

January 11, 2019

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Graham and Ranking Member Feinstein:

The undersigned organizations representing the secular community, including atheists, agnostics, humanists, and the religiously unaffiliated, as well as all Americans who value true religious freedom and equality, write to urge you to reject the nomination of William P. Barr as United States Attorney General. We want to highlight Barr's alarming record on religious liberty, the constitutional separation between church and state, and his demonization of secular Americans, who are now about a quarter of the population.¹

One of Barr's most illuminating moments came in 1992 when the Catholic League presented an award to then-Attorney General Barr at the "In Defense of Western Civilization" conference, a gathering to celebrate the 500th anniversary of Columbus's voyage.² Barr's acceptance speech is particularly useful in judging his character and fitness for office because, as he explained to the *New York Times*, "this was a meeting of Catholic organizations, and I was addressing them as a Catholic as much as a public official," but also because "this was not a media event."³ Barr was speaking to a friendly audience and thought no one else was watching; his guard was down.

Barr did not understand the importance of church-state separation and showed open hostility toward secular Americans.

Despite the media blackout at the Catholic League event, it was reported that "Barr blamed secularism for virtually every contemporary societal problem."⁴ Barr declared that there is a struggle between his Judeo-Christianity and secularism: "On the one hand, we are seeing a growing ascendancy of secularism and the doctrine of moral relativism. On the other hand, we are seeing the steady erosion of our traditional Judeo-Christian moral

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

² Church & State magazine (Dec. 1992) 17, available at www.dropbox.com/s/ocyfouy4m9jucxx/SKM_C55818120617030.pdf?dl=0.

³ David Johnston, *Justice Official Sees Weakening Of Moral Fiber*, *The New York Times* (Oct. 8, 1992) A20, available at www.nytimes.com/1992/10/08/us/justice-official-sees-weakening-of-moral-fiber.html.

⁴ William R. Wineke, *U.S. attorney general blames secularism for woes*, *Wisconsin State Journal* (Nov. 28, 1992) 3C, available at <https://newspaperarchive.com/madison-wisconsin-state-journal-nov-28-1992-p-21/>.

system.”⁵ This is a common theme for Barr, who speaks as if he is on some sort of a crusade.

Barr also blamed secularism for the nation’s “moral decline” and called for U.S. law to be based on “God’s law.”⁶ Barr attacked Americans who value a secular government: “the secularists of today are clearly fanatics.”⁷ He argued that removing forced prayers from public schools moved the nation away from a “Judeo-Christian moral tradition” and produced “soaring juvenile crime, widespread drug addiction, skyrocketing rates of venereal disease, [and] 1.5 million children aborted each year.”⁸

Though said in the media-free, friendly audience event, this was not a singular statement. In a Milwaukee speech that same year, Barr stated that “extremist notions of separation of church and state” had inflicted a “moral lobotomy” on our public schools.⁹

Barr’s views raise two distinct and serious concerns regarding his fitness to serve as the head of the Justice Department. First, as Attorney General, Barr would be tasked with defending the Constitution and his open disdain for the constitutional principle of a separation between state and church indicates that Barr does not respect the First Amendment’s guarantee of a secular government. Disturbingly, Barr fails to understand that a secular government is the only true guarantee of religious freedom. There is no freedom of religion without a government that is free from religion.

Second, Barr’s statements are hostile to the large and growing number of nonreligious Americans, scapegoating them for all of America’s problems. If Barr had blamed crime, drug abuse, and venereal diseases on the immorality of Jewish Americans or Muslim Americans or African Americans, surely this Committee would refuse to endorse him. Blaming the same problems on secular Americans — and 24 percent of all Americans are nonreligious¹⁰ — should be similarly disqualifying. Demonizing this group of Americans simply because they are not members of Barr’s religious tradition is beneath the dignity of any government office, let alone the highest law enforcement office in the land.

Barr’s scapegoating of secular Americans blinds him to the real causes of crime. The head of the Department of Justice must be committed to an objective, fact-based

⁵ *Id.*

⁶ Associated Press, *Attorney General Bemoans ‘Moral Decline,’* Desert News (Oct. 7, 1992), available at www.deseretnews.com/article/251927/attorney-general-bemoans-moral-decline.html.

⁷ *Id.*

⁸ *Id.*

⁹ Remarks of Attorney General William P. Barr to the Governor’s Conference on Juvenile Crime, Drugs and Gangs, available at www.justice.gov/sites/default/files/ag/legacy/2011/08/23/04-01-1992.pdf.

¹⁰ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at www.pri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

approach to fighting crime. Shifting the blame for crime to a minority group is not only discriminatory, but also a dereliction of duty because, by failing to fully understand crime's root causes, it risks ineffective administration of justice.

Barr misquotes the founders to support his misconceptions of the constitutional separation of church and state.

Barr has also used spurious quotes to slander secular Americans. In a 1995 article for *The Catholic Lawyer*, Barr begins by lamenting our “increasingly militant, secular age.”¹¹ He then argues that the “demise” of the “Judeo-Christian system . . . [will] have grave consequences for the future of self-government in the United States.”¹² He quotes James Madison to prove the danger of falling away from the “Judeo-Christian tradition”:

In the words of James Madison, “We have staked our future on the ability of each of us to govern ourselves according to the Ten Commandments of God.” The greatest threat to free government, the Founders believed, was not governmental tyranny, but personal licentiousness—the abandonment of Judeo-Christian moral restraints in favor of the unbridled pursuit of personal appetites.¹³

Barr's 12-page article included nearly fifty citations, but he did not cite a source for the Madison Ten Commandments quote.¹⁴ That's because it does not exist.¹⁵

At best, Barr was quoting, with no basis in historical fact or citation, the Father of the Constitution, for a point he *wished* to be true. But his point is also troubling. Barr argues that one must be religious to be moral. Or, put another way, that nonreligious Americans are deliberately choosing a life of licentiousness. This is not only wrong, but insulting to tens of millions of good Americans.

