

# New religious movements often test boundaries of the First Amendment

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Sun Myung Moon presides over a mass blessing ceremony in 2010. Credit: WikiCommons

In the 1980s, the Unification Church spent millions of dollars on cultural and political programs designed to improve the church's image.

The religious group's activism, especially its alliance with conservative political leaders, garnered criticism from some who claimed the new religious movement's actions became too involved with politics and stepped over the line of the separation of church and state, laid out by the First Amendment.

A University of Kansas researcher who studies new and alternative religious movements in the United States said these types of questions have repeatedly followed organizers of new religious movements, particularly because the public often immediately meets them with skepticism.

"The First Amendment protects the free exercise of religion, but what does that mean?" said Tim Miller, professor of religious studies. "There are a lot of different interpretations of it. And groups have always pushed at the boundaries of the First Amendment. Those issues are still going on today."

Miller is author of an essay of case studies on new religious movements and politics in 20th century America. It was published recently in the volume *Religion and Politics in the U.S.*, edited by Barbara McGraw.

"One part of my interest in new religious movements is they give you a good look at what the boundaries of practice are," Miller said. "The mainstream groups tend to define the mainstream and its practices, the mainstream being such groups as the Catholic Church or the major Protestant religions. Their practices are mostly just accepted. If you want to find out what the boundaries are, you have to look at the fringe groups."

It's an important question for the function of a democracy because new religious groups crop up all the time as they have throughout American history, he said. They also often begin as groups that are socially marginal.

"Some don't last very long. Lots become defunct, and some last for a long time. It's difficult to overcome a negative stigma," Miller said. "Nearly all start out facing a terrific burden of suspicion and hostility. A lot of people are just skeptical, if not downright hostile, toward anything

that's new. It's different. Therefore, they don't like it."

The Church of Scientology for years fought with the Internal Revenue Service about losing and then regaining its tax-exempt status, a case that brought to the forefront the question what the government considers to classify a movement as a religion, Miller said.

Many times, difficult questions of religious freedom for these groups play out in litigation.

"The ultimate arbiter of those things is the Supreme Court," Miller said. "And change of personnel on the court can make a real difference in a decision."

He highlights a 1943 case, *West Virginia State Board of Education v. Barnette*, in which justices 6-3 decided the free speech clause of the First Amendment protected students from being forced to salute the American flag and say the Pledge of Allegiance in school. Jehovah's Witness members had objected to their children being forced to salute or pledge to symbols based on their religious beliefs.

The *Barnette* decision reversed a 1940 case, *Minersville School District v. Gobitis*, also involving children of Jehovah's Witnesses, that instead found the proper recourse for dissent was to seek to democratically change the school's policy. Three justices had left the court between the two decisions, likely allowing for the change in the outcome.

In other cases, the courts have drawn certain lines and overruled the argument that a given set of religious practices was protected as free exercise of religion. The Fundamentalist Latter-Day Saints Church was raided repeatedly by state and local authorities for its practice of polygamy, for example.

Mainly, Miller said these case studies illustrate the importance of the First Amendment and what it means to the function of a free society.

"The American people by and large are pretty supportive of the First Amendment. If you ask people in the abstract about the separation of church and state, most people will indicate they support it as well as the free exercise of religion," Miller said. "Those ideas are not so controversial, but what does it actually mean, and does it extend to everyone? That can be a different ball game and an entirely different matter."

Provided by University of Kansas

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