which left the status of the Anglican Church in limbo for several years (Buckley 1977, 38–70). Likewise, liberal reformers in Latin America during the nineteenth century favored significant restrictions on the privileges of the Catholic Church, but they were opposed both by Catholic prelates and Conservative politicians who saw the maintenance of exclusive Catholic status as a central feature of Latin culture. Why did one side or the other prevail in these debates? Saying that the winning ideological position was more convincing to the winning majority simply becomes a circular and irrefutable argument.

A final weakness befalling secularization-based theories of religious liberty relates to the preceding point and an affliction that affects all broad-based systemic and structural-functionalist arguments: the problem of missing agency.²² In many of the theories presented in the preceding text, the process of secularization, church-state separation, and the resulting religious freedom is presented as a “natural occurrence,” independent of human choice. Although it is doubtful that any scholar would admit to such a crude

¹⁹ See Chapter 4 for a more extended discussion of this case.

²⁰ See Chapter 5.

²¹ Madison was not known for his fiery oratory skills and hence one would give the debating advantage to Henry in this case, especially considering his huge popularity in Virginia in the 1770s and 1780s (Buckley 1977, 71).

²² See Cohen (1994) for an excellent discussion of the weaknesses of structural functionalism.

rendering of history, the lack of a rigorous causal explanation of the origins of religious freedom leaves us with the sense that little human agency is involved. We are left with an intriguing and important question: How do the victors in the great debates over religious freedom eventually prevail to get their policy vision written into law? Relying on rational choice and the economic concept of opportunity costs, I now present my theory of the political origins of religious liberty.

A Theory of the Political Origins of Religious Liberty

Religion has long been considered beyond the purview of economic analysis. Scholars typically assume that the behavior of religious actors derives from a set of ideational (theological) principles that transcend the self-interested motivations of *homo economicus*. Yet, although religious actors may be motivated by “high ideals,” it is still obvious that they exist in a world of scarcity wherein difficult choices about how to allocate resources must be made on a daily basis.²³ For example, a Catholic bishop might face a difficult choice of whether to spend his limited budget on putting more priests through the seminary or expanding day-care facilities in his diocese. The latter may have the effect of immediately increasing the attendance of young families at services, while the former option has a longer-term (and more risky) payoff of improving the quality and perhaps the quantity of religious services offered. An evangelical Protestant organization might face a difficult choice of whether to send its one hundred eager missionaries to Brazil or Russia. Where are more converts likely to be made? Even Mother Teresa, perhaps the noblest of souls, had to make tough decisions about how to divvy up her scarce time and energy to help the most people (Kwilecki and Wilson 1998).²⁴

²³ Whether actors are motivated by “high ideals” or “economic rationality” may be a moot point. “High ideals” typically inform a person’s fundamental preferences (i.e., ends), while “rationality” speaks more to means. A person who maintains the most altruistic of goals is still limited by scarce resources and must make difficult (economic) choices as to how to best realize those altruistic goals. For the analyst, the trick is first to determine what a person’s basic preferences are, then to specify the constraints the person faces. Ideational perspectives are typically useful in discerning the former; rational choice theory is superior in the latter.

²⁴ Although a provocative application of rational choice theory, Kwilecki and Wilson’s analysis of Mother Teresa commits a fatal methodological error by seeking to explain a single case. Rational choice theory relies on probabilistic and marginal analysis. In other words, the goal of rational choice theory is to explain the average behavior of the typical consumer/producer when faced by a marginal alteration in their environmental constraints. Specific exceptions to rational choice predictions will always exist, but unless those

Moreover, religious actors also must deal with individuals who might not share their high ideals. Scoundrels, scalawags, and rogues roam throughout government and society. Successful interaction with such nefarious individuals often requires sacrificing strict obedience to high principle for strategic expediency. This is *not* to say that religious actors are hypocrites when it comes to living in the secular world; it merely notes that high principles do not always guide behavior. A Jesuit president of a Catholic university may decry the crass materialism of modern society and the neglect of the poor yet aggressively pursue financial contributions to sustain his university, often diverting those funds from other philanthropic causes (e.g., building homeless shelters). A preacher calling for greater ecumenical relations between faiths might also lobby to have restrictions placed on “cults” that are stealing members from his flock. All told, rational choice theory provides us with some leverage in explaining tough decisions of resource allocation. The theory does not tell us much in the way of what a specific individual’s high ideals or other preferences might be, but many general preferences can be assumed safely as the basis for theory testing. Thus to the extent that religious actors and institutions exist in a world of scarcity, economic theory can have some bearing on explaining behavior in this realm.

The Religious Marketplace

To begin the process of building a theory of the origins of religious liberty, it is first worthwhile to begin with a number of definitions. These definitions will help to delineate the scope of the study and help to place the issue of religious liberty in a framework analogous to that of economics.

Definition 1: Religious goods are fundamental answers to the deep philosophic questions surrounding life that have as their basis some appeal to a supernatural force.²⁵

exceptions constitute a significant proportion of the cases examined, they do not necessarily destroy the predictive power of the theory. For instance, the existence of martyrs who are willing to give their life for a cause does not detract from the rational choice prediction (and empirical finding) that most people stop well short of zealous actions in their personal religious practice. Nonetheless, idiosyncratic anomalies and outliers may often serve as a basis for examining the assumptions and logic of a theory and provoke modifications to that theory (cf. Froese and Pfaff 2005, 2001). Therefore, it would be negligent for a scholar to simply neglect an anomaly.

²⁵ Stark and Bainbridge provide a more specific definition of religious goods based on a theory of compensators (1987, 25–42).

