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_I want to suggest that faith is best understood as fidelity or faithfulness, instead of merely as agreement with statements of doctrine. Faith consists of entrusting itself to the word of God._

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_Religious liberty is at once a liberty of conscience but even more foundationally a liberty of belief. The main proposition is that religious liberty, understood in a certain light, is the first freedom and foundation for the rest._

**Prof. Michael Novak** | Why the First of All Rights is Liberty of Conscience  

_Religious liberty or liberty of conscience, is the one liberty that roots itself most in the nature of God. It is our duty to recognize what He has done for us and the greatness of what He is. That duty cannot be abridged by anybody else—it is inalienable—it cannot be separated from us. All of our other liberties follow in that pattern._

**Dr. Roger Scruton** | Religion and Perfectionism  

_The crucial issue posed by religious freedom in the world today is the extent to which the religions of the world can actually be reconciled with the secular rule of law and the freedoms, including freedom of religion, that we take for granted._

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_The story of Dostoyevsky’s Grand Inquisitor occurs all too often: The masses appear to prefer bread [understood to represent all material wants and needs] to freedom. In my view it is only freely chosen_
religion, or freely chosen world views analogous to religion, both of which are protected by freedom of religion or belief, that can ultimately reinforce the commitment to freedom sufficiently to override the range of other interests.

**Dr. Hadley Arkes** | What Religion is “Envisaged” by the First Amendment?

My argument might be crystallized in this way: To the extent that we cast our arguments along the lines of “belief” and “sincerity,” we can do no more than plead for an exemption from the laws imposed on others. But that kind of argument distorts the truer moral character of the argument we are making, for we truly see these mandates as wrongful laws, which should be enforced on no one.

**On the Family:**

**Prof. Helen Alvaré** | Equal Partners: The Salience of Roles in Marriage and Family

By refusing to acknowledge differences between men and women, we have a refusal by definition to consider even the possibility of complementarity. We insist that everything that a male and female does in the context of the family is an overlap of what the other does and that the sexes are absolutely redundant and there is nothing that either could receive from the other.

**On International Affairs:**

**Dr. Amos Jordan** | It’s Half-Time in America: Major International Challenges Ahead

At the 2012 Super Bowl, Clint Eastwood said, “It’s half-time. Both teams are in their locker rooms discussing what they can do to win this game in the second half. It’s half-time in America too. People are out of work and they’re hurting…and we’re all scared, because this isn’t a game…the fog of division, discord, and blame makes it hard to see what lies ahead…But we find a way through tough times, and if we can’t find a way, then we’ll make one.” Despite the formidable challenges now facing our nation, I share Eastwood’s basic optimism.
The mission of the Wheatley Institution is to enhance the academic climate and scholarly reputation of BYU, and to enrich faculty and student experiences, by contributing recognized scholarship that lifts society by preserving and strengthening its core institutions. The following lectures were sponsored by the Wheatley Institution for this purpose.

For full recordings and transcriptions of these abridged lectures, please visit wheatley.byu.edu.

The opinions expressed herein are the sole responsibility of the speaker and do not necessarily reflect the views of The Wheatley Institution, Brigham Young University or its sponsoring institution—The Church of Jesus Christ of Latter-day Saints.

The Wheatley Institution recognizes editor & designer Troy Tessem, and student editor Holliann Morro for their work on this issue of the Observer.

Cover Photo: “Supreme Court” by Mark Fischer, available at http://tinyurl.com/k696eg3 Adapted for cover purposes
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This issue of the Observer brings together lectures in digest form on a fairly wide range of topics. But these lectures, like the initiatives of the Wheatley Institution itself, have a common thread: the relationship between faith and everything else in our world. The first lecture clearly sets the tone. It is the 2013 Truman G. Madsen Lecture on Eternal Man given by Christina Gschwandtner, and it concerns itself almost entirely with the questions introduced in the double entendre of its title, how we think through (or about) our faith and how we think (about other things) through (the lens of) our faith.

Daniel Robinson, Michael Novak, Cole Durham, Roger Scruton, and Hadley Arkes all lectured in our Religious Liberty Lecture Series, making their connection to this central theme rather obvious. These scholars, all widely known for their work in this arena, offer five different perspectives on the intimate relationship between faith and civic life, both historically and with sober concern for the present and future. Helen Alvare, who spoke in a series on family, drew attention to faith-based understandings of marriage and of the complementarity of men and women. She offers a way forward in the broad cultural debates on the nature of the “corest” of our core institutions.

Even the final lecture by Wheatley Senior Fellow Amos A. Jordan, focused on international affairs, contains a section which grapples with the complexities of dealing with the theocracy of Iran.

For all the variety of their intended messages, these lectures underscore a single common idea: Faith matters in the world we live in. The simple existence of people of faith will always make that true, but it is also important to remember that many of the ideas that underpin our communities, our institutions, and our governments have their roots deep in the world’s faith traditions, though the ideas themselves have come to be espoused by many who have no thought of their faithful roots.

People of faith quite often disagree with each other, as well as with those who claim no god, on important questions that require resolution in the public square. The patience, thoughtfulness, clarity, and trust that enable us to be part of a conversation that actually leads to resolution can get a bit scarce on the ground. These abridged lectures (and their full-length versions) help replenish those supplies. I am happy to invite you to engage these contributions to this crucial conversation.

Emily M. Reynolds
Assistant Director
**FAITH & FIDELITY:**

**HOW TO THINK THROUGH FAITH TODAY**

I want to suggest that faith is best understood as fidelity or faithfulness, instead of merely as agreement with statements of doctrine. Faith consists of entrusting itself to the word of God. A lecture by Visiting Associate Professor of Philosophy at Fordham University, Christina M. Gschwandtner.

Sometimes thinking deeply about matters of faith can feel threatening to people because it can raise uncomfortable questions, sow seeds of doubt, or imply that one does not really believe with one’s whole heart and soul. And yet, can we really help it? Is thinking about what we do and who we are not an essential aspect of what it means to be human? Must faith necessarily be opposed to deep reflection? It seems that even if it were possible to have belief without any thinking, that would hardly be desirable.

Thinking through faith is desirable on several levels. On the one hand, it is a way of taking our beliefs and convictions seriously, facing questions or doubts squarely, and acknowledging that we live in a complicated and diverse world where not everything can easily be interpreted in the light of faith. It is a kind of honesty, a way of admitting our humanity by including its finitude and insecurity. On the other hand, thinking through faith also seems essential for articulating beliefs coherently and convincingly, not only to ourselves, but also to others.

I want to suggest that faith is best understood as fidelity or faithfulness, instead of merely as agreement with statements of doctrine. Faith consists of entrusting itself to the word of God. The French Christian existentialist thinker, Gabriel Marcel, draws this distinction between faith as belief and faith as fidelity: Fidelity requires steadfastness through change; it is a creative process of commitment of self even in the face of uncertainty and doubt. Thus, faith is more about how we live our lives than it is about what assertions we agree to. That is not to say that doctrine or teachings do not matter, but rather that faith in them is less about mental agreement than it is about fidelity and commitment to those teachings.

Is thinking through faith an attempt to eliminate any sort of mystery, to dismiss the most deeply held assumptions, or to expose sacred commitments to the cruel light of abstract rationality? What does thinking mean today, and what does it mean to think about faith? For Christianity in particular, faith has often meant doctrine. Much of the Christian tradition has used reason to philosophically prove that God exists or that certain propositions about God are true, meaning that they are correct and can be verified rationally or maybe even empirically. These particular concepts of faith and reason on which both critics and defenders of Christianity usually draw, were developed most fully in the modern age. Descartes, who is usually considered the first modern philosopher, has this project of doubting everything that can possibly be doubted in order to get to the absolute bottom line. Truth then comes to mean this kind of rational
project that we have a basic foundation and then we rigorously go from there. The problem with that project was that it was increasingly questioning certain kinds of beliefs. If you can’t prove beliefs empirically, then they must be superstition. This ended up becoming quite problematic for many Christian beliefs.

Increasingly in the larger culture and even in certain strands of philosophy, we do not think about truth and rationality anymore in this sort of Cartesian way. For several reasons, philosophers such as Martin Heidegger and Paul Ricoeur make a distinction between truth as verificational correspondence and truth as revelation or manifestation. Modernity and science think of truth essentially as statement of fact that can be verified: Something is true if it corresponds to a state of affairs. But that is not the only way to talk about truth, and it is actually inadequate to a great many aspects of human existence. Truth is about much more than simply corresponding to facts. Something is true also when it reveals, manifests, or uncovers something. A painting or a piece of music can convey truth and can say or show something true. And yet, that is not a truth that can be verified or which corresponds to anything in a simple, straightforward fashion. It is much deeper and more complicated than that.

Paul Ricoeur, a French protestant philosopher, applies the notion of truth as manifestation specifically to the Christian scriptures. Ricoeur claims that the biblical texts are true because they speak authentically about our condition and because they reveal something about the divine. Religious discourse, Ricoeur maintains, “is not senseless, [but] it is worthwhile to analyze it because...it is meaningful at least for the community of faith that uses it either for the sake of self-understanding or for the sake of communication with others exterior to the faith community.”

