

## Article

# Donald Trump, the Christian Right and COVID-19: The Politics of Religious Freedom

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**Abstract:** This paper examines the issue of religious freedom in the USA during the coronavirus pandemic of 2020–2021, during the presidency of Donald Trump (2017–2021). It contends that the ability of state governors to close religious places of worship illustrates both the limits on the power of the president and that public health can take supremacy over religious freedom in today's America. The paper is organised as follows: first, we identify the importance of religious freedom for the more than 20 million Americans who self-classify as Christian evangelicals. Second, we assess the transactional importance that President Trump placed on Christian evangelicals' religious freedom. Third, we look at one kind of Christian evangelicals—that is, Christian nationalists—to see how they regarded restrictions on their religious behaviour caused by COVID-19. Fourth, we briefly examine several recent legal cases brought against the governors of California and Illinois by the Liberty Counsel, the leading Christian evangelical legal firm in the USA. Led by Matthew Staver, Dean of the Liberty University Law School, Liberty Counsel regularly represents Christian nationalists who challenge state-imposed restrictions on religious gatherings during the coronavirus pandemic.

**Keywords:** Christian Right; Donald Trump; COVID-19; coronavirus; pandemic; religious freedom



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## 1. Introduction

Trump, a vulgarian celebrity, was far from evangelicals' first choice but soon became their champion. In return, they were willing to forgive his sins and believe in redemption, putting him on notice that personal misconduct in office would not be tolerated. *Thus an unlikely relationship rooted in mutual dependency was formed.* (Smith 2019; emphasis added)

The pejorative du jour is to call evangelicals “transactional”, as though buying a loaf of bread and not simply praying for one were somehow faithless. But what is sneeringly called “transactional” is *representational government, in which patriotic citizens vote, deputizing others to act on their behalf for the good of the country.* Isn't it conceivable that faithful Christians think Mr. Trump is the best choice? (Metaxas 2020; emphasis added)

Christian evangelical support for Donald Trump in the 2016 presidential election was a crucial component in his victory (Muirhead and Rosenblum 2019). In the first quotation above, Smith notes that the electoral relationship between “evangelicals” and Trump was rooted in “mutual dependency”. The second quotation expresses Metaxas's opinion that “evangelicals” who voted for Trump were doing so selflessly “for the good of the country”. Both quotations underline that the electoral relationship between Trump and Christian “evangelicals” in 2016 was based on a quid pro quo: I do something for you and you do something for me. What “evangelicals” did for Trump in 2016 is obvious, enabling him to gain the presidency. What did Trump do for “evangelicals”? This paper argues that President Trump diligently advanced Christian evangelicals' main priority—that is, their religious freedom—in various ways, including most importantly the appointment of conservative judges to the Supreme Court, most recently the conservative Catholic Amy

Coney Barrett, who were expected by many to expand Christian conservatives' religious freedoms, not least by clamping down on abortion rights for women and same-sex marriage. Trump appeared to be a shoo-in for re-election in November 2020—until the onset of the COVID-19 pandemic in early 2020. Over the next few months, Trump lost control of the attempt to enhance Christian evangelicals' religious freedom. Unwilling or unable to lead the fight against the pandemic, the White House saw state governors take on the responsibility of fighting COVID-19. Many shut religious places of worship to the chagrin of many Christian conservatives: to them, this was an intolerable reduction of their religious freedom. Represented by legal firms, including Liberty Counsel, Christian conservatives sought to overturn the closing of their churches in the courts. To the surprise of many, they were not usually successful, demonstrating that religious freedom in America may be secondary in the face of a pressing public health emergency.<sup>1</sup>

The paper examines the issues raised in the previous paragraph. It is organised as follows: first, we identify the importance of religious freedom for the more than 20 million Americans who self-classify as Christian evangelicals. Second, we assess the transactional importance that President Trump placed on Christian evangelicals' religious freedom. Third, we look at one kind of Christian evangelicals—that is, Christian nationalists—to see how they regard restrictions on their religious behaviour caused by COVID-19. Fourth, we briefly examine several recent legal cases brought against the governors of California and Illinois by Liberty Counsel, the leading Christian evangelical legal firm in the USA. Led by Matthew Staver, Dean of the Liberty University Law School, Liberty Counsel regularly represents Christian nationalists who challenged state-imposed restrictions on religious gatherings during the coronavirus pandemic.

## 2. The Christian Right in Trump's America

There are various labels used to describe Christian conservatives in the USA. Some use the term "Christian evangelical", while others refer to Christian conservatives. In this paper, we will employ the term "Christian Right" as a generic label for politically active Christian conservatives, many of whom are white. Gagné (2019) defines the Christian Right as a "religious coalition with political aims that is mainly comprised of evangelicals and conservative Catholics and Protestants". Many among the Christian Right are ethnically "white", descended for the most part from north-west European Protestants who historically migrated to the USA. Regarding Trump's electoral support base among the Christian Right, this mainly drew on white Protestant (Evangelical) conservatives and white Catholic conservatives, most of whom regularly vote Republican for ideological, cultural and religious reasons (Miller 2019). The Christian Right is not a party, movement or organisation. It is a loose partnership of individuals and groups united in the view that America's Christian foundations are fatally undermined by secularisation and that it is crucial to reverse this trend to return to the founding (Christian) values of America. Lacking organisational unity, the Christian Right does not have a collective view of what tactics and strategy are necessary to achieve a re-Christianisation of America. The Christian Right, in other words, is not monolithic. One thing many members of the Christian Right, including non-white members such as Latino men, can agree on, however, is that support for President Trump was necessary in the November 2020 presidential election. This was not necessarily because of his personal religiosity or recognisably Christian characteristics: he is "a thrice-married adulterer with previously socially liberal views" (Haberma 2018). Instead, for example in the case of many Catholic Latino men, it was mainly because of the perception that Trump was willing to "stand up" to the Left, as well as his appointment of conservative judges to the Supreme Court (Fadel 2020). In both the November 2016 and November 2020 presidential elections, Trump attracted the support of four in five white