Definition 2: A *religious firm* (i.e., a church or denomination) is an organization that produces and distributes religious goods.²⁶

Definition 3: A *religious marketplace* is the social arena wherein religious firms compete for members and resources.²⁷

Axiom 1: Religious preferences in society are pluralistic.

People normally do not think of churches as equivalent to manufacturing plants or retail stores. Yet these organizations do supply things that people want, as evidenced by the fact that people attend religious services voluntarily. These consumers (parishioners) purchase these goods with their financial contributions and time commitments.²⁸ As with most marketplaces, religious markets can be monopolized or highly competitive. Given the natural low barriers to entry into the religious marketplace,²⁹ and assuming a variety of religious preferences in society, the “natural” state of the religious market is one of competitive pluralism (Gill 2003a; Stark 2003: 15–120; Stark 1992). This assumption differentiates this analysis from cultural explanations. Culturalists tend to assume a high degree of homogeneity in religious beliefs within national boundaries. For purposes of this analysis,

²⁶ *Produces* could also mean “interprets from divine revelation.” The question of where religious beliefs come from or their ultimate validity is not the focus of this study. Also, the author acknowledges that the term *church* carries Christian connotations, but it will be used interchangeably with *religious firm* for the sake of rhetorical simplicity.

²⁷ Gill (1998) makes the argument that proselytizing religions are primarily market-share maximizers. I.e., churches seek to win over as many parishioners to their spiritual message as possible.

²⁸ The very nature of religious goods make them difficult to price. Because they are largely ideas and it is difficult to prevent their diffusion, free riding is a common problem with religions: People can learn about the answers to life without paying for the provision of those ideas. However, exact pricing is not a requirement for the existence of a market. As the computer age has demonstrated, pricing intellectual property and policing intellectual property rights are difficult tasks. Theology, in many respects, represents the ultimate intellectual good. For a discussion of how the medieval Catholic Church priced its theological goods (including indulgences), see Ekelund et al. (1996).

²⁹ It is relatively cheap to create an ideology and start disseminating it. There are very few capital costs associated with startup religions. However, low barriers to entry do not guarantee market success, as many Internet firms are now discovering. And although low barriers to entry exist in the religious marketplace, there still may be a significant economy of scale in the production of religious goods. Because religious goods are credence goods and require credible testimony about the quality of the good, there may be “strength in numbers.” The adage that “five hundred million Muslims can’t be wrong” applies here. As for an economic analogy, anybody can start an e-commerce Web site, but it helps to be Amazon.com.

we will take the “varied preferences” assumption as an untested axiom.³⁰ The main implication of the varied preferences assumption is that such apparent homogeneity (e.g., Catholicism in Latin America) is due to the presence of a religious monopoly. Such a monopoly can be maintained only by governmental regulation, as Stark and Bainbridge assert:

No religion can achieve a monopoly out of its own resources alone. No faith can inspire universal, voluntary acceptance, except, perhaps, in time, primitive societies. . . . [U]nmet religious needs will prompt competing religious groups in a society as long as a free market exists. Religious monopoly can be achieved only by reliance on the coercive powers of the state. Neither Roman Catholic nor Protestant clergy could prevent religious dissent (heresy). Only the king’s soldiers, or the threat of the king’s soldiers, could suppress religious dissent (and then only to a degree, for even at the height of Catholic dominance of Europe, dissent flourished in all the cracks and crannies of society and constantly burst forth). (1985, 508)

Observation of the relationship between religious pluralism and government coercion sets up the definition of religious liberty.

Definition 4: Religious liberty (or freedom) represents the degree to which a government regulates the religious marketplace.³¹

Such a definition might seem trivial, but it shifts the analysis toward the examination of specific regulatory laws aimed at religious organizations. Broad-based ideational theories of religious liberty shy away from

³⁰ It is possible to test this assumption. One possible methodology would be survey research. However, in a monopolized market, respondents might not be aware of religious alternatives and would claim either a preference for the monopoly faith or no preference at all. If many respondents reply the latter yet indicate a strong belief in God or “importance of religion,” this could be taken as indirect evidence that a plurality of religious differences exist that the monopoly religion cannot satisfy (cf. Gill 2003b). Alternatively, a historical study could be conducted. When laws regulating nonmonopoly religions are relaxed, religious activity and pluralism would tend to increase if the varied preferences assumption holds (cf. Froese 2003; Stark and Iannaccone 1994; Finke and Iannaccone 1993).

³¹ Although not central to the thesis, *religious toleration* can be defined as the level to which norms in society allow for the operation of dissenting sects. It is possible to have a deregulated religious economy with high levels of religious intolerance. As religious intolerance can impose significant costs on religious minorities – from social ostracism to outright violent attacks – these social norms and values can play a substantial role in limiting their religious activity. The foregoing analysis is restricted, however, to the origin of actual legislation. To the extent that governments do not choose to monitor and enforce their own laws pertaining to religious freedom, this study could intersect with the study of religious intolerance.

examining specific laws and see the level of religious liberty in society as a function of the general ideological milieu. Such laws can be as encompassing as constitutional declarations of the right to free conscience or as specific as zoning regulations on church property, as discussed in Chapter 1. Today, almost every country provides some constitutional guarantee of religious freedom. On closer examination, however, the specific manner in which religious groups are regulated can vary extensively (Gill 1999a; Monsma and Soper 1997; Chaves and Cann 1992).

Just as commercial businesses have different preferences for the degree of regulation in society (e.g., preferences about tariff rates), so do religious firms. By adding one additional axiom, we are able to derive a proposition related to these preferences:

Axiom 2: Proselytizing religious firms are market-share maximizers; they seek to spread their brand of spiritual message to as many followers as possible.