So, there is an important difference between the way modernity speaks about truth and reason, and the way we can and must do so today. The modern age assumed that something is true if it can be proven objectively from some neutral position that anyone can occupy if he or she is divested of all prior assumptions and beliefs. We increasingly recognize that there is no entirely objective or neutral position, no place completely divested of assumptions or context. Instead, we always speak from within a particular context and tradition. So faith is not judged by foreign parameters like those of science, but instead has its own criteria of meaning. By paying careful attention to the ways in which faith speaks about itself within biblical texts or other expressions of faith, we can ascertain the kinds of truths it needs to communicate. Thus, the biblical texts project a world that they invite us to inhabit and we are challenged to envision ourselves differently.

This has not simply become arbitrary where I can claim whatever is true for my own context, but it is the fear that many people have about post-modernism (and in particular hermeneutics), that everything is relative depending on context, and so nothing has meaning. That is not what hermeneutics as a philosophical discipline is about. If you want to understand a literary text, context and other interpretations matter. It is not arbitrary: It cannot mean anything that you want it to mean.

Let me give one other example from the phenomenological tradition. Contemporary French philosopher, Jean-Luc Marion, strongly argues for the rationality of faith today. As Christians, he says, we have an obligation to reason. Reminding us of Justin Martyr and other early Christian thinkers, Marion says, “to witness’ can

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designate making an argument as much as giving one’s life, to philosophize as much as suffering martyrdom.” He contends that this particular kind of rationality of faith or love is a higher reason that contrasts to a Cartesian rationality obsessed with certainty and only concerned with objects. Such a focus on facts and objects misses what is most important to us, not just in religious terms, but also in regard to any feelings or experiences that really matter to us. In the immediacy of feeling, we experience ourselves without distance. From this, we know very clearly that the common rationality of objects knows nothing about what is most intimate.

The difference in these types of knowing may be best expressed in the title of one of Marion’s recent books, *Le Croire pour le Voir* which, roughly translated, means *believing in order to see*. This turns on its head the usual dictum, “seeing is believing.” For Marion, believing is a form of seeing, and a phenomenon we may not be able to experience unless we believe. We all recognize the phenomenon of finding beautiful what or who we love. Another, who does not love as I do, sees nothing beautiful there. The eyes of love enable us to see differently. Marion contends that this is not irrational or purely emotional, but that love has a particular rationality and it is possible to think about it deeply and rigorously. Love provides evidence, it is a kind of knowledge, though not the knowledge of certainty that Descartes and modernity celebrated. Marion calls on Christians to pursue this rationality of love and to think deeply about their faith by stressing that reason or knowledge can take different forms, and that some are more useful or appropriate for matters of faith than others.

Let me say a little bit about what I think are the implications of this contemporary philosophical work for our present topic. I see two ways in which philosophical discussions have significant potential for religious communities and help us think through faith today.

On the one hand, these new philosophical approaches provide a manner of thinking through faith for religious believers themselves. Thinking about faith deeply and seriously, depicting it carefully, ascertaining its meaning (or maybe its many meanings) is surely useful for the community of faith. It helps make sense of what believers do and what they say about themselves. It declares the face of faith to itself but also explains it to others, maybe even defends it against attack by articulating its internal coherence and validity. This is not an attempt to reduce revelation to sterile rationality, rather it is a description that tends to faithfully represent the manifold aspects of religious experience, both in its concrete particularity but also in its more general structure and commonalities.

On the other hand, I think philosophical work is useful also to the philosopher and maybe even the anthropologist outside the community. It helps make sense of what religious believers do, why they act in certain ways (to some secular people in very strange ways), what their practices mean and why they entail such strong loyalties and passions, and it also aids us in understanding why religion has always been an important part of human existence and why it is not likely to disappear anytime soon.

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3 Jean-Luc Marion, *Le croire pour le voir*, (France: Parole et Silence, 2010).
This, it seems to me, is worth exploring for philosophers if they are generally committed to understanding the human condition and the most fundamental aspects of human existence.

The lecture abridged here was originally delivered at the Wheatley Institution at Brigham Young University on December 5, 2013.

To listen to the audio recording of this lecture, please click here.
Religious Liberty: The First Liberty?

Religious liberty is at once a liberty of conscience but even more foundationally a liberty of belief. The main proposition is that religious liberty, understood in a certain light, is the first freedom and foundation for the rest. A lecture by Senior Fellow at The Wheatley Institution, Distinguished Professor Emeritus of Philosophy at Georgetown University, and a Fellow of the Faculty of Philosophy at Oxford University, Daniel N. Robinson.

And then there is Arthur, a young man who sustained a terrible head injury in an automobile crash and soon afterward claimed that his father and mother had been replaced by duplicates who looked exactly like his real parents. He recognized their faces but they seemed odd, unfamiliar. The only way Arthur could make any sense out of the situation was to assume that his parents were impostors.

This is a brief passage from Phantoms in the Brain: Probing the Mysteries of the Human Mind by V.S. Ramachandran and Sandra Blakeslee. Depicted here is the rare condition known as Capgras syndrome first described by Capgras and Reboul-Lachaux in 1923. The patient has the unshakeable conviction that persons and relatives well-known to him have been replaced by copies or clones. The condition is sometimes associated with severe psychiatric disturbances but is also the consequence of brain lesions in otherwise normal persons. There are comparably startling instances of pathological beliefs. Instances of the so-called Fregoli delusion find the patient convinced that different persons are actually a single person donning various disguises. Those suffering from the Cotard delusion believe themselves to be dead.

There are still other beliefs, held as firmly and comparably lacking in direct empirical support: beliefs widely shared across vast stretches of time and among cultures that might have little else in common. Some of these are taken to be moral beliefs, others as religious, and others as political, still others as aesthetic. Many persons have an unwavering belief in certain principles of fairness, even while lacking any direct measure of fairness or proof that the principles are reliably redeemed at a pragmatic level.

From the perspective of psychology, beliefs are recognized as a ubiquitous feature of daily life, often of greater significance than knowledge itself, and sometimes so at variance with standards of common sense and ordinary perception as to be of clinical concern. From the perspective of philosophy, belief is the veritable grounding of knowledge. As treatises in epistemology insist, knowledge is a justified true belief for which we have rational warrants. Pathologies aside, beliefs ground not only knowledge,

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but life—life in its various projects and plans, in its values and judgments.

Religious liberty, the topic of this essay, is at once a liberty of conscience but even more foundationally a liberty of belief. By way of clarifying how I would have this essay understood, I note that it is not intended to be contentious, nor is the use of the interrogative voice in the title a veiled assertion. The main proposition is that religious liberty, understood in a certain light, is the first freedom and foundation for the rest. The argument for this begins with some factual and some stipulative presuppositions. Human beings are recognizable as rational creatures with the power of acting and withholding action on the basis of reason. As social animals inclined to live in the company of others, their reasons for action or restraint are typically framed in social and political terms. Bound up with their reasons for acting are beliefs regarding likely consequences to themselves and others. Finally and on the whole, the lives of such creatures are organized in ways designed to secure safety and happiness.

Integral to such plans are beliefs, for planning envisages a future that cannot be known with certainty. It is an imagined future. Summing up, rational creatures base innumerable and significant action-plans on the beliefs of imagined possibilities. I take this to be an inherent and profoundly significant feature of a human life. As such, opposition to the expression and implementation of such powers must inevitably face either direct resistance or a demand for justification. These grounds of opposition and demands for justification are expressed politically in the language of rights.

In so far as religious belief is a species of belief, it draws upon the limitless resources of the imagination. In this, religious belief is the most profound of all beliefs, for it seeks to identify both the originating causes and the ultimate purposes of—everything. To this extent, it serves as the framework for any number of subsidiary beliefs. In this connection, consider that most general belief that has long guided the scientific enterprise itself, namely that the basic laws unearthed today, under these limited conditions may well be instances of a universal law operative throughout time and cosmic space, operative over a range that only the imagination can embrace. Jefferson’s reference to “nature and nature’s God” is exemplary of that never fully successful attempt to imagine what stands behind the order and lawfulness of uncorrupted nature.

We seem naturally inclined to look for the causes of things. We believe that recurring events are moved by recurring and similar antecedent events. The powers of the imagination are generative of such beliefs, some of which courageously—even if tentatively—come to be invested in what is taken to be divine. This is the sense I would have you attach to the notion of religious liberty being the first freedom, a freedom to employ sense, reason, and imagination in an attempt to know oneself and one’s place in the larger scheme of things. Put another way, we believe that the diversity and complexity of natural events is a kind of surface noise and that the revealing signal becomes audible by way of an imaginative reconstruction of reality—a reconstruction that moves us to the first and to the final points in the arc of reality itself. There is religion here, even when the gods are nameless.