<sup>1</sup> There was however a recent notable exception. On 25 November 2020, the U.S. Supreme Court ordered a preliminary injunction in *Roman Catholic Diocese of Brooklyn v. Cuomo*, No. 20A87. The ruling stated "that New York may not enforce 10- or 25-person congregation-size limits on certain Catholic churches and Orthodox synagogues, pending further Supreme Court litigation, because the restrictions likely discriminate against religion in violation of the First Amendment." (Nelson and Jones 2020).

Protestant evangelical voters, a greater proportion than fellow Republicans Mitt Romney, John McCain or George W. Bush had achieved in the previous three elections. In addition, Trump was able to gain the votes of more than half (56%) of white Catholics in 2016, with Hillary Clinton receiving only 37 per cent (Sullivan 2019).

While most white Christian conservatives, both Protestant and Catholic, voted for Trump, an important body of evangelicals did not support him. America's largest evangelical organisation, the National Association of Evangelicals (NAE), "represents more than 45,000 local churches from 40 different denominations and serves a constituency of millions" (<https://www.nae.net/about-nae/>).<sup>2</sup> The NAE opposed Trump primarily for his immigration enforcement policies and pillarization of LGBTQ people (Alexander 2019), as well as for his personal amorality.<sup>3</sup> NAE opposition to Trump was not, however, total. It strongly supported Trump's key policy of religious freedom for Christian conservatives. Unlike some other Christian evangelical leaders, however, especially those in Trump's inner circle, the NAE did not support the unlimited right of Christians to hold religious services as normal during the pandemic (National Association of Evangelicals 2020).

White Christian conservatives, once the "silent majority", are no longer a demographic majority in America today; and many feel beleaguered. Many regard Trump as their saviour, and Trump's aim to "make America great again" involved policies with which most white Christian conservatives strongly agreed. The nonpartisan research organisation, the Public Religion Research Institute, published a report in September 2017, entitled *America's Changing Identity* (Jones and Cox 2017). The report, indicating that white Christians are now a minority among the US population, drew on a huge sample of 101,000 Americans from all 50 states. In the mid-1970s, a little over four decades ago, eight in 10 Americans were so identified, and more than half (55%) were white Protestants. In the mid-1990s, white Christians comprised two-thirds of the population (Jones and Cox 2017). Now, the proportion of white Christians in the USA is only 46% of what it was four decades ago.

The percentage reduction in white Christians was accompanied by a growing sense among many that America's "Christian values" had significantly declined (Ehret 2019). Several landmark legal decisions reinforced these concerns. In 1962 and 1963, the Supreme Court removed prayer and mandatory Bible reading from public schools. In 1965, the Hart–Cellar Act increased America's diversity by opening the country to large numbers of non-western immigrants, some of whom brought with them their diverse religious beliefs. In 1971, the Supreme Court, in *Green v. Connolly*, stripped the tax-exempt status from institutions that discriminated in their admissions policies based on race. *Green v. Connolly* affected a host of mainly Southern Christian schools and academies, many of which perceived the decision in terms of "big government" threatening religious freedom—that is, their liberty to discriminate based upon a particularistic reading of the Bible. In 1973, the Supreme Court supported a women's right to an abortion in *Roe v. Wade*. Many Christian conservatives regarded *Roe v. Wade* as expressly going against God's will, as every child conceived is thought to be a gift from God (DiMaggio 2019, pp. 159–72). The overall result was that over a decade from the early 1960s to the early 1970s, the world that white Christian conservatives thought they knew appeared to be disappearing. They did not like what they saw and wanted it reversed.

### 3. The Christian Right and Religious Freedom

Many Christian conservatives, buoyed by a burgeoning interest in American identity which came to a head in the USA's bicentennial celebrations in 1976, came to believe that the best way of limiting or even reversing what they perceived as the damaging effect

<sup>2</sup> In addition to its church membership, the NAE runs dozens of schools and non-profits, both in the USA and around the world and "provides resources for ministry leaders and advocates for issues of 'justice and righteousness'. Thus, while "many Americans view evangelicals through a political lens thanks to the media's focus on the strong white conservative evangelical support for President Donald Trump, NAE has been at the forefront of pointing out that 'evangelical' is a theological term that encompasses a politically diverse group of people" (emphasis added; Smith 2019).

<sup>3</sup> A magazine close to the NAE, *Christianity Today*, published an editorial by its outgoing editor, Mark Galli, in December 2019, which strongly criticised Trump for his lack of moral compass. See (Galli 2019).

of secularisation-led religious, social, cultural and demographic changes was to organise politically. Jerry Falwell, a Baptist minister from Lynchburg, Virginia, formed the Moral Majority in 1979 (Fea 2018, pp. 58–60). Falwell’s aim was to “train, mobilize, and electrify the Religious Right” in preparation to fight a “holy war” for the moral soul of America. The Moral Majority played a major role in electing Ronald Reagan as president in 1980 and helped shaped a vision for the Christian Right that remains strong today (Fea 2018). Falwell was able to use “moral majority” arguments to enlist support for Christian Right policies.<sup>4</sup> Today, however, as already noted, white Christians are no longer in the majority in the USA. Furthermore, recent opinion polls indicate that Americans are becoming more liberal on issues such as same-sex marriage, although not on abortion (Lewis 2017). These two developments—the numerical decline of white Christians and growing liberalism of Americans on some social issues—make it implausible that a re-Christianisation of America would occur through a large scale, voluntary readoption of Christian conservative values. How then to bring this about? The answer was to revive and embed Christian conservative values via legislation in relation to religious freedom.