Barr will work to redefine and weaponize “religious liberty.”

Barr co-authored a recent *Washington Post* op-ed that praised Jeff Sessions' “Principles of Religious Liberty” memorandum, as well as Sessions' defense of “the rights of vendors not to participate in activities that would violate their religious beliefs.”¹⁶ The latter

¹¹ William P. Barr, *Legal Issues in a New Political Order*, 36 *The Catholic Lawyer*, No. 1, Article 2 (1995) at p.1, available at: scholarship.law.stjohns.edu/tcl/vol36/iss1/2.

¹² *Id.* at 3.

¹³ *Id.* at 3–4.

¹⁴ *Id.* at 4.

¹⁵ John Stagg and David Mattern, the editors of *The Papers of James Madison*, were as definite as they could be on this point: “We did not find anything in our files remotely like the sentiment expressed in the extract In addition, the idea is inconsistent with everything we know about Madison's views on religion and government, views which he expressed time and time again in public and in private.” See Robert S. Alley, *Public Education and the Public Good*, 4 *Wm. & Mary Bill Rts. J.* 277 (1995), at 317, available at scholarship.law.wm.edu/wmboj/vol4/iss1/6.

¹⁶ Barr, Edwin Meese III, Michael Mukasey, *We are former attorneys general. We salute Jeff Sessions*, *Washington Post* (Nov. 7, 2018) at <https://wapo.st/2FcNGu9>.

refers to the Supreme Court's 2018 *Masterpiece Cakeshop* case, and others like it, in which businesses demand exemptions from civil rights law to discriminate against a certain class of people because of the business owners' religious beliefs. Sessions' 2017 memo, praised by Barr, and the DoJ's new Religious Liberty Task Force distort religious liberty in this way, too.

This weaponizes religious liberty and betrays the purpose of the Constitution's religious liberty protections, which have never been understood to grant a right to infringe on the rights of others. The right to exercise one's religion has always ended where the rights of others begin.

Instead of a shield offering them protection from government overreach, Barr seems to agree with the vocal minority who seems to think the First Amendment is a license to discriminate. Rather than protecting religious liberty, Barr will work to redefine it.

Barr defended Columbus because he brought Christianity to this continent.

Along with discovery, genocide, theft, disease, and slavery are some of Christopher Columbus's legacies. We have it in his own hand. In a letter back home, Columbus wrote about selling native children into sexual slavery and noted that girls "from nine to ten are now in demand."¹⁷

In that unguarded Catholic League speech, Barr excused Columbus's evil because everyone was doing it and Columbus, at least, was a Christian:

The truth, of course, is that, in 1492, cruelty, slavery and injustice were not new to these shores. They have been part and parcel of human history in all times and in all places. But the Europeans did bring something that was new. They brought a set of beliefs — the Judeo-Christian tradition — a moral culture, which provided a critique of injustice and a compelling account of man's true dignity. ... Over the centuries, this Judeo-Christian tradition has been the single greatest contributor to the material and moral progress of the human race. And it is this moral tradition — with its notions of human dignity and rights — that has produced and still undergirds our system of self-government. It is the foundation upon which this great republic lasts.¹⁸

Given his disdain for secular Americans and willingness to excuse some of the most lawless and immoral actions this continent has seen because the criminal shared his

¹⁷ Christopher Columbus, "Letter to the Nurse," in John Boyd Thacher, *Christopher Columbus: his life, his work, his remains as revealed by original printed and manuscript records*, (G.P. Putnam's Sons, New York and London, Knickerbocker Press; 1903) II:423-38, at 435, available at <https://archive.org/stream/christophercolu02thacgoog#page/n451/mode/2up>.

¹⁸ *Supra*, Wineke, *U.S. attorney general blames secularism for woes*, Wisconsin State Journal.

religious faith, we are concerned that Barr will not be the fair and just chief law enforcement officer our country needs.

Barr will work to overturn *Roe v. Wade*.

During Barr's 1991 confirmation hearing, he testified that he "do[es] not believe the right to privacy extends to abortion."¹⁹ He specifically asserted "that *Roe v. Wade* was wrongly decided and should be overruled."²⁰ Although Barr assured this committee in 1991 that *Roe v. Wade* was "the law of the land,"²¹ as Attorney General he acted as though it were not. In 1992, he publicly opposed a resolution by the American Bar Association that sought to uphold *Roe*.²²

In effect, Barr misled this Committee when he testified in 1991 that he thought *Roe v. Wade* was "the law of the land," because he then worked to undermine the law of the land. Barr will do the same again and he should not be given that chance. The Attorney General must be trusted to uphold the law, not undermine it.

Conclusion

William Barr blames nonreligious Americans for all of the country's problems, supports religiously based discrimination, and intends to continue advancing unconstitutional programs initiated by Jeff Sessions. He also fundamentally misunderstands the importance of keeping church and state separate. For these reasons, we strongly oppose his confirmation to be Attorney General. We hope that you will keep our opposition in mind as the confirmation proceedings begin.

Sincerely,

Secular Coalition for America
Freedom From Religion Foundation
American Atheists
Center for Inquiry

¹⁹ *Confirmation Hearings on Federal Appointments—William P. Barr*, 102d Cong. Part 2, 62–63 (1991).

²⁰ *Id.*

²¹ *Id.*

²² Associated Press, *Endorsement Puts ABA in Thick of Abortion Fray*, Desert News (Aug. 12, 1992), available at www.deseretnews.com/article/241844/endorsement-puts-ABA-in-thick-of-abortion-fray.html.