Note that I do not refer to freedom of the imagination, for by its very nature it is not subject to external authority. This greatest voyage of inquiry needs no vehicle and seeks no license. Experience and rational reflection work to redirect the imagination to yet other and more promising or truth-bearing possibilities more worthy of belief by pointing, not by commanding. One can be punished for a belief, but not commanded to
surrender it. In a somewhat mysterious way, we seem to have little say in the matter of what we believe. Oppressive regimes hold on by confining the imagination through censorship, bread and circuses, but sooner or later the hostage breaks loose.

We tend to think of religious liberty as a modern development reaching back to such rich sources as Milton’s *Areopagitica*, Locke’s *A Letter Concerning Toleration* (1689), and then to full development in the revolutionary literature of the Enlightenment which would culminate in the *Declaration of Independence* and the U.S. Constitution. We recall with admiration Locke’s claim that “the toleration of those that differ from others in matters of religion is so agreeable to the Gospel of Jesus Christ, and to the genuine reason of mankind, that it seems monstrous for men to be so blind as not to perceive the necessity and advantage of it in so clear a light.”

Understood this way, liberty arises from a duty to tolerate difference and to respect what is often referred to as a liberty of conscience tied to a set of rights possessed by each person individually. Locke’s thesis in his *Letter* leaves room for as many religions as there are individual persons; even more on the assumption that no one is limited as to the number and variety of doctrines laying claim to one’s conscience. There is but one exception: There is no room in this for the toleration of religious intolerance! Note that once we press on beyond the stage of broad generalizations, we come to grips with real difficulties surrounding the concepts of “religious” and “liberties” and the nature of those claims that conscience must be free to satisfy.

Locke seeks toleration for differences, but for there to be differences in matters of religion, parties to the dispute will base their positions on what they take to be authoritative. In developed and literate societies, such authority is typically vested in texts, teachings, and recorded doctrines. Where this is so, liberty of conscience is dependent on liberty of inquiry. It is not a mere coincidence that the First Amendment insulates both the press and religion against infringements by the national government. The Founding generation was ever-mindful of the blood that was shed in the name of religion during years of turmoil in Britain and on the Continent. Nor were they unmindful of the still heated sectarian animosities at work in the new world.

A half-century before Locke composed his *Letter*, John Milton’s *Areopagitica* (1644) offered an impassioned plea for and defense of freedom of the press, addressed to Parliament and directly opposing laws that had been put in place by Queen Mary and rendered ever more constraining by Elizabeth I. As early as 1559 the Crown had issued *Injunctions Concerning Religion*. No work in any language could be printed except with a license issued either by the Queen or her Privy Council, by the Chancellor either of Oxford or Cambridge, or by the Archbishop of Canterbury, York or London.

Under such controls, any government is able to manage – or, as one might say today, micro-manage – that part of thought and critical reflection otherwise enlarged and deepened by multiple and conflicting perspectives. In saying, then, that one should be free to embrace the tenets of a religion and discharge the duties imposed by them, one must suppose that the beneficiary of the freedom has enjoyed the associated freedoms that render this one credible. Thus understood, religious liberty is dependent on liberty of thought and liberty of that inquiry and intellectual engagement that moves

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feelings toward the plane of understanding. With all this as background, I now move on to the new world that heralded Novus Ordo Saeclorum.

“We hold these truths to be self-evident...” With these words the world is introduced to a veritable creation—the creation of a new political entity awaiting the outcome of a war and a constitution if the idea itself were to move from a political entity to a political reality. These seven words are then followed by claims that have fired the tools of cynics and romantics alike, claims to the effect that in some unspecified respect each person is the equal of another, each possessing certain rights which, unlike others are unalienable. Even after many drafts shaped by many hands, the Declaration is Jefferson’s through and through. It is the product of a first-rate mind, cultivated in an age of critical inquiry and further refined by an education that was, indeed, “higher” in all relevant respects.

This account leads to an important conclusion, even as it leaves a number of significant issues unaddressed. The conclusion is that unlike life, liberty, and the pursuit of happiness, the summons of moral conscience actually is unalienable. Indeed, it is owing to this that the status of those celebrated rights of the Declaration of Independence rise to the level of self-evident truths. Saints and heroes have routinely sacrificed their lives and their liberties, not to mention what most would regard as the grounds of happiness. That they have done so with the full power of agency, the power to answer the summons of conscience, reaches something in their nature that could not be surrendered without contradiction. To surrender it would indicate a still higher calling of conscience, a still higher duty on the scale of duties.

I refer to conscience but would be reluctant to analyze it. It is enough to say that there are various theories of morality on offer, each with assets and defects and none standing as the last word on the matter. Moreover, on any of the developed moral theories, the right course of action or reason for acting need not proceed from devotion to a specific set of religious tenets or even any set of propositions patently religious. What it does entail however, is allegiance to a principle of action whose validity is not settled by convention, statute, or the shifting enthusiasms of a neighborhood or an epoch. Less the gift of religious belief, it is its bedrock as it is the bedrock of conviction itself.

On this point, Witherspoon’s teaching is instructive, especially in light of his influence on the Founding generation. He grants that “the love of our country to be sure, is a noble and enlarged affection and those who have sacrificed private ease and family relations to it have become illustrious, yet the love of mankind is still greatly superior.” He turns next to the question of duties and rights and concludes that “right in general may be reduced, as to its source, to the supreme law of moral duty; for whatever men are in duty obliged to do, that they have a claim to, and other men are considered as under an obligation to permit them.”

Thus, one must be cautious about conferring immunity on any or every action arising from a sincere religious belief or, as it were, moral sentiment, even one of benevolence. In ways peculiar and often difficult to comprehend, the U.S. Supreme Court had tended to confer such immunity in judging actions that surely violate the

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10Witherspoon Lectures, op. cit. p. 54
11Ibid
sentiments of many, while refusing to protect still other actions prompted by religious belief. There are inevitable tensions between the claims of conscience and the very possibility of ordered liberty and decent forms of civic life. It would seem to be a consequence of one’s sense that one is answerable to one’s own conscience that one moves, if only haltingly, to the belief that conscience receives direction from sources super sensuous and assuredly apolitical. How collisions between one’s moral and civic standing are averted is a question hostile to easy answers. Historically, statutes such as Acts of Supremacy and forced religious conformity tend to rise no higher than impertinence in principle and thuggishness in practice.

In these respects, it matters not a whit whether the attempt to command or control comes from a tyrant, a king, an Imam, or alas, a Supreme Court. Resistance to such measures seems to be based on something broader than the particulars of a given faith. The measures presume to command assent while defeating the very powers in virtue of which assent itself is possible. Rational creatures with the impulse to imagine possibilities, frame plans of action, consider myriad options and the consequences plausibly contained in each are not merely worthy of the law’s respect but the ultimate ground of the law’s own authority. In very large numbers over all of recorded history, such creatures have been moved by a sense of the transcendent, a reverence for an unseen power behind the order of nature itself. Out of this would emerge idealized conceptions of civic life, cooperative and trusting associations, and strongly sensed duties to oneself and others. The unopposable freedom to imagine and to believe in the prospects made evident by the imagination would seem to be that first freedom rendering liberty itself intelligible.

The lecture abridged here was originally delivered at the Cosmos Club in Washington D.C. on September 13, 2013. Sponsored by the Wheatley Institution at Brigham Young University.
Why The First of All Rights is Liberty of Conscience

Religious liberty or liberty of conscience, is the one liberty that roots itself most in the nature of God. It is our duty to recognize what He has done for us and the greatness of what He is. That duty cannot be abridged by anybody else—it is inalienable—it cannot be separated from us. All of our other liberties follow in that pattern. A lecture by a philosopher, theologian, author of twenty-seven books, and the 1994 recipient of the Templeton Prize for Progress in Religion, Michael Novak.

The first liberty is liberty of conscience. The crux of the original American argument for religious liberty is found in three founding documents: The Virginia Declaration of Rights in 1776, the Virginia Bill for Establishing Religious Freedom enacted in 1786, and James Madison’s Memorial and Remonstrance Against Religious Assessments in 1785. The American argument is original and the evidence is in these three documents.

The Virginia Declaration of Rights defines religion as “the duty which we owe to our Creator and the manner of discharging it.” This definition was used throughout the founding period, codified in Webster’s dictionary; it was held to be self-evident. As James Madison later makes clear in his remonstrance, the right to fulfill one’s duty of gratitude and worship is not only self-evident, it is a self-evident right: If you know what a creature is and a creator is, it is self-evident. It is not only self-evident, but it is also inalienable, for two reasons.

First, it is inalienable because this duty “must be left to the conviction and conscience of every man. The opinions of man, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men.”

Thus, this duty inheres singly in each person and it cannot be shoved off on to any other; it is between you and God. That is why it is inalienable: It cannot be separated from you. Secondly, it is inalienable because it is a duty written into human nature prior to the conventions and obligations of civil society, so this duty to God cannot be interfered with by any lesser authority. Another way of putting this is to say that God invited us into His friendship. In order to invite us into His friendship, He had to allow us to be free. If it is not free and it is coerced, it is not friendship; it is slavery. The Americans founded natural rights on the obvious duty of a creature to the Creator, and on the inalienability of that duty. Civil society cannot interrupt it. The State cannot interrupt it. No authority can interrupt it. It is between you and the Almighty. It is inalienable. It cannot be separated from you or from the Creator.