President Reagan encouraged American Christian conservatives to be assertive to protect their values, especially in opposing abortion, and to join him in focusing on America’s social problems as stemming from a decline in “Christian values” (McVeigh and Estep 2019, p. 164). During Reagan’s presidency (1981–1989), the Christian Right became a powerful component of the Republican Party. The Christian Right support was instrumental in the electoral victories of George W. Bush in 2000 and 2004. While the Christian Right’s influence diminished during the Obama administration, Trump’s electoral victory in 2016 marked its return to political prominence (Bettiza 2019, p. 218).

Fea (2018) identifies three overlapping strands within today’s Christian Right, all strongly supportive of Trump in both the 2016 and 2020 presidential elections. Fea refers to them as “court evangelicals”. They are:

- a section of the mainstream Christian Right, whose origins go back to the 1980s.
- a cohort of independent “charismatics” who claim the gifts of the Pentecostal tradition (that is, visions, miracles and direct revelations from God) but do not belong to any established Pentecostal group.
- “prosperity gospel” advocates who resemble the second category but put more emphasis on the material rewards, which following their particular version of Christianity would bring to the faithful. (Fea 2018, pp. 115–52)

Rather than a shared theological worldview, what fundamentally links the court evangelicals, “is an insistence that loyalty to Mr Trump must be unconditional. In their world, the president is presented not just as the least-worst political option whose merits outweigh his flaws, *but as a man assigned by God to restore America to its divinely set course, and therefore almost above human criticism.*” (Fea 2018, p. 12, emphasis added). Why do the “court evangelicals” regard Trump in this way, that is, as infallible? It is because he is regarded as representing God’s will, articulating divine preferences (Green 2021).

How might Trump set about restoring “America to its divinely set course”, characterised primarily by growing religious freedom for the Christian Right? In the context of seemingly inexorable secularisation, it would not be enough simply to assert that Americans should become “better Christians”. It would be necessary to legislate to enforce a return to particularistic religious values favoured by the Christian Right. Despite initial doubts, the Christian Right came to regard Trump as the person most likely to reverse America’s cultural, religious and social decline and “make America great again” (Miller 2019). Trump’s side of the bargain was to show the Christian Right that he would deliver on his electoral promise to improve their religious freedom. Trump’s appointment of three Christian conservatives to the Supreme Court—Neil Gorsuch, an Anglican, in

<sup>4</sup> During the 1980s, the Moral Majority became overwhelmed by financial problems due to a lack of income. Falwell disbanded the Moral Majority in 1989 in Las Vegas, announcing: “Our goal has been achieved . . . The religious right is solidly in place and . . . religious conservatives in America are now in for the duration” (Allitt 2003, p. 198)

February 2017; Brett Kavanaugh, a Catholic, in October 2018; and Amy Coney Barrett, a conservative Catholic, in October 2020—was evidence of his determination in this regard.<sup>5</sup> The appointment of these three was especially important for the Christian Right's agenda as the Supreme Court would now have a 6-3 conservative majority.<sup>6</sup> Some among the Christian Right believed that their appointment would make eventual reversal of *Roe v. Wade* more likely, believing that Gorsuch, Kavanaugh and Barrett were personally in favour of a high level of restrictions on the availability of abortion clinics (Mahdawi 2019). Overall, the appointment of these Christian conservatives to the Supreme Court was expected to advance the religious freedom agenda of the Christian Right and provide a clear response to the perceived "ideologically-motivated attack on religious freedom from left-wing, anti-religion secularists" (Rubin 2019).

Trump made his opinion clear on this issue at a ceremony in January 2020 marking "National Religious Freedom Day". He stated that "there's a growing totalitarian impulse on the far left that seeks to punish, restrict and even prohibit religious expression". He said that as president he would enhance the ability of Christians to pray, including in schools, without fear of attack from aggressive secularists. He added, "While I'm President ... we will not let anyone push God from the public square. We will uphold religious liberty for all" (Vazquez 2020). On 15 January 2020, Trump promised action to allow Christian prayers in schools (Trump 2020).

To further bolster his credentials with the Christian Right, Trump appointed to senior roles in his administration three avowed Christian conservatives: (1) Vice-President Mike Pence, a member of the House of Representatives (2001–2013) and former governor of Indiana (2013–2017), who describes himself as "a Christian, a conservative and a Republican—in that order"; (2) Mike Pompeo, a former Director of the CIA whom, following the dismissal of Jefferson Beauregard Sessions III, Trump appointed as Secretary of State in May 2018, and who claims to have an open Bible on his desk to help him reach policy decisions (Wright 2019); and (3) William Barr, Attorney-General from January 2019, a conservative Catholic.<sup>7</sup> In October 2019, Barr "delivered a fiery speech on religious freedom in which he warned that 'militant secularists' were behind a 'campaign to destroy the traditional moral order'" (Barr 2019). The appointment of these three prominent white Christian (male) conservatives to senior positions in Trump's administration underlined its close relationship with the Christian Right, providing comfort for the latter's belief that Trump was the president to roll back secularisation and "re-Christianise" America.