Although most economic analyses take firms to be profit-maximizing entities, here I take the declared goal of proselytizing religions at face value – that is, religious leaders want to spread the Word of God to as many people as possible (given the limitations of their own resources). This keeps the spirituality within religion and avoids critiques of materialistic reductionism (cf. Stark 2000). (Remember, an economic analysis does not necessarily imply that an actor is out for material gain; it merely says that the actor is trying to maximize some given goal.) By way of Axiom 2, it becomes possible to derive policy preferences. Spiritual monopolies that have a captured market prefer to keep the barriers to entry in the religious marketplace high. Although rhetorically in favor of freedom of conscience, they will seek laws that require minority religions to gain the government's official permission to proselytize, restrict visas on foreign missionaries, impose zoning and impose media restrictions on alternative faiths, and so on. This tendency did not escape the attention of Adam Smith as early as the late 1700s, when he wrote of the dominant religion in any given country:

The sect which had the good fortune to be leagued with the conquering party, necessarily shared in the victory of its ally, by whose favour [*sic*] and protection it was soon enabled in some degree to silence and subdue all its adversaries. . . . The clergy of this particular sect having thus become complete masters of the field, and have their influence and authority with the great body of the people being in its highest vigour [*sic*], they were powerful enough to over-awe the chiefs and leaders of their own party, and to oblige the civil magistrate to respect their opinions and inclinations. [The clergy's] first demand was generally, that he [the civil magistrate or ruler] should silence

and subdue all their adversaries; and their second, that he should bestow an independent provision on themselves [i.e., subsidize the dominant faith]. ([1776] 1976, 792)

By contrast, minority religious groups that could potentially win converts in an undersupplied religious economy will seek legislation that lowers restrictions on “religious trade.” Hence:

Proposition 1: Hegemonic religions will prefer high levels of government regulation (i.e., restrictions on religious liberty) over religious minorities.³² Religious minorities will prefer laws favoring greater religious liberty.³³

An interesting test case for this proposition is the Roman Catholic Church. Here we have an institutionalized faith that exists in nearly every part of the world yet varies in whether it is a majority or minority religion. An ideational model of preferences for religious liberty would predict a consistency in the Church’s policy across nations, perhaps harking back to the Second Vatican Council’s declaration in favor of religious liberty (*Dignitatis Humanae*). Alternatively, the interest-based proposition in the preceding text would lead us to expect variations in Catholic policy positions as determined by the Church’s market position. In Latin America, where Catholicism has been dominant for five centuries, the Church has actively sought restrictions on Pentecostals and other upstart evangelical groups (Gill 1999b, 1998). However, in post-Soviet Russia, where Catholics are an expanding denomination, the Vatican has been pressing for greater access against the cries of the historically dominant Orthodox Church (Anderson 2003, 128; Kutznetsov 1996). Likewise, in Asia, Catholics are seeking fewer restrictions on religious activity.³⁴ These empirical observations favor the interest-based hypothesis as presented in Proposition 1. Here we have an

³² This proposition is an example of how rational choice theorists can derive logically the preferences of actors rather than merely stating them as given. As is noted elsewhere (Gill 1998: 195–6), a major critique of rational choice theory is that it takes preferences as given. However, this does not mean that preferences simply are asserted in an ad hoc or tautological fashion. Careful attention must be paid to justifying the assumed preferences, as I have attempted to do here. Being explicit about these assumptions allows other scholars to modify the assumptions and play out the theoretical logic to see whether alternative, testable implications can be advanced.

³³ In the case in which a traditionally dominant religion exists under a state with an explicit “atheistic” (or anticlerical) ideology (e.g., the Soviet Union, Mexico 1917–94), the dominant religion can be thought of as a minority player in that it does not wield the coercive power to counter the dominant producer of social values and norms.

³⁴ “Pope urges China to allow religious freedom” (December 3, 1996), Cable News Network, <http://www.cnn.com/WORLD/9612/03/briefs.pm/pope.china/> (accessed September 8, 2005).

instance of an institution whose leaders' preferences are determined by their self-interested position in the religious marketplace rather than by some constant theological precept. If theology were dictating policy preferences in this case, we would expect the Catholic Church to maintain a consistent position across countries.

We can further derive the preferences of religious groups under pluralistic conditions from Proposition 1, in which no one firm commands a majority market share; that is, every denomination is a minority denomination. In such situations, all religious firms will prefer a minimum level of religious liberty that allows all *existing* faiths to practice freely (within reason).³⁵ Imposing restrictions on one faith could potentially lead to religious conflict wherein one's own denomination finds itself under repressive legislation.

Proposition 1a: In an environment where no single religion commands a majority market share, the preferences of each denomination will tend toward religious liberty.

Nonetheless, religious leaders in such an environment are likely to oppose a completely laissez-faire religious market that allows new religions to arise.³⁶ Ecumenical relations among existing denominations are most likely to develop under such pluralistic conditions – an implication that follows directly from Stark's work (2001, 119–20) and was observed by Adam Smith:

[H]ad the conquering party never adopted the tenets of one sect more than those of another, when it had gained the victory, it would probably have dealt equally and impartially with all the different sects, and have allowed every man to chuse [*sic*] his own priest and his own religion as he thought proper. There would in this case, no doubt, have been a great multitude of religious sects. . . . The teachers of each sect, seeing themselves surrounded on all sides with more adversaries than friends, would be obliged to learn that candour [*sic*] and moderation which is so seldom to be found among the teachers of those great sects, show tenets being supported by the civil magistrate, are held in veneration by almost all the inhabitants of extensive kingdoms and empires, and who therefore see nothing round them but followers, disciples, and humble admirers. ([1776] 1976, 792–3)

³⁵ "Within reason" is important here, as it is unlikely that Lutherans or Catholics in the United States would argue favorably for the unrestricted rights of a religion that practices human sacrifice.