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In order to grasp this vision of the universe in which our philosophy of natural rights was born, we need to become clear about several intellectual preconditions. First, is the belief that humans are created by an intelligence of infinite power and understanding. In that luminosity where everything is infused by the understanding of the Creator who put intelligence into everything, civilization is possible. We humans, who do not see all truth about everything and see evidence only partially, can nevertheless reason together with our fellows about the many parts of the truth each of us does not yet understand. Those who grasp a little more can present portions of the evidence that others do not yet see. Through such mutually instructive conversations, civilization advances. Civilized persons reason together; barbarians club one another into submission. And so unto humans it is commanded that they use the best efforts of their minds to come to understand the whole world around and within them. Out of the human impulse to grasp intelligible reality comes the notion of the pursuit and progress of human understanding.

All this begins in another important American document, the Federalist. “It has been frequently remarked that it seems to be reserved to the people of this country by their conduct and example, to decide the important question whether societies of men are really capable of establishing good government from reflection and choice.”\(^\text{15}\) In other words, this country is the first to come into existence not by coercion or habit, but it was formed by an act of reflection and choice in which people were willing to sacrifice their lives for independence, and to build a government to proceed through its institutions by reflecting and choosing. A nation has to decide by reflection and choice its own destiny, its own fate.

Religious liberty gives us the terrible duty of responding to God’s invitation and ducking behind nobody else, but it also offers us some benefits. Alexis de Tocqueville in Democracy in America in 1835 expressed five strengths that religious liberty adds to a republic.\(^\text{16}\)

First, faith corrects morals and manners.\(^\text{17}\) As an ill-fated bill in the Virginia Assembly put it in 1784, “The general diffusion of Christian knowledge has a tendency to correct the morals of men, restrain their vices, and preserve the peace of society.”\(^\text{18}\) If you have people who have self-mastery in their own lives, you do not need much of a police force. If there are people, none of whom have self-mastery, there are not enough policemen in the world to control them.

Second, Tocqueville noted that fixed ideas about God are indispensable to men for the conduct of daily life, and it is daily life that prevents them from acquiring them.\(^\text{19}\) Since daily life keeps people so busy, these fixed ideas are difficult for most people to reach. Even great philosophers stumble in trying to come to them, but biblical faith provides to reason practical, fixed ideas that very few philosophers can only uncertainly...


\(^{17}\) Ibid.


\(^{19}\) Tocqueville, Democracy in America.
reach for themselves. Thus sound religion, tested in long experience, gives a culture an immense advantage, for man cannot act without living out general ideas. Clarity of soul prevents enervation and the dissipation of energies. Tocqueville asserted that some ideas are a particular boon to free men: ideas rooted in the unity of human kind, duties to neighbor, truth and honesty, and love for the law of reason. Regarding these essential ideas, the answers that biblical religion gives are “clear, precise, intelligible to the crowd, and very durable.”

Third, religion adds to reason indispensable support for the view that every human being is not simply a bundle of pleasure and pains. Tocqueville wrote that democracy favors the taste for physical pleasures. This taste, if it becomes excessive, soon disposes men to believe that nothing but matter exists. Materialism, in its turn, spurs them on to such delights with mad impetuosity. Such is the vicious circle into which democratic nations are driven. It is good that they see the danger and draw back.

So, the principle of equality that animates democracies gives rise to the silent artillery of time and will slowly destroy the nobility of soul.

Fourth, faith adds to morality—the morality of mere reason—an acute sense of acting in the presence of a personal and undeceivable judge who sees and knows even actions performed in secret, even willful acts committed solely in one’s heart; He reads hearts. Faith adds motives for maintaining high standards. Godliness entails attention to details that no one but God sees, whereas morality, construed within the bounds of reason, is a lone calculation of whether it is useful. Faith sees moral behavior in terms of relations between two persons: ourselves, and the God whose friendship we enjoy if we choose. So there is more at stake in the light of faith than the breaking of a law; there is a personal relationship at stake. In this vein, Benjamin Franklin chastised his colleagues at the constitutional convention for their ingratitude, when he said,

In this situation of this assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened so that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings?

And fifth, Tocqueville wrote, religion “reigns supreme in the souls of women and it is the women who shaped mores.” Faith in America has had a dramatic effect on mores, especially in the home. “Certainly of all the countries in the world America is the one in which the marriage tie is most respected and in which the highest and truest

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21 Tocqueville, *Democracy in America*.
22 Tocqueville, *Democracy in America*, 544.
23 Tocqueville, *Democracy in America*.
conception of conjugal happiness has been conceived.”

All over the world it has been customary for men to have mistresses; it was not here. That is one of the things he is looking at—the sacredness of the home, which is so central. He has no doubt that the great severity of mores has its primary origin in beliefs.

In sum, to say nothing of other worldly benefits, Tocqueville argues that faith adds to reason five worldly strands: Restraint of vice and gains in social peace; thick, stable, and general ideas about the dynamics of life; a check on the downward bias on the principle of equality to which materialism and riches gravitate; a new conception of morality; and a personal relationship with our Creator and thus a motive for acting well, even when no one is looking. For all these things, religious liberty is indispensable.

The spirits of religion and freedom say that they need each other. That was part of what the enlightenment was all about: People were enlightened from the darkness of faith. But here is Tocqueville, I have already said enough to put Anglo-American civilization in its true light. It is the product... of two perfectly distinct elements which else would have often been at war with one another, but which in America it was somehow possible to incorporate into each other, forming a marvelous combination. I mean the spirit of religion and the spirit of freedom.... Far from harming each other, these two apparently opposed tendencies work in harmony here and seem to lend [each other] mutual support.... Freedom sees religion as the companion of its struggles and triumphs, the cradle of its infancy, and the divine source of its rights. Religion is considered as the guardian of mores, and mores are regarded as the guarantee of laws and the pledge for the maintenance of freedom itself.

I hope I've shown, though it has been very abstract and very demanding, that religious liberty or liberty of conscience, is the one liberty that roots itself most in the nature of God. It is our duty to recognize what He has done for us and the greatness of what He is. That duty cannot be abridged by anybody else—it is inalienable—it cannot be separated from us. All of our other liberties follow in that pattern.

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The lecture abridged here was originally delivered at the Wheatley Institution at Brigham Young University on October 10, 2013.

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26 Tocqueville, Democracy in America, 291.
27 Tocqueville, Democracy in America.
28 Tocqueville, Democracy in America, 46-7.
RELIGION AND PERFECTIONISM

The crucial issue posed by religious freedom in the world today is the extent to which the religions of the world can actually be reconciled with the secular rule of law and the freedoms, including freedom of religion, that we take for granted. A lecture by visiting professor in the School of Philosophical, Anthropological and Film Studies at the University of St. Andrews and visiting professor in Philosophy at the University of Oxford, Roger Scruton.

Controversy surrounds the First Amendment to the United States Constitution, and will continue to as long as the United States exists. Just what is forbidden and permitted by the ‘no establishment’ clause? Historically, the need for the clause is easy to understand: The Union brought together a great number of communities, most of which adhered to some form of Christian worship, but many of which were adamant that it was their own form and not the form practiced by their rivals. To attempt to impose a single, established church on all the states would have led to the breakdown of the Union. At the federal level therefore, the United States Government showed no favouritism in religious affairs. That relatively weak interpretation of the ‘no establishment’ clause is all that historical hermeneutics authorizes. But it is not how the clause is interpreted today by the secularists. Rather, the assumption seems to be that there can be religious freedom only where there is an enforced absence of religion from the state.

This radical secularist approach quickly leads to a paradox. If there really is religious freedom, then it ought to be possible for each citizen to conduct his life as his faith requires. But religious people may believe that they are under a duty to bear witness to their faith. Teachers, advisors and legislators cannot act as though their religious beliefs had no bearing on what they say and do. They can of course endeavour to make room for disagreement, and this, at least, the ‘no establishment’ clause requires. But they cannot act as though the voice of religion were silenced as soon as they enter the classroom, the law-court or the debating chamber. To take the secularist path to religious freedom is therefore to oppress religion, not to free it.

The Founding Fathers inserted the ‘no establishment’ clause into the Constitution because they wanted free churches, answerable to their congregations, not to law-makers. Moreover the ‘no establishment’ clause was meant as a limitation on the powers of Congress, and not on the powers of the individual States. Today’s radical secularists regard a court’s display of the Ten Commandments, or public schools beginning the day with prayers, as a violation of the ‘no establishment’ clause. Such decisions do not convey a desire to protect religious freedom, so much as a desire to deprive religion of the place that it naturally demands in the public life of a nation whose people remain firmly rooted within Judeo-Christian traditions. Nobody was forcing children to take part in the public prayers at school, or forcing anyone to genuflect before the Ten Commandments in the courtroom, yet there are currents of opinion in America which not only take offense at school prayers and doctrinal icons,
but which believe that it is part of the spirit of democratic freedom to forbid them. Religion, for such people, is not just a private affair: it is something to be privatized, to be confined within the home like some habit that, however innocuous in itself, becomes offensive when displayed in public.