#### 4. Limits to Religious Freedom in a Pandemic

Trump's initial reaction was to claim that the emerging pandemic was not a big deal; he had everything under control and his administration's response to COVID-19 would be prompt, effective and relatively painless for Americans. Life could carry on as before, perhaps with a few temporary inconveniences. Trump was the man, he proclaimed, who had instituted a major economic revival in the USA. He would not let the virus disrupt that. "Trust me, carry on as normal and vote for me in November 2020", might sum up his initial response to the pandemic.

As the pandemic developed and Americans began to die in large numbers, with more than 400,000 deaths by January 2021, the desirability of allowing uncontrolled public gatherings became a highly controversial issue. When people get together, many catch the virus, some become ill, some are okay, and some die. What to do? The Trump

<sup>5</sup> In a January 2017 interview with the Christian Broadcasting Network, Trump claimed that Gorsuch was an appointment that "evangelicals, Christians will love." (Trump quoted in Joshi 2017).

<sup>6</sup> Although a vacancy for the Court arose during Obama's presidency, "Evangelical pressure on Republican senate leader Mitch McConnell not to hold a vote on Barack Obama's nominee for the court, Merrick Garland, started long before Trump was the nominee". According to Henry Olsen, a senior fellow at the Ethics and Public Policy Center in Washington, this was because "they feared the sixth vote would be the death knell for central elements of their faith". McConnell's plan came to fruition: the seat was not filled at the time of the 2016 presidential election. (Olsen quoted in Smith 2019).

<sup>7</sup> Barr also served as Attorney-General in 1991–1993 during the presidency of George H. W. Bush. Barr resigned as Attorney-General in December 2020.

administration did not display either vigour or effectiveness in tackling the pandemic. Attention turned to the state level: what could state governors do to control COVID-19 and save lives? Some states shut down religious services completely; others allowed them to function as normal. The issue was highly controversial everywhere. The Christian Right was alarmed that their religious freedoms were being curtailed—albeit temporarily—in order to fight the pandemic. Many did not accept the medical reasons behind the closures of places of religious worship; instead, some regarded the closures as sinister: an aspect of the toxic process of secularisation whose purpose, they believed, was to undermine and eventually remove the right of religious believers to exercise their faith without control by secular state authorities. Others refused to believe that COVID-19 was “real”, contending instead that it was a “phantom plague”. An early high-profile case involved the arrest and jailing of a Tampa Bay, Florida-area pastor Rodney Howard-Browne, a controversial figure who claimed that COVID-19 was a “phantom plague” (Woodward 2020). Howard-Browne held two large services defying the county’s stay-at-home order when there was fast growth of local coronavirus cases. Following the services, he was detained on 30 May 2020. Two days later, Florida’s governor, Ron DeSantis, a close ally of President Trump, issued an executive order. DeSantis ordered that “attending religious services conducted in churches, synagogues and houses of worship” were now deemed to be “essential activities” and allowed to function. He also stated that his order would take precedence over any contradictory local restrictions. By this time, however, “dozens of pastors across the Bible Belt [had] succumbed to coronavirus after churches and televangelists played down the pandemic and actively encouraged churchgoers to flout self-distancing guidelines” (Woodward 2020).

Some other states, including Indiana and Kansas, also relaxed rules about allowing religious services, sometimes without meaningful restrictions preventing large numbers of people meeting. From a public health perspective, to limit in-person religious gatherings made sense, as it did with all such gatherings, both religious and secular. The virus is easily spread as an aerosol, especially when people talk or sing, as in many religious gatherings. In addition, transmission of the virus is known to be spread more easily in enclosed spaces and with people in close proximity. “Church-related gatherings often ha[d] all these features” and were frequently “the nexus for many cases where COVID-19 . . . spread across a community” (The Conversation 2020). Finally, some states, such as California, had stringent rules about in-person gatherings, including in places of religious worship. In April 2020, 71 churchgoers at Bethany Slavic Missionary Church, near Rancho Cordova, California, were infected with the virus, and one died. “Frustrated county officials [said] church leaders [were] refusing to listen to their demands to stop fellowship meetings” (Bizjak et al. 2020). The defiance of churches such as Bethany Slavic Missionary Church may have been encouraged by the Trump administration, which, in May 2020, without prior warning, “removed warnings contained in guidance for the reopening of houses of worship that singing in choirs can spread the coronavirus” (Sun and Dawsey 2020).

The coronavirus pandemic exacerbated the already present political divisions in the United States, especially on the issue of religious freedom. Many Americans, both religious and secular, decried social distancing restrictions as an unacceptable infringement on their freedom. Others regarded social distancing restrictions as sensible and humane, necessary to try to ensure that people remained healthy and did not catch the virus. Within the body of the Christian Right is a group known as Christian nationalists. We are identifying this group in the paper for heuristic reasons: there is no party or movement called “Christian nationalists”, although scholars have sought to identify their religious and political characteristics, including in relation to the coronavirus pandemic (Haynes 2021).

