The Nature and Basis of Religious Freedom

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The Nature and Basis of Religious Freedom

This topic is an important one: the topic of religious liberty. I want to go to the root. I want to give you a philosophical presentation on the nature and basis of religious liberty. What is it? What are its scope and limits—we will get to that toward the end. Why should we believe in such a thing as a right to religious liberty? Is it the sort of thing we believe in because it is a deal that we make with each other? A modus vivendi? A social contract? Is it “I will not interfere with your religious liberty if in return you do not interfere with my religious liberty”? Or is there really a moral basis, not a mere contractual one? A moral basis for respecting people’s religious liberty and expecting, indeed demanding, that others respect our religious liberty? I think there is, and I want to put before you an account of the reasons I think we should affirm such a doctrine. I will not be appealing to faith, to revelation, to religious authority, although many traditions of faith reinforce what reason has to teach us on the nature and basis of religious liberty by proposing that it is indeed God’s will that we respect each other’s religious freedom. But I will not be making a theological argument. I want to make an argument purely on the basis of reason. I want to argue this out at the level or on the plain on which people of faith can engage with those who do not have faith, who are not believers—what is sometimes called a natural law argument.

Before launching into my formal presentation I have to do three things: give you an apology, a warning, and a promise. I hereby apologize to you for what I am about to warn you about. And the warning is, I warn you that the next paragraph of my presentation is going to be very abstract and difficult to understand. Those who are trained as philosophers or studying philosophy and maybe a few who have read my own philosophical writings will have some idea maybe of what I am talking about. For others, it will be a bit obscure. So that is my warning and I
apologize for it. My promise is, I will make it all clear in the end. If I fail, you can sue me, because I am laying that out as a promise and by staying after the next paragraph you are detrimentally relying on my promise, and as the lawyers know, detrimental reliance is a very solid alternative to contract and it will serve just as well as a contract. So, I consider that I have a contract with you, or the equivalent, to actually make plain what sounds in the beginning very, very abstract. Let us see if we can make it through the next paragraph, and then I can assure you that it is smooth sailing from there on out.

The starting points of all ethical reflection, all reflection about whether I ought to do something or ought not to do it, whether something is right or wrong, are those fundamental and irreducible aspects of the well-being and fulfillment of human beings that some philosophers, including me, refer to as basic human goods. These goods, these aspects of our well-being and fulfillment—the pursuit of intellectual knowledge, engaging each other in friendship, acquiring skills in chess or ballet or football, trying to lead a virtuous life—all these are the basic aspects of human well-being and fulfillment. These goods are more than merely instrumental reasons or purposes; that is, they are things that we want for their own sake and not merely for what they can get us, not for the sake of something else to which they are mere means. These goods are the subjects of what St. Thomas Aquinas, following his great teacher Aristotle, called the very first principles of practical reason. These are the principles that control all rational thinking about ethics, all rational thinking about what we ought to do or not do, all rational thinking with a view to acting. Whether the acts are in the end morally good or morally bad, whether we reach the right conclusions or not, whether we live by the right conclusions or not, our reasoning will always begin, because it can only begin, from these starting points about what is actually humanly valuable or fulfilling, the things that give us reason to want anything in the first place. The first principles of practical reason direct our choosing toward what is rationally desirable because humanly fulfilling and, therefore, intelligibly available to choice in the first place, and away from their privations. It is, in the end, the integral directiveness
of these principles taken all together that provides the criterion, or, when specified, the set of criteria or the moral norms, by which it is possible rationally to distinguish right from wrong, what is morally good from what is morally bad, including what is just and what is unjust. Morally good choices are choices that are in line with the various fundamental aspects of human well-being and fulfillment integrally conceived, conceived as a whole. Morally bad choices are choices that are not, choices that are not in line with our integral well-being.

To say these very abstract things that I have been saying is simply to spell out philosophically the point made by Martin Luther King Jr. in his famous letter from the Birmingham Jail about just and unjust laws: laws that honor people’s dignity and rights and laws that violate them. Those who have read the letter will recall that the great civil rights champion anticipated a challenge to the moral goodness of the acts of civil disobedience that landed him behind bars in Birmingham. In the letter itself, he anticipated his critics saying, “How can you, Dr. King, engage in willful lawbreaking when you yourself had stressed the importance of obedience to law when you demanded that officials of the Southern states conform to the Supreme Court’s desegregation ruling in the case of Brown against the Board of Education just a few years earlier?” King took that as a serious challenge and here is his response, and I will quote him at some length here:

“The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that “an unjust law is no law at all.” Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is
unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority.”