The crucial issue posed by religious freedom in the world today is the extent to which the religions of the world can actually be reconciled with the secular rule of law and the freedoms, including freedom of religion, that we take for granted. Christians are under an obligation to bear witness to their faith, but this does not mean inflicting their faith on others or forcibly requiring others to submit to it. As the founder of the Christian faith himself showed, you bear witness not through triumphing over your rivals but through submitting to their judgment. The Greek word used for the concept of witness, so understood—marturein—is now used to denote those who have been put to death or tormented for the sake of their faith. The Christian faith, as it understands itself today, does not demand that we silence its critics, or even that we forbid them to practice their faith.

The contrast with Islam is vivid. Although the Muslim must also bear witness to his faith and does so by repeating the shahadah, or witness statement that there is no God but Allah and Muhammad is his prophet, the real shahîd or martyr is not just someone who suffers for his faith, but someone who makes a dent in the world of unbelievers, maybe taking as many of them with him into the afterlife as he can. Is it really possible for a religion that sees itself in that way to adjust to the demands of religious freedom?

In order to answer that question we should look again at history, and in particular at the history of Islam. Islamic civilization defines itself in terms not of freedom but of submission. Islam, salm, and salaam—submission, peace, and safety—all derive from the verb salima, whose primary meaning is to be secure, unharmed, or blameless, but which has a derived form meaning “to surrender.” The muslim is the one who has surrendered, submitted, and so obtained security. In that complex etymological knot is tied a vision of society and its rewards, far different from anything that has prevailed in modern Europe and America.

Western civilization, like Islam, grew from a common religious belief and a sacred text. Western civilization has left behind its religious belief and its sacred text to place its trust not in religious certainties, but in open discussion, trial and error, and a ubiquitous habit of self-criticism. The odd thing is that while Islamic civilization is riven by conflict, Western civilization seems to have a built-in tendency to equilibrium. Freedoms that Western citizens take for granted are all but unheard of in Islamic countries, and while no Western citizens are fleeing from the West, seventy per cent of the world’s refugees are Muslims fleeing from places where their religion is the official doctrine. Moreover, those refugees are all fleeing to the West, recognizing no other place that grants the opportunities, freedoms, and personal safety that they despair of finding at home.

In The West and the Rest I explored the vision of society and political order that lies at the heart of Western civilization, and I tried to show how the apparent conflict with Islam is fed by the decay of that Western vision and the loss of the political loyalty on which it depends. I argued that we should look back to the very beginnings of Western civilization in the Greek city-state to understand the deep spiritual reality behind the eventual emergence of the secular rule of law.
Throughout the course of Christian civilization we find a recognition that conflicts must be resolved and social order maintained by political rather than religious jurisdiction. The separation of church and state was from the beginning an accepted doctrine of the church. Indeed, this separation created the church, which emerged from the Dark Ages as a legal subject, with rights, privileges, and a domestic jurisdiction of its own.

No similar institution exists in Islamic countries. There is no legal entity called “The Mosque” to set beside the various Western churches, nor is there any human institution whose role it is to confer holy orders on its members. Those Muslims who have religious authority—the ulema (those with knowledge)—possess it directly from God. Islam has never incorporated itself as a legal person or a subject institution, a fact which has had enormous political repercussions. In its original form, Islam aimed at government; it had no interest in creating a subject institution under an independent sovereign power. In short, Islam does not recognize the political, as a separate source of authority and law from the religious. Law and authority both come from God, and social order arises from a collective submission to God’s will.

Freedom of conscience, as we have understood it in the West, requires secular government. But what makes secular law legitimate? That question is the starting point of Western political philosophy, and is now mired in academic controversy. To cut an interminable story indecently short, the consensus among modern thinkers is that the law is made legitimate by the consent of those who must obey it. This consent is shown in two ways: by a real or implied “social contract,” whereby each person agrees with every other to the principles of government; and by a political process through which each person participates in the making and enacting of the law.

The right and duty of participation is what we mean, or ought to mean, by citizenship, and the distinction between political and religious communities can be summed up in the view that political communities are composed of citizens, religious communities of subjects—of those who have ‘submitted’. And if we want a simple definition of the West as it is today, it would be wise to take the concept of citizenship as our starting point. That is what the millions of migrants are roaming the world in search of: an order that confers security and freedom in exchange for consent.

Although that is what people want, it does not make them happy. Something is missing from a life based purely on consent, and on the polite accommodation with your neighbors—something of which Muslims retain a powerful image through the words of the Koran. This missing thing goes by many names: sense, meaning, purpose, faith, submission. People need freedom; but they also need the goal for which they can renounce it. That is the thought contained in the word ‘Islam’: the willing submission, from which there is no return. This particular act of submission may mean renouncing not only your freedom, but also the very idea of citizenship. It may involve retreating from the open dialogue on which the secular order depends into “the shade of the Koran,” as Sayyid Qutb put it, in a disturbing book that has been an inspiration to the Muslim Brotherhood ever since.29 Citizenship is precisely not the kind of brotherhood for which so many Islamists yearn: It is a relation among strangers, a collective apartness in which all fulfilment and all meaning are confined to the private sphere. To have created this form of renewable loneliness is the great achievement of Western

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civilization, and of course my way of describing it raises the question of whether that achievement is worth defending, and if so how.

My answer is that it is worth defending, but only if we recognize the truth that the present conflict with Islam makes vivid to us the truth that citizenship is not enough, and that it will endure only if it is associated with meanings to which the rising generation can attach its hopes and its search for identity. The secular rule of law grants freedom of speech and freedom of religion; it upholds the right of opposition and implants discussion, disagreement, and compromise in the heart of the legislative order. Islam, by contrast, is suspicious of those freedoms, and demands submission to a single religious law as its price.

To repeat the fundamental point: citizenship is a relation among strangers; it binds people in a web of obligations, in which difference and diversity are part of the deal. Brotherhood is a relation among family members—it binds people in a relation of mutual commitment in which identity and uniformity are the meaning and the goal. The question of religious freedom is not only of great urgency in the world today, but also of great complexity, asking us to clarify just where freedom lies in our scheme of values.

I wish to conclude, therefore, by exploring the conditions that have contributed to the freedom of religion that we have enjoyed in the West, and inquiring as to whether they could be reproduced elsewhere. When called upon to explain the law and how we must adhere to it, Christ said, “Love the Lord thy God with all thy heart, and with all thy mind, and with all thy soul and with all thy strength; and love thy neighbour as thyself. On these two commandments hang all the law and the prophets.” In reducing the commandments to these two he was following a long-standing rabbinical tradition, which we can see at work also in the Torah. The two duties command us to look on the world with a view to loving what we find, and must be obeyed inwardly before they can be translated into deeds. Exactly what deeds will follow cannot be demonstrated a priori as Christ went on to show with the parable of the Good Samaritan. By approaching the world in the posture commanded by Christ, you are already open to legal innovation. Indeed, the law becomes just one among many instruments whereby we take charge of our lives and attempt to fill our hearts with the love of God, and our world with the love of our neighbor.

The story of the Good Samaritan, offered in answer to the question, who is my neighbor?, tells us that love of neighbor, while a religious duty, does not require the imposition of religious conformity and is not a form of brotherhood. It is already shaped according to the requirements of citizenship. You love your neighbor by administering to his needs in adversity, regardless of whether he belongs to you through family, faith, or ethnic identity. On this understanding, the laws that govern us do not require the kind of collective submission that the Islamists long for, and the secular order can take charge of the mutual dealings on which we all depend for survival. Religious freedom can exist within the Christian conception as a religious duty—a form of respect for the neighbor as someone other than me. I sense that there is a deep point to be made here concerning the nature of Christianity. The Christian religion involves a recognition of the other, as other than me, and for this reason has been able to adapt to the world of politics, the goal of which is to create a community of people who acknowledge each other as other, and consent nevertheless to be governed by a single system of law.

30 Matthew 22:37 (King James Bible).
Therefore, religious freedom as we have enjoyed it, is itself a legacy of the religions that have enjoyed precedence in the Western world—the Judeo-Christian faiths for which the stranger and the brother have an equal claim. When those faiths decline, there remains only the shell of the political order that grew from them. People hunger for the spiritual life, which that shell protected. Christianity provided that life; in its present form, Islam cannot provide it since it presses against the shell of secular law, and threatens always to replace it with another kind of law entirely—a law that can be read as directed against the otherness of others, rather than a law designed to protect them.

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Securing the Free Exercise of Conscience

The story of Dostoyevsky’s Grand Inquisitor occurs all too often: The masses appear to prefer bread understood to represent all material wants and needs to freedom. In my view it is only freely chosen religion, or freely chosen world views analogous to religion, both of which are protected by freedom of religion or belief, that can ultimately reinforce the commitment to freedom sufficiently to override the range of other interests. A lecture by the Director of the International Center for Law and Religion Studies and the Susa Young Gates University Professor of Law at the J. Reuben Clark Law School at Brigham Young University, Cole Durham.