Although Christian ideals and symbols have long played an important role in American public life, Christian nationalism is an ideology that goes much further than, for example, asserting that the phrase “one nation under God” belongs in the pledge of allegiance. Stewart (2020) argues that Christian nationalism is a powerful ideological component of the politically potent Christian Right, which first came to prominence during

the Reagan presidency. The Christian Right is a network of well-funded, ideologically-motivated think tanks, advocacy groups and pastoral organisations, with both American and international connections. Stewart (2020) asserts that Christian nationalists seek to acquire power so as to impose their religious vision on all of American society and that Trump was the chosen means to try to achieve this goal. Not until his election as president was it apparent that the political power of Christian nationalism, which over time has extended to both traditional and new social media, was now in the driving seat. Christian nationalists claim to be the public voice of theologically conservative Christian Americans (Whitehead et al. 2018). Many understand the country's travails as punishment for alleged departure from traditional Judeo-Christian values and beliefs. For them, Trump was the leader to put America back on the path of morality and virtue (Haynes 2021). Finally, many have noted that some among the Christian nationalists are also white supremacists; many of the latter are strong supporters of Donald Trump (Cameron 2021).

According to the sociologist Samuel Perry, "Christian nationalists have indicated over several studies that . . . they are more likely to believe in conspiracy theories, more likely to distrust the media and more likely to distrust scientists and feel like there's some kind of conspiratorial agenda that is behind all of that" (Bailey 2020). Perry et al. (2020) argue that American Christian nationalists are likely to scorn social distancing recommendations, be sceptical about the views of science on the coronavirus pandemic, claim that coronavirus-related lockdown orders unacceptably threaten both the economy and Americans' liberty, and downplay or overlook the danger to vulnerable members of society from catching the virus.<sup>8</sup> According to Perry et al. (2020), these findings indicate that many Christian nationalists in the USA adhere to "an ideology that idealizes and advocates a fusion of American civic life with a particular type of Christian identity and culture." In addition, adherence to a Christian nationalist view of the world is a good indicator of whether someone is willing to engage in anti-virus precautionary measures, including prescribed social distancing, wearing face masks and regularly and effectively washing hands. Seeking to explain the Christian nationalist response to the pandemic, Perry points to an emerging crisis of authority in the USA. When Christian nationalists were asked whom they trust for pandemic-related information, such as medical experts and the Centres for Disease Control, they tended to choose President Trump "by a landslide", followed by religious organisations and Republicans. Finally, Perry notes that Christian nationalism often serves as a key characteristic of social identity; it is not necessarily connected to Christian doctrines as the name might imply. Counterintuitively, any kind of religious devotion "often had the opposite effect to Christian nationalism, and was the leading predictor of whether someone would take precautionary measures". According to Perry, actively religious people were "more likely to wash their hands, to use hand sanitizer and to avoid touching their face—all the things that were recommended . . . We find religious people are more likely to say, 'If we have the decision between individual liberty and protecting the vulnerable, we're going to protect the vulnerable'" (Bailey 2020).

The response of Christian nationalists to the coronavirus pandemic demonstrates that restrictions on behaviour caused by measures to try to restrict its spread are seen by them as unacceptable limits on their personal behaviour. Although Perry claims that Christian nationalists are not especially concerned about religious issues, a concern with religious freedom was shown in their response to the measures enacted by some state governors who closed religious places of worship and forbade the gathering of significant numbers of people to worship. In order to try to reverse such measures, legal firms sympathetic to the claims of Christian nationalists and the Christian Right more generally took the governors to court. In sum, it might be argued that Christian Nationalists are more interested in protecting their personal freedom and less concerned with religious issues. This would not,

<sup>8</sup> Perry and his colleagues' findings draw primarily on data extracted from the Public and Discourse Ethics Survey, which polled Americans in August 2019, February 2020 and May 2020. They compare it to 2007 data from the Baylor Religion Survey (<https://www.thearda.com/Archive/Files/Descriptions/BAYLORW2.asp>).

however, be the case. For Christian nationalists, personal freedom and religious freedom are the same. Christian nationalist advocacy groups, such as Alliance Defending Freedom (ADF), Liberty Counsel and First Liberty Institute defend their view of the free exercise clause of the First Amendment, closely relating religious and personal freedom. ADF puts it like this:

Since the start of the outbreak, as officials attempt to stop the spread of COVID-19, some have overstepped their authority. At times, these officials quickly course-correct after learning the unintended consequences of their orders. Some have taken prodding from ADF letters to set the record—and the law—straight. Others continue to violate the First Amendment, particularly when it comes to regulations placed on churches and other ministries. (*Defending Freedom during a Pandemic n.d.*; <https://www.adflegal.org/covid19>)

In 2020, Liberty Counsel led the defence of a Virginia pastor who faced penalties for continuing to hold in-person church gatherings in violation of state orders (*Criminal Charges Against VA Pastor Dropped 2020*). In addition, ADF represented two churches who sued Oregon's governor for maintaining restrictions on churches (*Oregon Governor Sued 2020*), while First Liberty Institute won a temporary restraining order against a Kentucky policy limiting in-person services. (*Breaking: Judge Grants Restraining Order 2020*): Roger Byron, Senior Counsel at First Liberty, commented that the judge in Kentucky, "Judge Walker recognized that the mayor's prohibition of drive-in church services on Easter violated the church's religious freedom. The church will conduct the Easter drive-in service tomorrow with grateful hearts and in full compliance with the CDC's guidelines." It is clear from Byron's comment that both religious liberty—the right to attend religious services in person—and personal freedom—the right to drive one's car to a church—are intertwined in First Liberty's satisfaction that a court judgement went in their favour.