So, just laws, King tells us, elevate and ennoble the human personality, or what King in other contexts refers to as the human spirit. Unjust laws debase and degrade it. His point about the morality or immorality of laws is a good reminder that what is true of what sometimes is called personal morality is also true of political morality. The choices and actions of political institutions at every level, like the choices and actions of individuals, can be right or wrong, morally good or morally bad. They can be in line with human well-being and fulfillment in all its manifold dimensions, what I have been calling integral human well-being and fulfillment, or they can fail in any of a range of ways to respect the integral flourishing of human persons. In the failure of laws, policies, and institutions to fulfill the requirements of morality, we speak intelligibly and rightly of a violation of human rights. This is particularly true where the failure is properly characterized as an injustice, failing to honor people’s equal worth and dignity, failing to give them, or actively denying them even, what they are due. But, contrary to the teaching of a very, very influential stream of contemporary liberal thought, whose leader was the great, late alas, Harvard political philosopher John Rawls, I want to suggest that we need to know about the human good before we can determine what rights people have. Rawls, in the stream of political philosophy of which he was the most influential exponent, argued that for purposes of political philosophy at least, the right is prior to the good. We need to figure out what rights people have independently of any understanding or belief about the human good since, after all, questions of what makes for, or detracts from, a valuable and morally worthy way of life are highly disputed questions, questions upon which people dramatically disagree.

So Rawls embraced what he labeled an anti-perfectionist approach to political philosophy, an approach according to which government could never legitimately constrain liberty on the basis of controversial ideas about what makes for, or detracts from, a valuable and morally worthy way of life.
I want to argue that is completely wrong, indeed backwards. I want to argue that actually the good is prior to the right in the sense that we cannot figure out what rights people have, or the shape of our rights, unless we understand the goods that the whole intelligible point of rights is to protect. We have certain rights because they protect certain aspects of our well-being and fulfillment, the human good. Here is what I mean. To be sure, human rights, including the right to religious liberty, are among the moral principles that demand respect from all of us, including from governments and international institutions. To respect people, to respect their dignity, is to, among other things, honor their rights, including the right to religious freedom. Like all moral principles, however, human rights, including the right to religious liberty, are shaped and given content by the human goods they protect. Rights, like other moral principles, are intelligible as rational action-guiding principles because they are entailments, and, at some level, specifications of, the integral directiveness or prescriptivity of the principles of practical reason that direct our choosing toward what is humanly fulfilling and enriching, or as to what Dr. King had in mind when he said “uplifting of the human spirit,” and away from what is contrary to our well-being as the kind of creatures we are, namely human persons. And so, for example, it matters to the identification and defense of the right to life, a right violated not only when the death of another is sought as one’s end or a means to one’s end, but also in cases in which someone’s death and is a foreseen and unfairly accepted side effect of one’s action in pursuit of an end. It matters that human life is no mere instrumental good, no mere means to something else, but is rather an intrinsic aspect of our good as human persons, an integral dimension of our overall flourishing.

Think about what we are, we human creatures. We are rather complex critters. We can flourish or fail to flourish in a range of different dimensions. One of those is biological. As animals, albeit rational animals, but as biological organisms, we can be healthy, strong, in good shape, or we can be dilapidated and sickly. You can be in better or worse shape, you can flourish or fail in some respect or another to flourish
in respect of our biological health, because our biological health is one intrinsic, fundamental aspect of our overall well-being. It is not the only one. We can flourish or fail to flourish intellectually. We can be bright, astute, on the ball, attentive, informed, critical in our thinking and judging, not just prepared to accept the last thing some lecturer said or the first thing you read this morning in the newspaper but actually engage in critical judgment. Or we can fail to flourish. We can be dull-witted, inattentive, uncritical in our thinking, ready to believe the last thing anybody tells you. So we can flourish or fail to flourish in that respect, and that is only the beginning! We can flourish or fail to flourish in respect of our lives as social creatures. Man, as Aristotle taught, is a social animal. We can be rich in friendships and good family relationships. We can be loved and we can love. We can be people who will the good of others, who delight in their achievements, who take joy in the good things that happen to others. We can be like old Mr. Fezziwig in Charles Dickens’s wonderful story *A Christmas Carol*. Or we can fail to flourish. We can be like the other character in *A Christmas Carol*, old Ebenezer Scrooge, who, before the ghostly visitors came to straighten him out, was mean-spirited, took no delight in the joy of others, did not care about his fellow man. “Bah, humbug!” was his favorite expression. We can flourish or we can fail to flourish. Or how about moral character? Unlike the brute animals, who cannot judge each other or themselves based on morality—the lion will take down the impala without deliberating about whether that is a morally good thing to do—we human beings, as rational animals, as moral creatures, can be virtuous, people of good character, people who will the good, not only for ourselves but also for others, people who are fair in our dealings with others, people who respect our fellow man and honor God. Or we can be the other way. In all of these various dimensions we can flourish or fail to flourish. In respect of all of these goods of human existence we can flourish or fail to flourish, and one of them is our biological reality. That is what is protected by the right to life.