I want to make a general case to underscore the urgency of the free exercise of conscience not only at our time, but in all time. It is important to focus on conscience which lies at the core of religious freedom rights, and more generally at the core of human dignity. In part, securing freedom of conscience has an instrumental value as a framework for peace and for the flourishing of society, but even more, it has intrinsic value for the human soul.

Seventy percent of people on earth live in a country with either high or very high restrictions on freedom of religion.31 The numbers are actually getting worse. This is in part because the countries include India, China, and a few other mega countries, but still it is sobering to think that so many of our brothers and sisters are living under these kinds of restrictions, which cause many problems for people of faith.

Let me just give you some quick vignettes about the practical things that are happening in the world. These are not necessarily selected for their significance; I just looked at a headline service and took one day.

There was an article in the World Watch Monitor indicating that Northern Iraq appears to no longer be safe for Christians.32 The once safe Kurdish North is increasingly dangerous: Several bombings have caused panic in the community; police—representatives of the government—have told young Christians that they should not be in Iraq because it is a Muslim country. Police are not supposed to do things like that.

Egypt: Gunmen on motorcycles open fire on Coptic wedding.33 It could be random acts of violence, but there’s indication that Coptic Christians are being targeted by Islamists since Morsi lost power. Kazakhstan: Four Russian citizens, not Kazaks, not Muslims necessarily, were detained in Kazakhstan’s northern Kostanay Region (located near the

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Russian border). They did not break any border-crossing regulations but religious literature in Arabic was found in their car and therefore they were held up and stopped—clear censorship. Each of these are just the tip of the iceberg in a lot of these countries.

Here’s one from the United States: The Alliance Defending Freedom posted something saying that the attorneys have asked the Supreme Court to reverse the Ninth Circuit decision that allows local governments to impose stricter regulations on temporary church signs than on other temporary signs. Political signs seem to be fine, but if you say, “good news, come to our church,” you’re in trouble.

These are just little vignettes. Every day you can find literally hundreds of these kinds of incidents around the world, and the question is what do we do about it?

I want to make the case that religious freedom is a core doctrine and is vital at all times. Elder Bruce R. McConkie underscores this:

> Freedom of worship is one of the basic doctrines of the gospel. Indeed, in one manner of speaking, it is the most basic of all doctrines, even taking precedence over the nature and kind of being that God is, or the atoning sacrifice of the Son of God, or the vesting of priesthood and keys and saving power in the one true church. By this we mean that if there were not freedom of worship, there would be no God, no redemption, no salvation in the kingdom of God.

Notice he did not say it’s the most important doctrine, he said it’s the most basic.

Freedom of religion or belief is historically foundational because so many of our other rights emerged as additional supports or expansions of legal protections originally designed to protect religious freedom. It is philosophically foundational because it protects the comprehensive belief systems and world views in which our other ideas are rooted and from which they derive their meanings. It’s institutionally foundational because it protects and fosters the institutions that engender the vision, the motivation, and the moral support that translate religious and moral ideas into personal and communal practice. As will become evident in what follows, it is also empirically foundational in that we now have extensive evidence that it undergirds and fosters countless other social goods. It often overlaps with other rights, such as freedom of expression, freedom of association, rights to non-discrimination, rights to the protection of an intimate, private sphere, and so forth, but its sum is greater than its individual parts.

We’ve been so accustomed to life in a society blessed with religious freedom that we forget that religious freedom is really foundational for all liberties and the way of life that they preserve. The famous German jurist and constitutional court judge, Hans Böckenförde wisely remarked, “A free, liberal, and democratic state can only be built and sustainable on a foundation that it itself is unable to create.” Explaining this quotation, Judge Andra Sajo has stated, “Without supportive and dedicated public

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36 Bruce R. McConkie, A New Witness for the Articles of Faith (Salt Lake City: Deseret Book, 1985), 655.
37 Ernst-Wolfgang, Böckenförde, Recht, Staat, Freiheit: Studien zu Rechtsphilosophie, Staatstheorie und Verfassungsgeschichte, (Frankfurt am Main: Suhrkamp, 1992), 112.
In his view, the tragedy of liberty lies in the fact that other passions and interests are likely to overwhelm the desire for freedom. The story of Dostoyevsky’s *Grand Inquisitor* occurs all too often: The masses appear to prefer bread understood to represent all material wants and needs to freedom. In my view it is only freely chosen religion, or freely chosen world views analogous to religion, both of which are protected by freedom of religion or belief, that can ultimately reinforce the commitment to freedom sufficiently to override the range of other interests.

As the case of the *Grand Inquisitor* suggests, even the most spiritually powerful religious values may be overridden by other passions. This foundational right is founded in deeper notions of human dignity. I take as a text here the *Universal Declaration of Human Rights* adopted after World War II in the United Nations. This is the opening line: “Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.” That basic notion has found its way into the constitutions of many of the countries on earth and is tremendously significant as a practical matter. The notion of dignity has deep roots in both Jewish and Christian beliefs. We know the scripture, “God created man in His own image, in the image of God created He him, male and female created He them.” We are probably a little less familiar with the passage in Ephesians that talks about putting on the new man, which—after God—is created in righteousness and true holiness. Not only were human beings created from the beginning in the image of God, but when we put on the new man as a result of being born again, we are even more clearly created in His image.

This gives a brief intimation of why freedom of religion, belief, and conscience is a right for all seasons. Religious freedom is grounded in dignity and dignity’s core is tied to agency and conscience. Of course, the relatively recent affirmation of human dignity and human rights, including religious freedom rights in the constitutions and human rights instruments in the last decades, is the fruit of a more secular age.

The process of secularization has often resulted in the separation of contemporary constitutional ideas from their religious roots. This process is often carried out in the name of enlightenment, but at a minimum it is important to remember that whatever light enlightenment sheds, it should not call for lowering the standards of dignity that have emerged in more religious days. In contemporary international human rights law, part of the appeal of the notion of conscience is that it can be understood to cover both religious and secular convictions. Thus, in international settings it has become not only common, but politically correct (politically demanded I might add) to speak of freedom of religion or belief. That is the idea that secular world views or convictions should be given equal treatment.

That seems fair in so far as it gives equal treatment to a range of views, such as passivism, conscientious objection to war, and a variety of other secularist or humanist

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38 Source quoted by author from unpublished source.
40 Ibid.
42 Genesis 1:27 (King James Version).
43 Ephesians 4:24 (King James Version).
positions. A caution needs to be raised, however, when secularism asserts for itself the right to become a privileged and dominant ideology, one which begins to invoke the engines of the state to persecute religion. At that point, secularism begins to become guilty of the same persecution syndrome that has dominated much of religious history.

This is the story of persecuted minorities becoming persecuting majorities as soon as they gain power. The warning sign of the danger of this phenomenon is the emergence of arguments to the effect that religious arguments must be banned from the public square, and that only secular, so-called public, reasons can legitimately ground public policy. Making religious arguments into second class arguments is the first phase of political maneuvers that make religious believers into second-class citizens. Securing the free exercise of conscience, means securing the rights to express and live by religious beliefs within the limits of a maximized, equal freedom for all to live according to their consciences. In a pluralistic world we may not be able to fully understand each other's religious beliefs. Indeed, we seldom fully understand our own beliefs. We can understand enough to sense the reverence and commitment others feel for their ideals and this can be a starting point for peace.

When the idea of basing a society on protection of freedom or religion was first considered, it was very much an untried idea. The founding of the United States was a risky experience. The Founding Fathers had deep philosophical reasons for adopting this kind of society and for thinking it would work, but no one knew it would work for sure. Two ensuing centuries have proven this to be one of the most successful experiments in human history. Even though the ideal of religious liberty has never been perfectly implemented, our nation has been blessed with extraordinary success on countless fronts, as the marvelous title of a book by John Noonan reminds us; *Religious Freedom is the Luster of our Country*.

The world has learned a great deal about the nature of religious freedom over the past two centuries: It is a complex right, a jewel with many facets. Free exercise of conscience lies at its core. There is internal freedom, which is absolutely protected; external freedom or manifestations of religion, the notion of non-coercion, parental and children’s rights, non-discrimination, and the autonomy of religious institutions. There are limitation provisions; religious freedom is not an absolute right. It sounds like it when you read the first amendment, but our courts understood there have to be some limits. Note, again, that free exercise of conscience lies at the core. It is the essence of internal freedom, it is what is manifested in external freedom, it is what is protected against coercion, it is sheltered in the family, and more generally in society it is sheltered against discrimination. Conscientious beliefs lie at the core of belief communities, and strong protection of the autonomy rights of religious institutions is vital to protecting the authenticity of belief communities.