##### 5. COVID-19, Liberty Counsel and the US Supreme Court

It is criminal in California to go to your neighbor's home to pray with them or have a Bible study! Let this sink in—you can go to prison in CA for worshipping. (Matthew Staver, founder and chairman of Liberty Counsel, 23 November 2020)

On 9 April 2020, Laura Kelly, the Democratic Governor of Kansas, banned religious gatherings of more than 10 people. Kelly's action was followed by the Republican-controlled state legislature voting to overturn Kelly's directive, claiming that it was "an attack on the free exercise of religion." In response, the governor ordered "her staff to explore all her legal options in order to enforce her decision. Under the Constitution, she is on strong grounds to issue such an order" (*Flynn and Stanley-Becker 2020*). This is because, although never tested, the free exercise clause is not a *carte blanche* for religious spreaders in a pandemic; the US Constitution is not a "suicide pact" (*Turley 2020*). Churches that wish to open as normal would in effect be converting the free exercise of religion clause of the Constitution into a suicide pact of sorts: it not only puts the faithful at risk but also risks infecting others in their communities, both religious and non-religious people. No constitutional rights are sacrosanct—under certain compelling conditions. It is hard to imagine anything more convincing than battling a pandemic which, by the time of the 2020 presidential election, had killed more than 230,000 Americans. To put the 230,000 coronavirus deaths in America in eight months (March–October 2020) into perspective, an estimated 47,424 American soldiers died in the two-decades-long Vietnam War (1955–1975). In World War II, 291,557 US service personnel were killed. During the first eight months of the coronavirus pandemic in 2020, America experienced 75% of the numbers of deaths of US soldiers in World War II, a conflict which, for the USA, lasted nearly four years (8 December 1941–2 September 1945).

Limiting the extent of gatherings was the only effective preventative measure to the coronavirus spreading until an effective vaccine is available. What many would see as common sense, as a necessary response to an unprecedented threat to the lives and wellbeing of millions of Americans, was not agreed upon by all. In Florida, Republican



Governor Ron DeSantis overruled local orders limiting or barring church gatherings. In Arkansas, Pastor Chad Gonzales of Awaken Church defied demands to end services. His declaration of Jesus as a coronavirus victim was based on the belief that Jesus took away every sin and disease on the cross, a particularly powerful message for when Gonzales made this claim, namely Easter (Lockwood 2020). Further, Pastor Tony Spell of the Life Tabernacle Church in Louisiana was arrested for holding in-person services. Spell declared his intention to hold large Easter services and insisted that he would never yield to this “dictator law”, while his claim that “true Christians do not mind dying” was certainly debatable (Peiser 2020).

If the only people who might catch the virus and suffer as a result were those who choose to attend religious services in-person knowing the risks they face, then one might argue that, while I may not agree with them, it is their choice, it is a free country, and so shouldn't they be allowed to become ill or even die as a result of their determination to exercise their personal religious rights? The response might be that if it was a case that only those attending the religious services are under threat of catching the virus, then a constitutional argument might be made for the right to make a self-destructive decision based on faith trumping science.

The key constitutional question is this: Is free exercise of religion really being denied, as Gonzales, Spell and others claim? Certainly, not allowing religious services to take place as normal—temporarily—restricts the free exercise of religion, especially the very important ability to assemble together in faith. However, note that such restrictions *temporarily* end only one, albeit important, aspect of the expression of faith; they do not stop someone worshipping their god. Indeed, followers of most faiths, not restricted to Christianity but also including other world religions, such as Islam, Buddhism, Hinduism and Judaism, moved online during the pandemic and accepted associated social distancing measures.

It is clear that the concerns of Gonzales, Spell and others are not unimportant as there are considerable restrictions on how faith can be expressed during the pandemic. But the restrictions were a response to an unprecedented threat to health rather than a concerted attempt by political authorities to undermine or diminish religious independence or establish a favoured state church. Measures restricting religious gatherings did not favour one faith over another: all were affected equally by strictly limiting for health reasons how many people could attend at one time for the purpose of religious worship. Furthermore, free exercise of religion does not include egregiously dangerous acts, even if some believe they are necessary in order to demonstrate faith. In other words, a religious leader cannot rightfully disdain scientifically valid public health limits on the size of a religious gathering during a pandemic any more than she or he can ignore a fire which threatens the lives of those attending a religious gathering. God may have sent down the fire in some kind of heavenly punishment but this does not mean that people have to sit back and die from their burns.

The real issue here may be more about state law versus the authority of the president or the Supreme Court. The Kansas Attorney General, Republican Derek Schmidt, stated that “Kansas statute and the Kansas Constitution bill of rights each forbid the governor from criminalizing participation in worship gatherings by executive order” (Shorman 2020). In its protection, Kansas law goes beyond the First Amendment to safeguard religious freedom. On the other hand, even the Kansas Preservation of Religious Freedom Act permits a denial of forms of religious free exercise if there is a compelling state interest and it is applied as non-intrusively as possible. Schmidt admitted that the governor's orders do not stop grocery shopping and other gatherings. But religious services can be supplied online, while grocery shopping for most people continues to take actual visits to the stores.