But what about religion? Does it protect a human good? If there is a right to freedom of religion it must be—if the thesis I have laid before
you is right—it must be because there is some good or set of goods that it protects. Of course I will argue that there, in fact, is. But to get there, we first have to ask that question that the Supreme Court refuses to answer. In case after case after case when it decides religious liberty issues or issues concerning the non-establishment of religion clause of the First Amendment, the Supreme Court deals with religion but always says they are not going to define what religion is, they are not going to say what religion is. I am actually going to take a radical and I am actually going to try to do what the Supreme Court says it cannot do. I am going to tell you what religion is.

In its fullest and most robust sense, religion is the human person’s being in right relation to the Divine, which is the more than merely human source or sources, if there be such, of meaning and value. Of course, even the greatest among us in the things of the spirit fall short of spiritual perfection in various ways. Mother Theresa was just made a saint of the Catholic Church and she is recognized as saintly by people of all faiths, but we know from her diaries that she herself considered herself as falling short in many spiritual dimensions. So even the most spiritual of us falls short. But, in the ideal of perfect religion, each of us would understand as comprehensively and deeply as possible the body of truths about spiritual things, and would fully order his or her life and share in the life of a community of faith that is ordered in line with those spiritual truths. In the perfect realization of the good of religion, one would achieve the relationship that the divine—say God himself, assuming for the sake of argument the truth of monotheism—wishes us to have with him. The trouble is, of course, there are many, many different traditions of faith and the different traditions of faith have different views of what constitutes religion in its fullest and most robust sense. They could all agree with my definition, I think. But as to the content, as to what the spiritual truths are, which community or communities have lined themselves up fully with spiritual truths—well, there the different traditions are going to disagree. There are different doctrines, different scriptures, different structures of authority, different ideas of what is true and good, different ideas about what is true of spiritual things and what it means to be in proper relationship to
the more than merely human sources of meaning and value that different traditions understand as divinity.

Just speaking for myself here, I believe that reason, the intellect, the mind, has a very large role to play for each of us in deciding where spiritual truth most robustly is to be found. By reason here I mean not only our capacity for moral reasoning and moral judgment, but also our capacity for understanding and evaluating claims of all sorts: logical claims, historical, scientific, and so forth. I think that if someone were asking me for advice about the religious quest, I would say that any claims that are made to you by someone representing any particular faith, whether it is the Church of Jesus Christ of Latter-day Saints, whether it is Catholic, whether it is Muslim, whatever it is, use your intellect to evaluate the different claims. And some of those claims will be historical, and some of those claims will be logical, and some of those claims will be of all sorts of different types. I think there is a high role for reason. Other people do not think that. Irreligious people do not think that. There are the Kierkegaardian Christians who are at the opposite extreme from me, who believe it is really not so much reason as a leap of faith. And there are lots of people in between. If I am at one extreme and Kierkegaard is at the other extreme, there are lots of people on a spectrum in between. But we need not resolve whether I am right or Kierkegaard is right or anyone on the spectrum in between is right in order to, I think, agree with me about this. And that is, that there really is a basic human good of religion, a good that is uniquely architectonic in shaping one’s pursuit of and participation in all the basic human goods, all the aspects of human well-being and fulfillment, and that one begins to realize and participate in this good, the good of religion, from the moment one begins the quest, the honest quest, to understand the more than merely human sources of meaning and value, and to live authentically and with integrity by ordering one’s life in line with one’s best judgments of the truth in religious matters.