Free-exercise rights are not without limits. We now have extensive experience with how to maximize free exercise while taking into account legitimate limitations. We also know the risk to religious freedom posed by those who would maximize the limitations. In democratic countries, the key legal dramas about religious freedom focus on the limitation provisions. Erosion of religious freedom comes not in attacking the normative core, but in arguing for overly broad exceptions.

The status of religious freedom as a non-derogable right is under the international covenant on civil and political rights, and there are a small handful of rights that are said to be non-derogable even in times of public emergency. This doesn’t
mean it is a right without limits, but it does mean that a right with its limiting provisions intact must be protected even in times of national emergency, even when other fundamental rights such as freedom of speech can be restrained. There are very few rights given this status. All the reasons for recognizing this unique status are not clear. In part, non-derogability reflects the fact that even in and perhaps most especially during times of crisis, people will turn to religion and this must be respected. Moreover, failure to protect religions at such times may further inflame already explosive situations, especially if religion is involved in some way, rightly or wrongly, in the conflict. Perhaps most fundamentally, there can be no starting point toward peace if both sides don’t believe that their most fundamental values are to be protected.

Having said what I can for now about dignity and conscience and the structure of religious freedom rights to which they give rise, let me turn to the reasons for thinking free exercise of conscience is vital to the cultivation of other social goods. Religious freedom is highly correlated with a remarkable number of social goods. The correlations are strongest and largest with political freedom, freedom of the press, and civil liberties because these inherently overlap with freedom of religion. We live in a time when many would argue that religion is an enemy of gender empowerment and yet it is one of the strongest correlations. I’m not clear why protecting freedom of religion should correlate with spending less on the military except maybe, in some deep sense, religions are committed to peace. It turns out that having religious freedom is profoundly important for the longevity of democracy. There is a very high correlation between religious liberty and literacy rates. There is a range of social goods which are highly correlated with religious freedom. Correlation not necessarily causation, but I think there are powerful reasons to think there is a causal connection between religious freedom and a lot of other social goods.

If you think about the whole range of social goods, obviously one could think about spiritual kinds of things that are important to human beings, and of course you would expect that freedom of religion would help cultivate and protect some of those kinds of values. I am going to focus more exclusively on the material foundations of society because free exercise of religion is vital to fostering peace and stability and it’s vital to development. Religious freedom can be regarded as a desideratum for peace. By desideratum I mean something desired as essential to peace precisely because our conscientious beliefs go to the core of not only our identity but also of our very nature. They are beliefs that many of us value more than life itself. These are values that people throughout history have demonstrated they’re willing to die for. Securing free exercise of conscience is vital because no society that fails to protect this aspect of human life can be stable over time. No human arrangement that fails to secure the right to free exercise of conscience can be just.

There are important normative considerations, but there is a mounting store of empirical evidence that confirms the linkage of religious freedom and peace. The pre-modern assumptions were that religious homogeneity is necessary for political stability. It was assumed that religion was the necessary glue for social coherence, and the ultimate motivation for loyalty and obedience in the country came from religion. That’s why, at least in part, political leaders were always so concerned or worried about the centers. Religious truth demanded state backing of religious beliefs.

With Locke, we had really a revolutionary turning point, sort of like the Copernican revolution in science because he rejected these pre-modern assumptions or
recognized that they were wrong or misleading in some fundamental ways. This is articulated probably the best in his *Letter Concerning Toleration*.\(^{44}\) In his view, state coercion is ineffective because you cannot force someone to heaven. Using physical force, the tools of the state, you can maybe extract hypocrisy but you can’t generate authentic religious life. What Locke saw is that, even more fundamentally, coerced toleration is a source of religious violence rather than peace. Respecting difference breeds loyalty, stability, and peace. In a way, Locke was writing in the shadow of the English Civil War and there was a tendency to acknowledge these religiously diverse views, and they started causing problems and started acting out and they tore the country apart. This kind of social disintegration is something that we can’t afford.

Locke saw that maybe it was not the fact that the dissenting groups were there that was the problem, but that the states were going after them to induce conformity. When you attack something that people care about more than life itself, they might turn the other cheek, but they might fight back, feeling that they’re justified in defending what is most precious. If you read about General Moroni in the Book of Mormon, the *Title of Liberty* was very much about protecting these kinds of things.\(^{45}\) With this in mind it is not surprising that dissenting groups played a tremendously significant role in framing religious freedom. They had a sense of the importance of this right, as for example, in Pennsylvania where smaller groups understood the need for religious liberty and helped to frame the arguments.

The latest empirical research shows that restrictions on religious freedom are highly correlated with—and appear to be a significant factor in causing—religious violence.\(^{46}\) Religious freedom, in contrast, correlates with peace and stability.\(^{47}\) There are some reasons for this; there’s not just a correlation but there are some cycles that are predictable, understandable, and that would help reinforce the notion that there are real causal relationships here.

If you have religious freedom in a country that allows competition between religious groups, you tend to get more vital religious life in the society. This leads to broader religious participation. Broader religious participation, in turn, creates a lot of positive contributions to society and there’s a lot of work being done on the way that religious groups contribute to the building social capital. When you get those kinds of positive effects, it reinforces a sense that religious freedom is a good thing, people have more experience with that, they’re less afraid with pluralism and religious diversity, and you get a very healthy cycle.

Now there’s another kind of cycle that’s much more dangerous and destructive. If you have significant social restrictions coming from social tensions on religions, not surprisingly that will create pressure for government restrictions, but it turns out that the government restrictions will often trigger reactions which contribute to the violent

\(^{45}\) Alma 46.
\(^{47}\) Ibid.
cycle. You see more violence, there is more social hostility, and again you get a negative kind of cycle.48

There are a number of reasons for thinking of freedom of religion as a framework for peace. It provides long-term stable basis for social peace in pluralistic societies where there is gratitude; it provides for the protection of the right to practice core beliefs that translates into loyalty to the government; social conflict and violence become counter-productive for dominant groups seeking to protect their market share. Religious freedom will serve as a factor to peace. It poses some hazards, but if you look at the data, it’s less hazardous than the myth might make it look.49

Religious freedom also provides footings for peace building. Religious freedom imposes discipline on religious ideas and actors, the discipline of competing ideas, and the discipline of accepting the constraints of entering into a marketplace of ideas. This helps to reduce the risk of extremism and terrorism. Religious freedom helps filter the ambivalence of the state deciding what should be permitted and what shouldn’t. Religious freedom is really an imperative for security. In profound ways, really sophisticated security people understand that religious freedom has got to be part of the planning for working on security solutions. Religious freedom is a protector of peacemaking institutions.

The lecture abridged here was originally delivered at the Wheatley Institution at Brigham Young University on October 10, 2013.

49 Grim and Finke, The Price of Freedom Denied.
What Religion is “Envisaged” by the First Amendment?

My argument might be crystallized in this way: To the extent that we cast our arguments along the lines of “belief” and “sincerity,” we can do no more than plead for an exemption from the laws imposed on others. But that kind of argument distorts the truer moral character of the argument we are making, for we truly see these mandates as wrongful laws, which should be enforced on no one. A lecture by an American political scientist and the Edward N. Ney Professor of Jurisprudence and American Institutions at Amherst College, Hadley Arkes.

I would hardly bring news when I note that we find ourselves in dark times for the defense of religious freedom against the government of the day. Even people experienced in politics were jolted to discover that the Obama Administration had deliberately chosen, as a political stroke, to pick a fight with the Catholic Church by compelling Catholic institutions and Catholic businessmen to cover abortifacients and contraceptives in the medical insurance they offer to their employees. The religious, now embattled in the courts, are persistently invoking the First Amendment: that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

And yet it seems to be coming as a surprise to the religious and their lawyers, so late in the seasons of our experience, as to how thin and equivocal the First Amendment would be as a support for their religious freedom.

There have been trends working to protect the religious, and yet they may have little to do with any protections set down for religion explicitly in the Constitution, much less a reverence for religious belief. In fact, since the time that the Court lifted the provisions on religion to the level of clauses enforced against the States, the trend has been one of reducing “religion” to a body of “beliefs” with no claim to truth, and no claim to be taken seriously by anyone who does not share those beliefs. It may be no surprise that we find no ready refuge in invoking the First Amendment in defending religious freedom. It is indeed time to start recasting the argument for religious freedom to undo the work of the judges and the way they have misshaped the understanding of the public. Ordinary folks may invoke their rights under the First Amendment without quite realizing that they are appealing merely to the positive law of the Constitution, but clearly their understanding runs deeper. In their natural understanding they do seem to think that they are appealing to something right in principle, something closer, then, to a natural right, which would be there even without the Constitution. Of course, that “natural right” to be left undisturbed in the religious life did not necessarily entail the fuller set of “civil” rights that attached to citizens. And it certainly did not entail “political rights.” It also went without saying that the natural right to practice one’s religion would be governed and restrained by the laws that were rightly binding on

50 U.S. Constitution, amend. 1.

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everyone else, because they sprang from the same ground of natural law and moral reasoning that entailed the freedom of religion. And so the laws that barred homicide would bar the burning of wives on the funeral pyres of husbands even if the act were done in accord with a religious code. Not everything that people professed themselves “obliged” to do by their understanding of God’s commands, or the commands of their religion, would be honored merely because people professed to believe earnestly in the source of the obligation and their duty to respect it.

