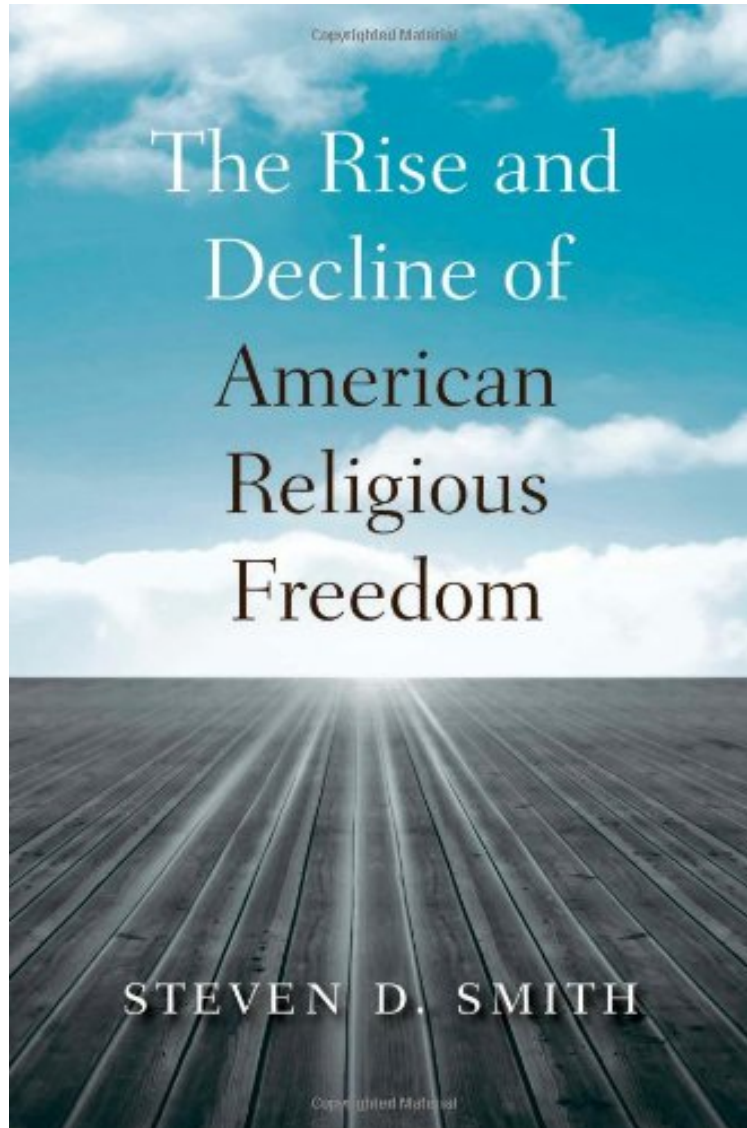


(Get free) The Rise and Decline of American Religious Freedom

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Steven D. Smith

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Steven D. Smith : The Rise and Decline of American Religious Freedom before purchasing it in order to gage whether or not it would be worth my time, and all praised The Rise and Decline of American Religious Freedom:

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In writing this book, Smith offered a revised story of American religious freedom, suggesting that the standard version has misunderstands, or at least understands incompletely certain historical or conceptual facts of the real story. There are mainly three disagreement between the standard and the revised versions:1. Whether the America story is an Enlightened innovation, which is signified by the recognition of freedom of heretics, including atheists, and the abandonment of the attempt to establish Christendom.The Standard says yes, and Smith contends that American story is rather a retrieve of the old Christian idea of "two jurisdictions" or the realization of the motto "Render therefore unto Caesar the things which be Caesar's. and unto God the things which be God's."2. Whether the American settlement of religious freedom is made by First Amendment.Standard version perceives First Amendment as monumental and meaning-full, however Smith argues that the real golden age of American religious freedom is the period from 19C to mid-20C, in which the most distinctive feature is the constitutional protect and preservation of the open contestation between different views on the Church-State relationship.3. Whether the interference of Supreme Court in the recent half - century marks a big-step progress of religious freedom.Standard version says yes, since the secularism has been finally established, so the line separating religion and government becomes clear and settled. Smith disagrees, since he recognizes this settled secularism betrays what the first Americans hoped for, and what the golden age protected. The establishment of secularism by the Court has closed the arena for different religious views to contest. The Religion-Government separation has in fact jeopardize the Church-State separation by intruding private churches and finally turns America from a Christian nation to a secularist country.Not everyone would agree with Smith in terms of the above three disagreements, at least before Smith could clarify the distinction or antagonism between these conceptions:a. The Church-State separation v.s. Secularismb. Soft- constitution v.s. Hard - Constitutionc. Freedom of Religion v.s. EqualityAmong these, group b would be most easily perceived. Soft-constitution means "the Constitution" less definitively decide matters, not exactly declaring what the Constitution required. So there would be always flexibility for the courts to reach contrary conclusions on the same kind of matters raised by different states under different circumstances. On the contrary, the Hard- Constitution always gives substantive principles, aiming at settling down quarrels and contestation.In contrast, to distinguish church-state separation and secularism is a difficult question, especially when we consider in the context of Enlightenment. Both Church-state and secularism have appeared through that era, and there are notable representative figures on both sides. If we stick to the idea that Church-State separation has nothing to do with secularism, and rather it is deeply rooted in a providentialist understanding of the will of God, then the best authority we could trace to might be John Locke, who gave the most extensive elaboration of this kind of understanding. It seems that Smith largely relies his revised version on Locke's providentialist account of Church-State relationship.The most difficult task seems to clarify the antagonism between freedom of religion and equality. According to Smith, the American Settlement of freedom of religion, or, freedom of conscience has been challenged seriously by modern concept of equality. It is not only remarkable by the introduction of Mill's 'harm principle' to increasingly restrict religious practice, also by the fact that more people, like Noah Feldman, now think that there is nothing so special about religious freedom. Other rights or liberties no longer dependents on religious freedom, rather, they begins to find the latter as obstructive. The most important things is that, those who advocate for equality think that the freedom of religion is actually strengthened by egalitarianism. If religious freedom feels being jeopardized, they would ask, what kind of idea would be the enemy of equality? Certainly Smith would not dare to say that religious freedom is opposing equality. But in order to defend American Settlement of religious freedom, he has to clarify and distinguish them without doing any harm to either side. I'm not sure Smith has successfully done this, since his last passages of his Epilogue seems vague to me, since his words and quotations made him more like Libertarian, for example, I.Berlin or Hayek, who fears of equality and beneficent purposes proposed by the state, rather than someone who takes 'Religious' really special for America.

Familiar accounts of religious freedom in the United States often tell a story of visionary founders who broke from the centuries-old patterns of Christendom to establish a political arrangement committed to secular and religiously neutral government. These novel commitments were supposedly embodied in the religion clauses of the First Amendment. But this story is largely a fairytale, Steven Smith says in this incisive examination of a much-mythologized subject. He makes the case that the American achievement was not a rejection of Christian commitments but a retrieval of classic Christian ideals of freedom of the church and freedom of conscience.Smith maintains that the distinctive American contribution to religious freedom was not in the First Amendment, which was intended merely to preserve the political status quo in matters of religion. What was important was the commitment to open contestation between secularist and

providentialist understandings of the nation which evolved over the nineteenth century. In the twentieth century, far from vindicating constitutional principles, as conventional wisdom suggests, the Supreme Court imposed secular neutrality, which effectively repudiated this commitment to open contestation. Rather than upholding what was distinctively American and constitutional, these decisions subverted it. The negative consequences are visible today in the incoherence of religion clause jurisprudence and the intense culture wars in American politics.

Smith argues that the goal of American religious liberty has been ill served by the Supreme Court doctrines of the past half century. No mere diatribe, but a careful critique by a tremendously erudite and subtle scholar, *The Rise and Decline of American Religious Freedom* is one of the most important books on religious liberty in years. (Andrew Koppelman, Northwestern University) About the Author Steven D. Smith is Warren Distinguished Professor of Law at the University of San Diego and Co-Executive Director of the USD Institute for Law and Religion.