Before we ever get to the question of who is ultimately right, who is nearest the truth, which ecclesiastical body or religion has the greatest share of the truth, I want to argue that someone begins to realize the human
good of religion, this aspect of our well-being and fulfillment, as soon as the individual starts raising the questions, launches the quest, begins to ask what the truth is, because that person wants to know what is true about God, or the gods, or what is out there, if anything. Even Albert Camus, I believe, though he ends up in unbelief, is participating in the good of religion when he begins to ask those fundamental existential questions. From my point of view, he is far from the fullness of truth, he is far from religion in its most robust and fullest sense, but he is already participating in something humanly valuable and fulfilling. In fact, what would we think of a person who led a life so superficial and trivial that they never even wondered about those questions? That the question of religion, the question of whether there is anything out there, whether there is any fundamental meaning or value in human life. A person who never asked, “What is it all about?” that person would be a human being, would have full human dignity, but would not even begin to be living a full human life. Our humanity itself compels us to ask these questions and to try honestly to answer them, and to live authentically in line with our best judgments as Camus tried to do. If I am right, then the existential raising of religious questions, the honest identification of answers, and the fulfilling of what one sincerely believes to be one’s duties in light of those answers, are all parts of the human good of religion, a good whose pursuit is an indispensable feature of the comprehensive flourishing of a human being. If I am right, then man is indeed a 

homo religiosus, a religious-by-nature creature. And if that is true, then respect for a person’s well-being, a person’s good, a person’s flourishing, or more simply respect for the person because to respect a person means to respect that person’s well-being, demands respect for his or her flourishing as a seeker of spiritual religious truth and as a man or woman who lives in line with his or her best judgments of what is indeed, in fact, true in spiritual matters. And that in turn requires respect for the person’s liberty in religious matters, in the religious quest. Because faith of any type, including certainly religious faith, cannot be authentic, it cannot be faith unless it is free, respect for the person, that is, respect for his or her dignity as a free and
rational creature, requires respect for his or her liberty—that is pretty straightforward. The law can coerce, or even a bully can coerce the outward manifestation of religious faith. A bully could make someone go to church. He could say, “I’m gonna beat you up unless you go to church.” An evil government could force someone not to go to church: “We want you to manifest the faith of communism, which is atheistic.” But what governments and bullies cannot reach are the interior acts of reason and will that are the substance of faith. You cannot coerce faith! It is not just that you should not, it is that you cannot; it is a metaphysical impossibility. And it is immoral to try. You can coerce, as I say, the outward acts that a person would perform if a person had faith, but not the faith itself. And that is why it makes sense from the point of view of reason—notice that I have not appealed to authority, to scripture, to the ancient fathers of the Christian church, anything like that—to understand that religious freedom is a fundamental right. Interestingly and tragically in times past, and even in some places today as we know all too well from just reading the news, regard for persons’ spiritual well-being has been the premise and motivating factor for actually denying religious liberty or conceiving of it in a cramped and restricted way.

People who share my premise that we have a very important obligation to respect the religious well-being of people have drawn precisely the opposite conclusion from the one I am drawing. I draw the conclusion that there is therefore a right to religious liberty, and they draw the conclusion that we should therefore coerce people to belong to the true religion, which of course they believe is their religion. They would not believe that unless they believed it was true. Before the Catholic Church embraced the robust conception of religious freedom that honors the civil right to give public witness and expression to sincere religious views even when the church regards them as erroneous in the document called Dignitatis Humanae of the Second Vatican Council, some Catholics rejected the idea of a right to religious freedom on the theory that only the truth has rights. That was the slogan of the people who opposed the Catholic Church’s decision to embrace a robust conception of religious liberty at the Second Vatican Council. They
said only the truth has rights, and one bishop actually led a schism, a movement under his authority out of the Catholic Church, mainly because of the church’s willingness to embrace a robust conception of religious liberty. This was a new development. The Catholic Church had always held the view that faith could not be coerced. Sometimes in the name of Catholicism even church officials had engaged in coercive acts but that was always contrary to the teaching of the church, because faith cannot be coerced by nature metaphysically. Faith cannot be coerced. But what was new was the church embracing the view that religious freedom extends even to the right to propagate teachings contrary to the Catholic faith in a country or in a culture where they could be suppressed. Even as late the nineteenth century, some Vatican documents were expressing grave concern, even condemnation, of “religious liberty” or even “democracy,” because they associated those ideas with the French revolutionary ideology of religious liberty. They did not have a very good understanding of the American alternative. It was, after all, a European-dominated church. So when they heard religious liberty they saw the Jacobins and the French revolutionaries, the idea that no religion is true, or that all religions are equally true, or that the truth of religion is irrelevant to how people should lead their lives and how societies should constitute themselves, or the belief that religious vows do not bind or that it is immoral to take religious vows because you are attempting immorally to bind your conscience against future changes of mind. You can see if that is your conception of religious liberty and you are a Catholic, you are going to say, “Well I’m not for that!” And it was only later, under the influence of American thinkers like John Courtney Murray the great Jesuit theologian and intellectual, who persuaded the European-dominated church that the American understanding actually does not go for all that French revolutionary stuff, that it is possible to have a conception of religious freedom that is not hostile to religion, but on the contrary is friendly to religion, and even rooted in a view of the value of religion.