The issue was a major controversy as the pandemic raged. Christian Evangelical legal firms, including the most prominent, Liberty Counsel,<sup>9</sup> took up cases in order to try to show that religious freedom was sacrosanct under virtually all circumstances, focusing on whether it was constitutionally valid to curtail religious gatherings during a health crisis caused by COVID-19. In November 2020, Liberty Counsel filed for an emergency injunction pending appeal with the Supreme Court. Liberty Counsel requested the Court immediately to stop California Governor, Gavin Newsom's attempts to curtail religious services or, as Liberty Counsel put it, his "escalating assault on churches".<sup>10</sup> In the context of fast-rising numbers of those in California suffering from the coronavirus in November 2020,<sup>11</sup> Newsom instituted new lockdowns for much of the state, including a curfew and limits on the 26 November Thanksgiving dinner. As a result, no more than three families could meet, dinner had to be outside, and facemasks had to be worn by all attending. Guests were allowed—briefly—to visit the toilet indoors, as long as it was sanitised between uses. In most of California in November 2020, all religious worship was banned, including Bible studies in private homes with anyone who did not live there. In the preceding months, Newsom had stepped up his attempts to restrict religious gatherings in order to control the spread of the virus. On 6 July, he issued a "Worship Guidance" document that stated: "Places of worship must therefore discontinue singing and chanting activities and limit indoor attendance to 25% of building capacity or a maximum of 100 attendees". A week later, on 13 July, Governor Newsom banned all religious worship, including stopping people in private homes from having a religious gathering with anyone from outside the home. This applied to any county on the County Monitoring List, which covered most of the state's population. On 13 August, Newsom issued his "Blueprint" which, according to Liberty Counsel, revealed "his discrimination against churches and worship for most of the state". In every one of his newly minted "Tiers", he "gives preferential treatment to nonreligious gatherings like museums, gyms, fitness centers, family entertainment centers, cardrooms, satellite wagering facilities, laundromats, malls, destination centers, swap meets and more" (emphasis in original). In sum, Governor Newsom's interventions affected all churches and places of worship, including home Bible studies and fellowships (Staver 2020a).

Liberty Counsel took it upon itself to take cases when several pastors did not wish to go along with the restrictions, which they saw as fundamentally affecting their religious freedom. One was Ché Ahn, pastor of Harvest Rock Church, Pasadena, California. Ahn is the leader of the New Apostolic Reformation, a network of Pentecostals who believe that God has empowered modern-day apostles and prophets to perform miracles, transform Christianity, and convert whole nations to their biblical worldview in preparation for the return of Jesus Christ (Montgomery 2020). Unwilling to conform to Governor Newsom's restrictions, Ahn, as well as his church staff and parishioners, faced daily criminal charges and fines of USD 1000 per day. In addition, each of the criminal charges could potentially attract one year in prison.<sup>12</sup> Ahn, a big fan of President Trump, established 1RACE4LIFE, an anti-choice initiative which sought to bring about "the end of abortion on a local, state, and national level" (<https://www.1race4life.org/advisory-board>). In September 2020, Ahn appeared at "The Return", a pro-Trump prayer rally on the National Mall, where he denounced legal abortion and marriage equality and thanked God that Amy Coney

<sup>9</sup> Liberty Counsel describes itself as "a nonprofit litigation, education and policy organization dedicated to advancing religious freedom, the sanctity of human life and the traditional family". Liberty Counsel offers pro bono legal assistance in cases regarding those subjects. It was founded in 1989 and is affiliated with the Jerry Falwell-founded Liberty University School of Law, on the campus of which it maintains an office. Liberty Counsel is a 501(c)3 non-profit organization. Matthew Staver is the founder and chairman of Liberty Counsel (<https://lc.org/>).

<sup>10</sup> "Liberty Counsel is now fighting SIX federal lawsuits against lawless governors and anti-church bureaucrats." "The assaults on Christians happening now" (Staver 2020a).

<sup>11</sup> In late November 2020, California had 1.4 million cases of coronavirus, with more than 17,500 new cases a day and cumulatively 18,768 deaths (23 November). (<https://www.google.com/search?client=firefox-b-d&q=how+many+cases+of+covid+in+california+today>).

<sup>12</sup> "Ché Ahn is the senior pastor of Harvest Rock Church, the founder/president of Harvest International Ministry, the international chancellor of Wagner University, and the founder of Ché Ahn Ministries. He has appeared on television segments aired on Trinity Broadcasting Network, GodTV, The Eric Metaxas Show, and more" ([https://en.wikipedia.org/wiki/Ch%C3%A9\\_Ahn](https://en.wikipedia.org/wiki/Ch%C3%A9_Ahn)).

Barrett would “be the judge that will help us to overturn *Roe v. Wade*.” (Montgomery 2020) For Ahn, it would appear that the importance of religious freedom was paramount, much greater than the right of women to choose to have a baby or not or for same-sex couples to marry.

Three more cases, all from California, can also be noted to illustrate how some Christian leaders regarded attempts by Governor Newsom to close religious places of worship in the interests of public health. First, there was John MacArthur, pastor of Grace Community Church, who faced tens of thousands of dollars in fines by Los Angeles County for refusing to curtail in-person religious services. Second, Rob McCoy, Pastor of Godspeak Calvary Chapel, Thousand Oaks, was held in contempt, and the church was fined in November 2020 every time it met. The next step could be jail for the pastor and former mayor of Thousand Oaks, California. This is the same pastor who in 2018 consoled and prayed with the families of victims at the mass shooting at the Borderline Bar & Grill. Third, Jack Trieber, Pastor of North Valley Baptist Church, Santa Clara, was fined USD 5000 each service for “singing”, and in late November 2020, the church faced more than USD 100,000 dollars in fines. This church is in one of the few Californian counties where limited worship was permitted, but without singing. The city sent spies to the church over the summer, and then posted a letter at the church demanding it cease and desist, stating the church was “unlawful.” (Staver 2020a)