³⁶ Mainstream Christian reaction to the creation of Mormonism is an example. Likewise, most established faiths are skeptical of laws that allow prisoners to declare religious belief systems that allow them exemptions from various prison regulations, one of the unique consequences of the short-lived Religious Freedom Restoration Act.

Smith's analysis further points out that religious tolerance, supported by laws that do not favor a dominant faith, will lead to increased religious pluralism ("a great multitude of religious sects") and increased religious civility,³⁷ as confirmed by contemporary research linking denominational pluralism to religious freedom (Stark 2005; Gill 1999a; Stark and Iannaccone 1994; Finke and Iannaccone 1993; Finke 1990). The initial presence of religious pluralism – particularly at the time of a nation's founding – would make the state hesitant to impose any form of legislation that would favor one minority sect over any other minority sect. This, in turn, would encourage the immigration of religious dissenters from other parts of the world and/or schismatic denominational growth in the domestic arena. In other words, religious pluralism begets religious freedom, which in turn enhances the prospects for greater pluralism. Noting this prompts us to consider the interests and incentives facing those who make the laws regulating the religious marketplace.

Political Incentives in the Religious Marketplace

As defined in the preceding text, religious liberty is a matter of governmental regulation. Therefore we should expect the interests and incentive structures of politicians to play a significant role in determining the level (and form) of religious freedom in society. Why would politicians want to regulate (or deregulate) religious organizations? This moves us to the central question regarding the origins of religious liberty (i.e., the deregulation of the religious marketplace). We begin with two basic assumptions about the general preferences of policy makers common in the political science literature (Geddes 1994; Ames 1987; Mayhew 1974):

Axiom 3: Politicians are primarily interested in their personal political survival.

Axiom 4: Politicians will also seek to maximize government revenue, promote economic growth, and minimize civil unrest.

Axiom 5: Politicians seek to minimize the cost of ruling.

Policy makers may be driven by a plethora of ideological influences, but their goals are largely unachievable if they are not in power. Also they may seek power for power's sake or the fame and possible fortune it bestows.

³⁷ As noted in Axiom 1, Smith implicitly assumes that religious tastes in society are latently pluralistic. If he had assumed such preferences were monolithic, no "great multitude" would arise.

In whichever case, retaining power is the primary (instrumental) goal to achieving these other ends. Beyond political survival, rulers will also attempt to maximize government (i.e., tax) revenue. The more revenue that they have at their disposal, the more policy goals they can achieve – be it building a strong military, extending health care to more individuals, or filling the coffers of their Swiss bank accounts. Enhancing government revenue is also a function of economic growth; the more the nation's economy grows, the larger the tax base and the more revenue politicians have to spend.³⁸ As a side benefit, a growing economy often means greater employment and rising standards of living, all of which make the citizenry happy and more willing to keep the present rulers in power. Thus, politicians will favor policy decisions that promote *general* economic growth all the while balancing the need to stay in power by satisfying *specific* constituencies (Olson 1993).³⁹ And, obviously, civil unrest is potentially threatening to a political leader as it may mean the possibility of being overthrown in a revolution or coup. Consistent levels of civil unrest usually mean slower economic growth, if not economic devastation, in that entrepreneurs are less likely to invest in politically unstable environments, and workers are having their time and energy diverted into other activities (e.g., protesting government policies, fighting a civil war).

Politicians are constantly aware of the trade-offs between guaranteeing political survival, enhancing tax revenue, and achieving policy goals (Levi 1988). Staying in office requires resources. The more resources that are expended to retain power, the less are available for achieving other goals, *ceteris paribus*. Politicians have three general mechanisms for ensuring the compliance of a population: coercion, patronage, and ideological legitimacy. Coercion simply means threatening and carrying out punishment to those who fail to obey the leader's will. Patronage represents some form of mutual exchange – for example, providing a public works project in exchange for electoral support. And ideological legitimacy involves citizens obeying the

³⁸ Raising government tax revenue is not simply a function of raising the tax rate as there may be decreasing absolute returns on very high marginal tax rates. Cutting taxes need not necessarily mean a loss of government revenue if the incentives provided by lower taxes produce an economic expansion, a phenomenon illustrated by the Laffer curve (Wanniski 1978).

³⁹ This is the age-old political economy problem of free trade versus tariffs. Although free trade generally improves the general welfare of a trading nation in the long term, reducing trade barriers can harm specific sectors of the economy in the short term. Economic protectionism tends to win out because political survival is often determined in the short term (e.g., frequent elections).

demands of their leaders based on a belief that those demands are just and proper. Of these three means, the last is the least costly,⁴⁰ leading us to the following proposition:

Proposition 2: Politicians will seek ideological compliance of the population when possible.