The mistake of the people who flew the banner “Only the Truth Has Rights” was not in the premise.
Religion is a great human good and the truer the religion, the better for the fulfillment of the believer. People of all faiths would agree on that. They might disagree about which is the truer religion, but they would all agree that religion is an aspect of human well-being, and the truer the religion, the deeper the enrichment, the fulfillment. The mistake was not in that premise, the mistake was in the supposition made by some that the good of religion was not being advanced or participated in, in any way, outside of the context of the one true faith, and that it could reliably be protected and advanced by placing civil restrictions enforceable by agencies of the state on the advocacy of religious ideas. This was the argument for why it is morally acceptable to shut down, say, Mormon missionaries in a Catholic culture, or evangelical Protestants who are proclaiming reformation ideals and trying to convert the Catholics. The fathers of the Second Vatican Council rejected this supposition, but in doing it they did not embrace the idea that error has rights. They noticed, rather, that people have rights, and they have rights even when they are in error. Error does not undermine the dignity of the human person or the person’s rights. Among those rights integral to authentic religion as a fundamental and irreducible human good is the right to express and even advocate in line with one’s sense of one’s conscientious obligations what one believes to be true about religious matters, even if one’s beliefs are in one way or another less than fully sound, and indeed even if they are false. And it’s that insight, I think, that has united today a vast range of religions and faiths, in support of religious liberty against the tremendous pressure bearing down on religious liberty from the forces of liberal secularism. And so, if we look at the coalitions supporting religious liberty it is Catholics and evangelicals, it is Mormons and Jews, it is Assemblies of God, it is Jehovah’s Witnesses, Muslims, it is every different tradition of faith—not everyone within the different traditions, but in many cases the mainstreams and the official authorities of the religions lining up solidly behind this idea of a right to religious freedom. Again, not as a modus vivendi. People who think that this alliance is just a deal, is just a mutual non-aggression pact, do not understand what the religions
themselves understand as motivating them. It is rather embracing the idea that it is a moral obligation. I should not force you to join my religion, not because maybe you will get the upper hand and force me to join yours, rather the reason I should not force you to join my religion is that would be a violation of your right. I have every right to try to persuade you—that is an exercise of freedom of religion. But if I am not trying to persuade you, but rather trying to bully or coerce you, then I am attacking freedom of religion, violating your dignity.

I have assigned the document of the Second Vatican Council proclaiming the robust right to religious freedom, which is called *Dignitatis Humanae*, human dignity, religious freedom being at the foundation of human dignity. When I have assigned this document in courses addressing the question of religious liberty I have always stressed to my students, whether they are Catholic or not Catholic, the importance of reading it together with another document of the Second Vatican Council called *Nostra Aetate*. Whether one is Catholic or not, I do not think it is possible to achieve a rich understanding of the declaration on religious liberty and the developed teaching of the Catholic Church on religious freedom without considering what the council fathers proclaim in *Nostra Aetate*, which is the declaration on the non-Christian religions. I assign these Catholic religious documents in my secular courses at Princeton often for two reasons. One is, of course, the Catholic Church is the largest single religious body in the world, so what its view is on important issues like religious freedom matters to the overall politics of the world. And another reason is it shows how a religious tradition itself has wrestled historically with the question of religious freedom, and a religious tradition that has itself always held that faith and reason are not separate, but are jointly, mutually reinforcing of each other, a church that assigns a high role to reason in the religious quest. In the declaration on the non-Christian faiths, the church fathers pay tribute to all that is true and holy, implying and then explicitly saying that there is much that is good and worthy even in the non-Christian faiths including Hinduism and Buddhism, and especially Judaism and Islam. In doing so, they give
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recognition to the ways in which religion—even where it does not include the defining content of what Catholics as Christians have to believe to be religion in its fullest and most robust sense, namely the incarnation of Jesus Christ—enriches, ennobles, and fulfills the human person in the spiritual dimension of his being. And this is to be honored and respected in the view of the Council of Fathers because the dignity of the human being requires it. Naturally the non-recognition of Christ as the Son of God must count for the council fathers as a falling short in the non-Christian faiths, even the Jewish faith in which Christianity is of course itself rooted, and which stands according to Catholic teaching in an unbroken and an unbreakable covenant with God, just as the proclamation of Christ as the Son of God must count as an error in Christianity from a Jewish or Muslim perspective. The law of logic holds in religion as it holds everywhere else: if you think that Jesus Christ is the Son of God, and I think that Jesus Christ is not the Son of God, we both cannot be right! I have to think you are in error and you have to think that I am in error. That does not mean we should shoot each other or not be nice to each other. It does not mean that we cannot learn things from each other, but it means that we disagree. If I think this is true and you think it is not true, we each think the other is wrong about something. It is okay.