Earlier in 2020, Liberty Counsel went to the Supreme Court on behalf of Cristian Ionescu, pastor of Elim Romanian Pentecostal Church, Chicago, Illinois. Ionescu was quick to commend President Trump for his statement that, in his view, religious services are “essential”. It was notable that while Trump believed this to be the case, he was unable to overrule restrictions placed on religious gatherings imposed by state governors, in California, Illinois and elsewhere. Liberty Counsel’s strategy was to hope that the Supreme Court, which by late 2020 had a preponderance of conservative judges following the appointment of Amy Coney Barrett in October, would come down on the side of pastors who wished to lead uncontrolled religious gatherings. Barrett’s appointment to the Supreme Court provided the Court with a perceived 6-3 conservative majority, and it was thought likely to have a pivotal impact on issues central to religious freedom, including abortion, school prayer and gay rights (Haynes 2021). In May 2020, President Trump called on state governors to allow places of religious worship to open, even while some areas remained under coronavirus lockdown. Trump threatened to “override” governors who defied him, although he lacked the authority to do so (Smith 2020). Liberty Counsel hoped that the Supreme Court would be the final adjudicator of religious freedom and would uphold the right of churches and other religious places to host uncontrolled gatherings of believers.

Following Donald Trump’s failure to win the November 2020 presidential election, Matthew Staver of Liberty Counsel believed that it was essential to challenge the restrictions on religious services in California and because of the Supreme Court’s new conservative preponderance, now was the time to file the case. Staver’s emergency request with the Supreme Court in November 2020 sought to prevent Newsom from controlling churches in California until such time as Liberty Counsel’s Court of Appeals case was resolved (Staver 2020b). The injunction would prevent Newsom and others from taking any actions against Liberty Counsel’s client pastors, churches and parishioners. If ordered by the Court, this injunction would also protect all the other churches and churchgoers in California targeted with USD 1000 per day fines and one year in jail per incidence for merely living their Christian faith. If allowed, such an order would no doubt send a strong message to other states.

## 6. Conclusions

The article examined the issue of religious freedom in the USA in the coronavirus pandemic of 2020–21, during the presidency of Donald Trump (2017–2021). It showed that the ability of state governors to close religious places of worship both illustrated limits

on the power of the president and that public health can take supremacy over religious freedom in today's America.

Protection and expansion of religious freedom strongly inform the goals of the Christian Right. The latter seeks to combat what it claims to be "aggressive" secularisation at state and federal levels. State governors who ordered the closure of religious places of worship for normal meetings were vilified as aggressive secularists who acted in order not to protect public health, but to undermine religious freedom. Focusing on state-level *cause célèbres* in California and Illinois involving the claimed persecution of Christian pastors, a Christian Evangelical firm of lawyers, Liberty Counsel, sought to argue in court that state governors were acting unconstitutionally when they ordered the closure of religious places of worship. There were no formal ties between Liberty Counsel and the White House, although there may well have been informal ties between some members of the Trump administration and leading figures in the Christian Right, focused in both the Faith & Opportunity Initiative and the President's Evangelical Advisory Board, who were also supporters of Liberty Counsel's actions, notably Jerry Falwell Jr., the recently retired head of Liberty University, where Matthew Staver, head of Liberty Counsel is Dean.

President Trump was not able to reverse the closure of religious places of worship, despite his claimed desire to do so. In claiming that he would "override" state governors, Trump sought to play up his credential with the Christian Right in order to ensure their support in the 2020 presidential election. In November 2019, the founder of the Faith & Freedom Coalition and member of Trump's Evangelical Advisory Board, Ralph Reed,<sup>13</sup> explained why for him Trump was the best presidential candidate:

If the Christian community doesn't rise up like it never has in modern political history and if we allow, through our inaction, the left to remove this man from the Oval Office, then we will deserve everything that we get. If they get the White House back, it will be open season on Christian ministries, on churches, the IRS will be able to persecute those faith-based organizations again. They will, under Obamacare, be able to force them to pay for abortion again. They will be able to sue the Little Sisters of the Poor and drag God-fearing nuns into federal court again to make them pay for abortion. That's what will happen, and if we don't turn out and vote in the biggest numbers ever, then we deserve it to happen. (Reed quoted in [Mantyla 2019](#))

Reed's comments—exhortations, perhaps—refer generically to religious freedom issues in today's America: especially the freedom of Christian organisations not to be taxed or pay for abortions. Reed, a representative figure of the Christian Right, supported Trump's re-election because he believed not only that Trump had significantly delivered on his promises to the Christian Right in 2016 to but also that *après Trump le deluge*: if defeated, aggressive secularists would take control of the government. No other candidate, the Christian Right believed, would be more supportive of their aims and ambitions than Trump; no one else would be quite so supportive of their conception of "religious freedom".

Finally, the issue of religious freedom in America is not closed by the failure of Donald Trump to win re-election. For more than 40 years, the Christian Right has been a powerful political player and has recently managed to take over the Republican Party and establish religious freedom as a key Republican Party position. The coronavirus pandemic has shown however that there are certain conditions when religious freedom is not the first freedom in America. It has shown that public health, in the face of a virulent virus which killed hundreds of thousands of Americans in less than a year, is more important, and as a result, religious freedom is necessarily temporarily curtailed for the greater public good.

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<sup>13</sup> Reed was leader of the Christian Coalition in the early 1990s and is the founder of the Faith and Freedom Coalition (FFC). Claiming a membership of 'over one million conservatives', FFC is an advocacy group pursuing a range of conservative Christian policies. Reed is also a member of President Trump's Evangelical Advisory Board.

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