Patronage is undeniably costly as it entails paying critical groups of citizens for their support. One would imagine that the price demanded for support by the citizenry will be in direct proportion to the value that the ruler places on that support. Moreover, over time, bargaining power in patronage relationships tends to flow to the recipients as they can threaten to withdraw support unless payments increase. Think of it as political extortion. One might believe that coercion is less costly than patronage, but that is not necessarily so. Reliance on repressive means entails paying a large security force (that can also demand increasing resources for continued support), giving rise to a terrified work force that may not have an incentive to be productive (cf. Sharansky 2004), or exacerbating existing divisions within the ruling coalition between those who favor coercion and those who prefer more liberalized forms of rule (cf. Drake and McCubbins 1998). Overuse of the military or police may also cause resentment among those running those institutions (as few soldiers actually prefer to be constantly in harm's way) and lead to a possible coup (Stepan 1988). Winning the "hearts and minds" of the citizenry – that is, gaining ideological legitimacy – is most likely the cheapest route to ensuring political survival in office (cf. Hechter 2000; North 1981). As Nobel laureate Douglass North has argued, "A common belief system which embodies social norms consistent with the policies of the ruler will reduce the use of coercion" (2005, 104) and presumably lower the need for patronage.

The preference of political leaders to enhance political survival through ideological legitimacy naturally provides an incentive for church-state cooperation in that religions tend to be the primary producer of societal norms and values (Gill 1998: 52–3). To the extent that citizens agree that obedience to the government is morally correct or in their best interest, politicians need not devote resources to coercion or paying off

⁴⁰ For an extended discussion of this assumption, see Gill (1998, 50–2) and Taylor (1982, 11–20). Again, I refer to the maestro of political economy and religion Adam Smith, who noted that "management and persuasion are always the easiest and the safest instruments of government, as force and violence are the worst and most dangerous" ([1776] 1976, 799).

constituents. The conveyance of ideological legitimacy frequently comes from the endorsement of religious leaders.⁴¹ Clergy tend to be among the most trusted officials in society. In large part this is due to the inherent nature of producing religious goods. Because religion is a credence good, at its essence, consumers may tend to be skeptical about purchasing such goods unless they have some signal about the good's future quality. Suppliers of these goods maintain a strong incentive to develop credit-worthy reputations. Clergy frequently live austere lives, make other sacrifices (e.g., celibacy), and engage in rather costly rituals to cultivate an aura of trust among parishioners. In situations of uncertainty, people will look to trusted leaders for guidance. It can be expected that a priest will give carefully considered advice that is in the best interest of his parishioners. If the priest constantly makes poor political decisions, thereby leading his flock to harm, it is unlikely that he will be successful in "selling" his spiritual message. In other words, clergy often act as guiding voices in the secular realm, providing information that would otherwise be costly or unavailable to citizens.⁴² Having trusted priests endorse a government, or governmental policies, is one means of reducing the costs of ruling. This endorsement comes at a price. Clergy are likely to ask for favors in return, which may entail significant regulations on other religions or government subsidies. As I shall

⁴¹ As usual, Adam Smith was one of the first to point this out. "Articles of faith, as well as all other spiritual matters, it is evident enough, are not within the proper department of a temporal sovereign, who, though he may be very well qualified for protecting, is seldom supposed to be so for instructing the people. With regard to such matters, therefore, his authority can seldom be sufficient to counterbalance the united authority of the clergy of the established church. The publick [*sic*] tranquility, however, and [the ruler's] own security may frequently depend upon the doctrines which they may think proper to propagate concerning such matters. As he can seldom directly oppose their decision, therefore, with proper weight and authority, it is necessary that he should be able to influence it; and he can influence it only by the fears and expectations which he may excite in the greater part of the individuals of the order" (Smith [1776] 1976: 798).

⁴² This leads to a number of testable propositions that are tangential for this study, such as the proposition that people with little access to information about politicians (e.g., because of illiteracy, lack of access to televised news) will tend to place more credence in the recommendations of clergy when considering political action. Also, it should be noted that this hypothesis builds on the political economy of interest groups, which suggests that such groups act as information conduits for rationally ignorant voters. Because religious clergy tend to reflect a wide range of class and sectoral interests, their recommendations should be more pertinent to broad, general issues that do not affect an individual's specific welfare. Occupational groups (e.g., the trial lawyers association) usually provide more finely tuned information on these issues. This general hypothesis also suggests that professions that deal more in credence goods will have a stronger reputation for trustworthiness than those that deal with more tangible goods.

argue, a religion's ability to obtain these demands is a function of the religious market structure.

Understand that churches are not only a source of ideological legitimation but also can represent a source of rival authority. In line with the political survival axiom mentioned earlier, politicians seek to neutralize rivals. Churches offer one potential focal point from which a rival ruler or party can rally opposition. The main reason is that religious organizations possess several features that are helpful in mobilizing collective action, the basic problem inherent in any (mass-based) opposition movement (Lichbach 1995). First, members of a religious community typically hold shared values and mutual expectations about behavior. This enhances trust among individuals, which in turn lowers the uncertainty associated with mutually cooperative behavior (Chong 1991). Trustworthy leadership is also essential for collective action. Leaders who advocate risky action (e.g., protesting a government) will be successful only to the extent to which their followers trust their choices of action. People rarely follow strangers blindly into dangerous situations. As previously noted, religious organizations require trustworthy leadership to accomplish their goals of enticing individuals to contribute to a credence good. Numerous other factors also enhance the ability of religious groups to quickly mobilize collective action, including regularized meetings, financial resources, common religious idioms, and established networks of communication (cf. Chwe 2001; Chong 1991). For rulers who are concerned with their political survival, maintaining a tight regulatory control over this potential rival source of authority provides a strong incentive to tamper with laws regulating religion in order to enhance their own political position. This might entail restricting the freedoms or reducing the exclusive legal privileges of particular denominations, especially those that are institutionally aligned with, and unable to back away from a commitment to, a strong rival. Alternatively, it might entail co-opting the support of a religious group with preferential legislation that directly benefits the church in question or restricts the activities of competitive denominations.