But the fathers teach this does not mean that Judaism and Islam are simply false and without merit, just as, by the way, neither Judaism nor Islam teaches that Christianity is simply false and without merit. On the contrary, the council fathers teach that these traditions enrich the lives of their faithful in spiritual dimensions, thus contributing to their fulfillment. The Catholic Church does not have a monopoly on the natural law reasoning by which I am explicating and defending the human right to religious liberty. But the church does have a deep commitment to such reasoning and a long experience with it. I say the Catholic Church did not invent it; no Christian faith invented it. If we want to give credit to who invented it we have to go back to the ancient Greeks and Romans, to the great pagan thinkers. Although, it is interesting if you have read some of the early Church Fathers, some of them were so impressed with the
wisdom of a figure like Plato that they wondered, some of them even wondered aloud, whether maybe somehow Plato had gotten hold of a manuscript of the Jewish scriptures. One of the fathers speculated about the possibility that God might have given a private revelation of the content of the Hebrew scripture to Plato. But of course, they did not in the end accept that. The superior account is that there is a natural law, that a pure heart and a good mind applied to questions of ethics, including those that religions have much to say about, can get really very far, which we would expect if what Paul teaches in the letter to the Romans is true about the law even written on the heart of the Gentiles who did not have the Law of Moses. But as I say, although the Catholic Church or Christianity did not invent natural law or reasoning, the Catholic Church does have a particularly long record of exploring it and deploying it. And in *Dignitatis Humanae*, the fathers of the Second Vatican Council present a natural law argument for religious freedom, indeed they begin by presenting a natural law argument before supplementing it in the second half of the document with arguments appealing to the data of scripture and the authority of the church. Let me ask you to linger just a bit longer over these key Catholic texts so that I can illustrate by the teachings of an actual faith how some religious leaders and believers, and not just statesmen concerned to craft national or international policies in circumstances of religious pluralism, have incorporated and can incorporate into their understanding of the basic human right to religious liberty, principles and arguments that should appeal to all men and women of sincerity and goodwill. Let me quote at some length from *Nostra Aetate* to give you an appreciation of the rational basis of the Catholic Church’s affirmation of the good of religion as a basic human good, as an aspect of human well-being and fulfillment. I will do this in order to show how one faith, in this case Catholicism, can root its defense of a robust conception of freedom of religion in more than a modus vivendi or a mutual non-aggression pact with other faiths, or in what the late Judith Shklar of Harvard labeled a “liberalism of fear.” Or, much less a religious relativism or indifferentism. Sometimes people make the
argument for religious liberty as the French revolutionaries did—they did not much respect it. They make the argument for religious liberty by appeal to religious relativism or indifferentism: “Religion isn’t important so everybody should do what they want.” Or “There are no religious truths. Everybody should do what they want.” I do not think you have to appeal to those kinds of things. I think you can root the value of religious liberty, you can root the right to religious liberty in a rational affirmation of the human worth of religion, the value of religion, the good of religion, as an intrinsic good, not just an instrumental good. Religion does a lot of instrumental good, but even beyond the instrumental good there is the intelligible, intrinsic good of religion as I described it to you. That quest to understand religious truth, the honest effort to answer those questions, the effort to live with integrity and authenticity in view, in line with one’s best intentions and not to be a phony or a fake. So, here is what Nostra Aetate has to say. Please excuse the length of this quote, but I think you will find it most interesting:

“Throughout history even to the present day, there is found among different peoples a certain awareness of a hidden power, which lies behind the course of nature and the events of human life. At times there is present even a recognition of a supreme being or still more of a Father. This awareness and recognition results in a way of life that is imbued with a deep religious sense.”

I will just to interject to say, I think what the fathers have in mind is even what some would call very primitive religious faiths that are not the faiths of the great civilizations but some tribal faiths and traditions that have an awareness of something transcendent, a supreme being, a great spirit, even a father. Back to the text.