Predicting which situation is more likely will depend on a more detailed specification of the political and religious environment in question. The bargaining power of the relevant actors, both secular and religious, will condition the outcome for regulatory legislation. Nonetheless, the discussion in the preceding text points us in the direction of several testable propositions about the relative bargaining power of church and state that can then form the basis for a more historically based analytic narrative.

The first proposition establishes a general prediction about the deregulation of the religious marketplace and is based on the opportunity costs facing secular leaders:

Proposition 3: To the extent that political survival, revenue collection, economic growth and social stability are hindered by restrictions on religious freedom or subsidies to a dominant church, religious regulation will be liberalized or not enforced (de facto liberalization). In other words, when restrictions on religious liberty have a high opportunity cost as measured in terms of political survival, government revenue, and/or economic growth, deregulation of the religious market results. Concomitantly, restrictions on religious freedom will increase if it served the aforementioned political and economic interests of policy makers.

This hypothesis challenges the notion that religious liberty is the result of a shift in political philosophy (or the victory of one group that holds a more liberal political philosophy). One of the central failings of ideational explanations is that they typically view the debate over religious liberty in isolation from other concerns in the polity; religious liberty is simply a question of two sides debating “right” versus “wrong,” with one side eventually prevailing. In reality, though, legislation is rarely considered in isolation. Positions on one issue condition another. The reason for specific policy choices in one arena may be connected to seemingly unrelated issues. This proposition directs scholars to look for evidence of potential policy trade-offs, something that ideational perspectives do not do effectively.

In economic terms, politicians are said to be calculating their opportunity costs. An opportunity cost is the price paid for a foregone opportunity. Implementing one policy necessarily means not implementing its opposite, and that opposite policy comes with a set of potential costs. For instance, assume politicians have a choice between jailing religious minorities (limiting religious freedom) and allowing them to move about a territory freely (enhancing religious liberty). The opportunity cost of the imprisonment decision might be a loss of economic trade by merchants from other territories that want to hawk their wares. Moreover, it could also mean a drop in immigration or prompt an exodus, which is a significant cost for a government seeking to attract and/or retain skilled laborers. Alternatively, allowing dissenting sects access to one’s territory may irritate the established religious authorities and cause a loss of public support (or even a religious insurrection). A politician will have to weigh the various costs and benefits of the different policies to determine how each would affect his

personal goals of political survival, collecting revenue, economic growth, and minimizing civil unrest.

Proposition 3 is admittedly broad. The general vagueness of Proposition 3, however, is both its principal strength and its principal weakness. By not identifying more specific trade-offs, the proposition can be used to examine a wide array of political settings, both longitudinal and latitudinal. It is argued that political goals announced in Axioms 3–5 generally hold true for all rulers – both democrats and dictators – throughout time and space. The guiding theoretical principle is that some policy trade-off that affects a politician's self-interest will be in play during periods of religious deregulation or increased regulation. The specific nature of the policies and policy trade-offs will largely be determined by the historical context. Unfortunately, by not being more specific, Proposition 3 risks tautology. Observation of a change in religious policy can be taken as evidence that political survival is at risk. Although the careful use of an analytic narrative can help to alleviate this problem in historical and comparative case studies, I will attempt to lay out additional propositions that delineate more-specific environments in which religious deregulation (or increased regulation) might occur.

Situations of Political Competition

I begin this exercise by noting that political survival varies according to the presence of viable opposition candidates for power, that is, the level of political competition (which in turn affects the prospects for political survival). Politicians facing intense rivalries tend to have shorter time horizons (higher discount rates) and less bargaining power relative to organized social actors. These factors are likely to affect policy-making decisions.

Proposition 4: The presence of viable secular rivals to power increases the bargaining power of religious organizations, *ceteris paribus*.

Proposition 4a: If one religious organization commands hegemonic loyalty among the population⁴³ and is not tied to any secular political actor, the bargaining power of that church increases, *ceteris paribus*. Regulatory policy

⁴³ The issue of hegemonic loyalty will become an important issue. In contemporary Latin America, the Catholic Church is considered to be hegemonic, and a majority of people nominally affiliate with Catholicism. However, in several countries, the active, churchgoing Protestant population equals, and perhaps even exceeds, the active Catholic population – Brazil, Chile, and Guatemala are the central examples. Calling the Catholic Church *hegemonic* in these instances might be a misnomer.

toward religion is likely to favor the dominant church and discriminate against minority denominations.

Proposition 4b: If a church is institutionally linked (or credibly committed) to one political faction, regulatory policy will favor that denomination if the affiliated faction holds power. Conversely, religious deregulation, which punishes the dominant church and rewards spiritual competitors, is likely when the church's favored faction loses.

Proposition 4c: If several competing denominations exist (none with hegemonic dominance), regulatory policy will tend not to discriminate among them (i.e., increased religious liberty). In other words, the presence of competing religious denominations reduces the bargaining leverage of any one particular group, leading politicians to curry favor with all.

When a politician faces political uncertainty, he is more likely to cut deals with individuals or groups that can enhance his position of power over rivals. A religious group that commands the loyalty of the vast majority of a population would be in a good position to make certain demands (e.g., access to public schools, prohibitions on minority sects) of this politician in exchange for public support.