“This awareness and recognition results in a way of life that is imbued with a deep religious sense. The religions which are found in more advanced civilizations endeavor by way of well-defined concepts and exact language to answer these questions. Thus in Hinduism men explore the divine mystery and express it both in the limitless riches of myth and the accurately defined insights of philosophy. They seek release from the trials of the present life by ascetical practices, profound
meditation and recourse to God in confidence and love. Buddhism in its various forms testifies to the essential inadequacy of this changing world. It proposes a way of life by which men can, with confidence and trust, attain a state of perfect liberation and reach supreme illumination either through their own efforts or by the aid of divine help. So, too, other religions which are found throughout the world attempt in their own ways to calm the hearts of men by outlining a program of life covering doctrine, moral precepts and sacred rites.

“The Catholic Church rejects nothing of what is true and holy in these religions. She has a high regard for the manner of life and conduct, the precepts and doctrines which, although differing in many ways from her own teaching, nevertheless often reflect a ray of that truth which enlightens all men. Yet she proclaims and is in duty bound to proclaim without fail, Christ who is the way, the truth and the life (Jn. 1:6). In him, in whom God reconciled all things to himself (2 Cor. 5:18-19), men find the fullness of their religious life. [The fullness.]

“The Church, therefore, urges her sons to enter with prudence and charity into discussion and collaboration with members of other religious. Let Christians, while witnessing to their own faith and way of life, acknowledge, preserve and encourage the spiritual and moral truths found among non-Christians, also their social life and culture.

“The Church has also a high regard for the Muslims. They worship God, who is one, living and subsistent, merciful and almighty, the Creator of heaven and earth, who has also spoken to men. They strive to submit themselves without reserve to the bidden decrees of God, just as Abraham submitted himself to God’s plan, to whose faith Muslims eagerly link their own. Although not acknowledging him as God, they worship Jesus as a prophet, his virgin Mother they also honor, and even at times devoutly invoke. Further, they await the day of judgment and the reward of God following the resurrection of the dead. For this reason they highly esteem an upright life and worship God, especially by way of prayer, alms-deeds and fasting.
“Over the centuries many quarrels and dissensions have arisen between Christians and Muslims. [This was written in 1965.] The sacred Council now pleads with all to forget the past, and urges that a sincere effort be made to achieve mutual understanding; for the benefit of all men, let them together preserve and promote peace, liberty, social justice and moral values. [1965. Then it goes on, and this is what the document is actually famous for. It is often in fact thought of as a Catholic document about the Jewish people. That is what got all the publicity. But all that other stuff is in there as well, but then it turns to the unique and special relationship between Christianity and the Jewish people.]

“Sounding the depths of the mystery which is the Church, this sacred Council remembers the spiritual ties which link the people of the New Covenant to the stock of Abraham. The Church of Christ acknowledges that in God’s plan of salvation the beginning of her faith and election is to be found in the patriarchs, Moses and the prophets. She professes that all Christ’s faithful, who as men of faith are sons of Abraham (cf. Gal. 3:7), are included in the same patriarch’s call and that the salvation of the Church is mystically prefigured in the exodus of God’s chosen people from the land of bondage. On this account the Church cannot forget that she received the revelation of the Old Testament by way of that people with whom God in his inexpressible mercy established the ancient covenant. Nor can she forget that she draws nourishment from that good olive tree onto which the wild olive branches of the Gentiles have been grafted (cf. Rom. 11:17-24). The Church believes that Christ who is our peace has through his cross reconciled Jews and Gentiles and made them one in himself (cf. Eph. 2:14-16).”

So that is the long quotation from *Nostra Aetate*, the declaration on the non-Christian religions. Of course, from the point of view of any believer, Jewish or Muslim, LDS or Catholic, any believer, the further one gets away from the truth, the truth of faith, in all its dimensions, what the council fathers in that passage referred to as the fullness of religious life, the less fulfillment is available. We ought all to try to get the whole truth as much as we possibly can. And we should go where
we think the fullness of truth is to be found. If our conscience takes us to the Church of Jesus Christ of Latter-day Saints, that is where we should be. If our conscience takes us to the Jewish faith, that is where we should be. But that does not mean that even a primitive and superstition-laden faith, much less the faith of those that advanced civilizations as the fathers say, is utterly devoid of value or that there is no right to religious liberty for people who practice those faiths. Nor does it mean that atheists have no right to religious freedom. The fundamentals of respect for the good of religion require that civil authority respect, and in appropriate ways even nurture, conditions or circumstances in which people can engage in the sincere religious quest and live lives of authenticity reflecting their best judgments as to spiritual matters. To compel an atheist to perform acts of religion, acts that are premised on theistic belief, which does happen in some parts of the world, is to deny that person the fundamental bit of the good of religion that is his, namely living with honesty and integrity in line with his best judgments about ultimate reality. That is Camus. That is why I was saying Camus is participating at least in a kind of basic way in the human good of religion. If I am right, if you are right, he has not come anywhere near its fullness, but by launching the quest he is beginning, participating in the good. By trying to live a life with authenticity and integrity, even by declining to perform religious acts, he lives in line with his best judgments, even though they are atheistic, and that is a participation at a very basic level, very elementary level, in the good of religion. Coercing him to perform religious acts does him no good, because faith cannot be coerced. You are not going to make him holy by making him go to church. It does no good, since faith must really be free, and it dishonors his dignity which is more fundamental. It dishonors his dignity as a free and rational person, a person who can engage in the religious quest, who can seek with integrity to honor his sincere best judgments about these questions. The violation of liberty is worse than futile.