However, the ability of church leaders to deliver the promised support will shape the credibility of their bargaining position. Religious leaders who have always been visibly supportive of one political faction will have a difficult time convincing politicians of the rival faction and of the citizenry that they have switched sides. Such switching often means rejecting moral arguments that were made in favor of the old ally. Strong institutional linkages between the church and the old ally (e.g., favored political appointments for clergy, large financial subsidies) only exacerbate the credibility problem facing church leaders. Remember, churches are in the business of producing and distributing credence goods. Quickly switching political parties would likely appear opportunistic and would reflect poorly on the credibility that the church has when it proclaims that it is looking after the eternal well-being of its parishioners. In situations where the church is closely linked with a political faction that has fallen out of power, the new rulers have little incentive to reward the church because they know any church support would appear opportunistic and not be worth much to members. Moreover, depending on the bitterness of the political rivalry that brought the new faction to power, the new rulers may seek to punish the standing religious leaders by revoking their favored official status, which may mean providing greater access to the religious market to dissenting denominations. Or, in the case of the Soviet Union and Mexico (ca. 1920s), it may mean a crackdown on all religious activity.

If secular leaders facing stiff political competition exist within an environment where there are multiple denominations, it may behoove these politicians to treat all religions equally. Even a small religious group that may only represent 5 percent of the population could potentially make the difference in a tight election. Of course, those politicians may take a chance and support the larger denomination in the hopes of securing more votes, but this may be a risky strategy if the religious minorities are actually growing. Opposition rulers may be able to make headway on the incumbents by rallying these religious minorities with the promise of equal treatment. The optimal position then for the incumbent would be to promise equal treatment (to neutralize their opponent's policy advantage) or to try avoiding the problem altogether. Any particular church in a pluralistic environment would do well to avoid any specific attachment with a single political party as they may risk disadvantageous legislation when their faction is out of power.⁴⁴

Situations of Minimal Political Competition

Where political rivalry is minimal, the goal of political survival becomes less pressing, and time horizons lengthen. The opportunity costs of various policies are likely to shift. Policies that bought a politician immediate support under intense competition but that harmed long-term economic growth and revenue collection are likely to be more costly relative to longer-term policies in a new, less competitive environment. For instance, candidates who are running for election are more likely to propose tax cuts than are political leaders with secure tenure. These shifts in political opportunity costs can potentially affect church-state relations.

Proposition 5: As political tenure becomes more secure, the bargaining power of a religious group wanes.

Proposition 5a: Given that restrictions on religious liberty entail monitoring and enforcement costs, politicians will be less likely to enforce them as their political tenure becomes secure.⁴⁵

Proposition 5b: As enforcement of restrictions on religious freedom decreases, religious pluralism increases in society (by way of Axioms 1 and 2).

⁴⁴ A similar argument is being made with labor unions in the United States. Given the strong affiliation between unions and the Democratic Party in recent decades, labor leaders cannot expect much favorable legislation when Republicans dominate the different branches and geographic levels of government.

⁴⁵ Likewise, subsidization of religious groups becomes more expensive in that as political survival becomes secure supporting an established church yields increasingly fewer benefits to the politician.

In reality, supporting an established church and keeping legal restrictions on minority religions are relatively inexpensive tasks.⁴⁶ For most politically secure governments, the matter of church regulatory policy will simply become a moot issue.⁴⁷ So long as religious minorities do not become politically or socially disruptive, entrenched incumbent politicians are more than likely to be indifferent to their growing presence (cf. Mullett 1938). Should secular leaders become uninterested in enforcing laws restricting new sects, the innate religious heterogeneity within most societies will result in a gradual increase in denominational pluralism, particularly if the dominant church lacks the institutional muscle to punish “heresy.” And, as Rodney Stark (1992) has argued, most religious monopolies do not have the resources to effectively stamp out religious pluralism without the support of a coercive state.⁴⁸

If religious pluralism increases to some visible threshold⁴⁹ and political competition reappears, we are likely to see movement toward religious freedom (as per Proposition 4c). In other words, Propositions 5, 5a, and 5b provide for a means wherein the incentive structures of both secular politicians and religious actors can change over time, allowing for gradual progress toward religious pluralism and freedom. As the aforementioned propositions imply, increasing political competition among growing religious pluralism is the best environment in which to foster religious liberty.

⁴⁶ A casual glance at the budget of any state that has an established church will reveal a pittance spent on supporting that church. Enforcement costs of religious regulations are more difficult to measure, but the lack of major incidents in which people are arrested for nonviolent forms of religious worship seems to provide initial evidence that such costs are low.

⁴⁷ As much as I would like to think that my research on church-state relations is a central topic in political science, I readily admit that other matters, such as managing the economy and fighting wars, are probably more important to political leaders. That is the gist of the argument presented here. Although the regulation of religion is something that will pique a ruler’s attention, especially if clergy are whispering in his ear, his decision to regulate or deregulate the religious economy will be contingent on more important matters – staying in power, growing the economy, and raising tax revenue.

⁴⁸ The medieval Catholic Church may appear to be an exception given the relative weakness of the state system in Europe at the time. Nonetheless, feudal lords were willing to act on the behalf of the Vatican to preserve the Church’s hold over the population. See Ekelund et al. (1996) for an interesting discussion on how the Catholic Church maintained its relative hegemony over a politically fragmented medieval Europe.

⁴⁹ This threshold may not be as large as one would intuitively expect. My previous work (Gill 1998) indicates that if religious minorities can reach about 4–5 percent of the population, they will rouse the passions of the dominant religion and become a political issue. The rapid, albeit initially small, influx of evangelical missionaries and other “nontraditional” denominations in Eastern Europe and Russia created immediate cries for some regulatory action to slow or restrict these groups outright. See Chapter 5 for more details.