I gave a presentation like this to the political theory group at Yale about a year ago and I thought I was just being incredibly nice and generous to the atheists, and a couple
of the atheists in the room just shot off like a rocket claiming that I was trying to turn them into being religious, I was trying to characterize them as religious, which proves you cannot win. Of course, there must be limits to the freedom that must be respected for the sake of the good of religion and the dignity of the human person as a being whose integral fulfillment includes the spiritual quest and ordering one’s life in line with one’s best judgments as to what spiritual truth requires. Horrible evil, even horrific injustice, can be committed by sincere people for the sake of religion. We know this today all too well. It could be that some of the people who, in the name of Islam, commit these atrocities are not actually religious people, they have a political agenda, it is some ideological thing, some personal thing, and they are just using Islam as an excuse. There is probably some of that, but that cannot explain it all. And it is not the first time in history. Honestly, it is true, that sometimes religious people for the sake of religion do horrible things—it was done in the name of my own religion in the past. Very few religions are free from moments that they cannot be completely proud of in their histories. But we know that grave evils and horrible injustices can be done in the name of religion. They can be done by people that are sincerely seeking to do God’s will, or to get right with God, or the gods, or their conception of ultimate reality, whatever it is. The presumption in favor of respecting religious liberty must, for the sake of the human good and the dignity of the human person, be powerful and broad, but it cannot be unlimited. And nobody I know argues that it should be unlimited. Everybody understands that religious liberty, while a profoundly important right, is not a right to which there are no limits. Even the great good, the great end, the great goal of getting right with God, cannot justify a morally bad means. It is just the same thing your mother taught you when you were little kids. You should not do something bad even for the sake of something good. The end does not justify the means. You cannot do bad stuff even for the sake of the true good of religion. I do not doubt the sincerity of the ancient Aztecs in practicing human sacrifice, or the sincerity of those in the history of various traditions of faith who used coercion or even torture in the cause
of what they believed was religiously required. But these things are deeply wrong. They were then and they are now. And they need not and should not be tolerated in the name of religious freedom. To suppose otherwise is to back oneself into the rather awkward position of supposing that violations of religious freedom and other injustices of equal gravity must be respected for the sake of religious freedom.

Still, to overcome the powerful and broad presumption in favor of religious liberty, to be justified in requiring the believer to do something contrary to his faith or forbidding the believer to do something his faith requires, political authority must meet a very heavy burden. The legal test in the United States, the one that was argued about in the Supreme Court in the Little Sisters of the Poor case, the legal test in the United States under the Religious Freedom Restoration Act is one way of capturing the burden and the presumption. To justify a law that bears negatively on a person’s religious freedom, even if it is a mutual law of general applicability like the Affordable Care Act, the law must be supported by a compelling state interest and represent the least restrictive or intrusive means of protecting or serving that interest. We can debate as a matter of American constitutional law or as a matter of policy whether it is or should be up to courts or to legislators to decide when exemptions to general neutral laws should be granted for the sake of religious freedom, or to determine when the presumption in favor of religious freedom has been overcome. That is what the famous 1991 peyote case Oregon v. Smith was about. But the substantive matter of what religious freedom demands from those who exercise the levers of state power that there should be such a test as the Religious Freedom Restoration Act should be something on which reasonable people of goodwill across the religious and political spectrums should agree on. And indeed we did all agree on it in 1992 and 1993. The consensus has only collapsed in recent years because of the desire to promote ideologies associated with same-sex marriage and issues related to that and abortion. People who were favoring those causes did not want people who were opposed to them to be able to act on their own faith in the carrying out of their
professions and businesses and so forth. But I think we need to get that consensus back, and if we cannot we must nevertheless fight with all our might in favor of religious freedom, because it is a matter not only of religious faith, but of reason and the common good.

Notes