To the extent that “modernization” correlates with increasing political competition, this might help to explain the general trend toward religious liberty over the past several centuries. However, the opportunity costs approach to explaining religious liberty leaves a role for human agency and allows for potential reversals in the progress toward religious freedom.

The Role of Ideas: A Brief Discussion

One of my former colleagues once remarked, “Scratch an ideology and watch an interest bleed.”⁵⁰ This statement may appear to summarize how most economists (and materialists more generally)⁵¹ view the role of ideas and values in society – an individual’s self-interest determines his or her ideological worldview. From this perspective, ideas are at best secondary causes of social phenomenon, if not simply *ex post facto* justifications of self-interested actions. There is some truth to the preceding statement. Brutal dictators often are known to justify their oppressive regimes with statements that they are looking after the best interests of their nation. Even democratic politicians have been known to cloak their pork-barreling policies in high-minded rhetoric. And the Catholic Church’s support for religious liberty and ecumenical relations is often at odds with its actual behavior in certain parts of the world (as noted earlier).

In all fairness, not all rational choice theorists view ideas in such a simplistic or off-handed manner. Ideas do matter (cf. North 2005; Kuran 2004). We only need to scan the students sitting in our lecture halls to prove this; those pupils who place a high value on education tend to work harder and get better grades than those who view college as a diversionary pastime. And there are countless examples of political crusaders and zealots who go to great lengths to champion a cause – from antiwar activists who travel the country in VW minibuses to antiabortion advocates giving up their time to blockade clinics. Religious belief often inspires many of these social movements. Consider the Quakers’ role in the abolitionist movement or the Baptists’ role in promoting temperance. To claim that ideas have no influence over behavior would be misleading.

So what role do ideas play in a rational choice analysis? Technically speaking, rational choice theory is agnostic on the role of ideas in the sense

⁵⁰ The colleague was Pierre Van Den Berghe of the University of Washington’s Department of Sociology. He has since retired. To the best of my knowledge, this was his original quote.

⁵¹ For clarity’s sake, I should note that not all economists and materialists are rational choice scholars and vice versa.

that our ideologies and values affect the preferences we hold. If a person is raised in a household that promotes the value of recycling, that person will likely place a high value on recycling in the future and behave in ways to maximize that goal. Likewise, a person raised Catholic who attended Mass and Sunday school every week would be more likely to place a high utility on religious practice later in their life, a phenomenon that economist Larry Iannaccone (1990) termed “religious human capital” (cf. Becker 1994). Hence, ideas (including values and norms) matter in that they form the basis for our preferences. Rational choice theorists, however, assume that preference formation is exogenous to their explanations. Although it is entirely plausible that preferences change over time and affect our behavioral choices (something that the advertising business counts on), a rational choice scholar will generally hold preferences constant and see if changes in external constraints lead to alterations in behavior.

Ideas, values, and norms can also act as constraints on human behavior. Certain types of behavior – for example, yelling at professors in class or throwing an aluminum can on the side of the road – are considered unacceptable practices by the culture at large. Even though I may realize that it is easier to throw a can out my car window than drive to the nearest trash can, social disapproval of such activity might prevent me from doing it. Likewise, religious prohibitions on out-of-wedlock fornication may lead to fewer sexual dalliances among the young. A constraint-based view of ideas is perfectly compatible with rational choice theory. A person seeking social acceptance among his peers will be less likely to engage in practices that violate set notions of appropriate behavior. Attending church in a pink fuzzy bathrobe and bunny slippers may maximize a person’s physical comfort, but it certainly would isolate him or her from friends and family.

As pertains to this study, it is possible that ideas regarding the appropriate level of religious freedom within society change over time. It could happen through open and lively debate or through the actions of a few intellectual entrepreneurs. Changes in belief among significant players may constrain the actions of other individuals. For instance, a powerful governor may proclaim that it is no longer acceptable to persecute a religious minority and seek to implement laws that guarantee freedom from persecution. Individuals seeking to curry favors from that well-placed politician may fall in line on this policy, not out of any innate change in their worldview, but rather because they see such action as means to another end (e.g., a desirable political appointment or other favor). In this case, what may appear to be a general social shift in preferences simply is the result of self-interested behavior on two seemingly unrelated dimensions – religious liberty and one’s political

self-promotion. Of course, such a self-interested shift toward another ideological position may eventually expose one to another belief system and modify that person's intrinsic ideas or values. An uncommitted Methodist who begins attending a Mormon singles group out of a desire to find a date (or mate) may eventually end up internalizing that faith's theology, something implied by Iannaccone's (1990) analysis.

Disentangling whether or not a change in behavior is related to a genuine shift in preferences among some (or all) members of society or is simply a matter of interest-based behavior is difficult to do, particularly in historical analysis where the relevant people have passed from the scene. Interviews with the dead are notoriously difficult to obtain, usually have significant response biases, and grant-giving agencies are often reluctant to allocate money for séances.⁵² Diaries and letters may help us sort out some of this entanglement, but it is not uncommon for individuals to justify self-interested behavior with the use of lofty rhetoric and an appeal to high ideals. Even living folk tend to do this. Finding predictive instances wherein the pursuit of apparent self-interest in one arena is closely related to a change in position in another arena would provide evidence that self-interest lay behind the change in the latter circumstance, as opposed to a shift in preferences or worldviews. The preceding deductive theory attempts to do this for the issue of religious liberty and seeks to relate it to a series of other policies on trade, economic growth, social conflict, and political survival. With that in mind, we now turn our attention to examine a series of historical instances of changes in religious liberty to see if such issues played a role.

⁵² For the record, I am skeptical of séance methodology.