And yet the complications run deeper than that: If we take freedom of religion as a “natural right,” we discover that the conventional and familiar arguments for religious freedom in the courts suffer a critical embarrassment, for those arguments are not offered in the currency of “natural rights,” with reasons that are accessible even to people who do not share the convictions of the religious. The defenders of religious freedom offer foremost an avowal of their earnest, sincerely held beliefs. On the other hand, if we take religious freedom as a natural right we are led to a recognition that the defenders of religious freedom may find quite as jolting, or at least uncongenial or impolitic: for we would be led to the recognition that not everything that calls itself religion has a claim to be taken seriously with the same respect or invested with the same cluster of rights to their practice.

When the argument for religious freedom is cast as an argument in natural law, moving beyond beliefs, and appealing to objective moral norms, accessible to our reason, the problem of Obamacare and the mandates transform. And by transform I mean a shift that suddenly alters, for lawyers and judges, the landscape before them and leaves them uncertain about the terms that would guide them. Consider this problem of two owners of businesses: Both of them object on moral grounds to the mandates of Obamacare on abortion and contraception. One is a Catholic, whose understanding has been informed by the Catholic reasoning on these matters. The other man claims no religious attachment; he has formed a moral objection to abortion, say, solely on the grounds of that principled reasoning that the Church itself teaches as a teaching in natural law. Are the claims distinguishable on any grounds that matter? And does one position claim a certain dignity of religious conviction or religious freedom that is not available to the man standing against the law with the same moral reasoning used by the Church? We might ask then, with the labels stripped away, Is one man being deprived of his religious freedom, and the other deprived of nothing of comparable moral or constitutional standing?

51 See, in this respect, Reynolds v. U.S., 98 U.S. 145 (1878) and the commentary of Chief Justice Waite:

Laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose one believed that human sacrifices were a necessary part of religious worship; would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband; would it be beyond the power of the civil government to prevent her carrying her belief into practice?
[Ibid., at 166.]

The case did not involve, of course, the burning of widows; it was the case, ever vexing in that period, of polygamy in Utah.
This confusion over beliefs and reasoning was on display in a notable victory had in the courts for the religious owners of businesses that came under the mandates of the Affordable Care Act (or Obamacare). A federal appellate court in Colorado went to the aid, for a moment at least, of the Green Family, the owners of the Hobby Lobby “craft” stores and Mardel, a chain of Christian bookstores. The Greens offer a program of health insurance to their employees, and under Obamacare, the Greens would have been obliged to cover in their plans, contraceptives and abortifacients. The Greens asserted that they could not do that without violating their religious convictions. The appellate court preserved for the Greens the possibility of sustaining their suit and holding at bay the barrage of fines that the government was prepared to unload on them. But if this was a victory, it was a melancholy win. According to Judge Tymkovich, who wrote for the court, the Greens assert, among their “sincere beliefs,” a “belief that human life begins when sperm fertilizes an egg.” A “belief”? That would surely come as news to the authors of all of the texts in embryology, who report that point as one of their anchoring truths. The Greens also “believe” that they would be “facilitating harms toward human beings” if they helped to provide drugs that prevent implantation on the uterine wall. Since the blocking of implantation does kill the nascent life, we may ask, what is the part that belongs here to “belief” rather than truth?

Our friends litigating religious freedom feel pressed to argue within the grooves of “sincere beliefs,” because they are the terms that the courts have confirmed and the judges recognize. But in this way they plug into a trend of cases that has seen “conscience” reduced, or relativized, to virtually anything that a person sincerely believes, and religion itself relativized until it is detached from any notion of God and the laws springing from that God.

The canons of reason will ever be woven into the law on religion—even in judging what is plausible or implausible in what is reported to us about the word of God. And as Michael Novak has pointed out so powerfully, those canons of reason have been bound up, from the beginning of the American law, with the Creator who endowed us with rights. That was the Creator mentioned in the Declaration of Independence, the Author of the “Laws of Nature,” including the moral laws. Aristotle taught us that the mark of the polis, the political order, was the presence of law, and law sprang distinctly from the nature of that creature who can give and understand reasons over matters of right and wrong. This moral argument may be deepened by pointing out the claims that the Greens have forgone: They do not make the kinds of arguments we have seen in the past on the part of people who object “conscientiously” to the fact that the money they are compelled to pay in taxes is being used for policies they find deeply repugnant. The Greens understand that they are already committed, through the nexus of the tax system, to the support of abortions funded and promoted by the government. But the question now is just why the Greens should be compelled to support abortion more directly and personally through the medical services they fund for their employees.

With Obamacare the same principle must come into play: After all, if a service is mandated by the federal government, the federal government should be required to

53 Ibid.
fund that service, not transfer a public service to private persons to bear at private expense. That convenient device simply manages to avoid the discipline of constitutionalism, for it frees the government from the need to raise the money to cover its own commitments, and justify to the voters the added taxes that it is laying upon the public.

When we bring together these points, the case for imposing on private persons the obligation to fund abortions for other persons would not survive the tests of justification that were once thought to spring into place for any measure that could be imposed on the public with the force of law. The readiest, general rationale is that the measure would be necessary for the public safety or health. But abortion is not a procedure that relieves any illness or cures any disease, for pregnancy is not a state of illness. And if the offspring in the womb cannot be anything other than human, then it could hardly enhance the “public safety” by withdrawing the protections of the law from this whole class of human beings.

What I’m arguing here is that the strongest argument on the side of the Green family and other religious people would be found, not in appeals to belief and sincerity, but to the principles that are bound up with a constitutional order. And the deeper point is that there is nothing in this approach that diminishes the dignity or standing of the religious life. This is not, in the moral scale of things, a lesser argument. What people may no longer notice is just how deeply those principles of constitutionalism are woven in with our religious tradition. And the deep truth of the matter is that the religious tradition does not come into our law and our lives as a set of eccentric “beliefs,” merely begging for indulgence and exemptions to the laws laid down for others. But rather, our religious teaching has formed the deep moral reservoir on which the law has drawn.

My argument here is that we have backed ourselves into a rather impoverished and self-defeating mode of argument and understanding as we have been content to settle in with appeals for religious freedom based upon “sincere beliefs”—as though any beliefs sincerely held had a claim to our respect. As anyone will tell you, the zealots who flew those planes into the World Trade Center on September 11 no doubt earnestly believed the doctrines that had taken hold of their lives; and yet our respect is not summoned or commanded by the report they held to their beliefs with a tenacious sincerity.

My argument might be crystallized in this way: To the extent that we cast our arguments along the lines of “belief” and “sincerity,” we can do no more than plead for an exemption from the laws imposed on others. But that kind of argument distorts the truer moral character of the argument we are making, for we truly see these mandates as wrongful laws, which should be enforced on no one. And so why should we resist repairing to those deeper principles bound up with the very logic of constitutional government, for they cast their protection over all of us, and we are not demeaned, as a “religious” people, by the principles that protect us all.

If I am right in spotting the real tension or problem of coherence in the argument, then we would indeed need some serious work in recasting the arguments that the defenders of religious freedom have been making in the courts. The job may be made easier by the fact that this task of recasting simply requires us to restore the things that were once known widely among lawyers, and which can never be coherently denied: namely, that necessary connection between “the logic of morals” and the “logic of law,” and the demanding burdens the law should have to face before it imposes on the
religious—or the non-religious—these mandates on abortion and contraception. The task is made slightly more difficult by the fact that, for several generations now, lawyers and graduates of universities have been led away from that classic understanding as they have been led away from the notion of natural law and objective moral truths.

If that task of teaching anew seems daunting we should remind ourselves that some of us have seen, in our own lifetimes, Justice Hugo Black recasting the law on the Establishment of religion and the very meaning of religion, beginning in 1947 with the Everson case.\(^5\) It was a deeply false teaching—false in its historical construction of the meaning of the First Amendment on the Establishment, and false in the understanding that would remove religion from our public discourse and political life. And yet, so deeply did that recasting take hold that Justices like David Souter would refer to it as a firmly settled part of our jurisprudence as though it had been part of the original text of the Constitution. Justice Scalia set off years ago to teach us how to talk about “originalism,” and Clarence Thomas on how to recover the Commerce Clause as it was. If we think these things are worth doing, the judges are in a unique position for teaching, and if we are to teach anew, we might as well start now.

In our own case, there is no need to contrive anything new; it truly is a matter of teaching anew the things that judges once used to know, and could easily know again, because these truths have always been there. It may indeed be the case that judges will cast their arguments in terms of “beliefs,” because that is what they have become used to hearing and writing. But to give an account of the reasoning and the truths that form the ground of our religious conviction is to give a more accurate and more faithful account of the life we are seeking to describe and a more coherent account of the jurisprudence we would seek to shape. And a jurisprudence that can explain its moral ground is a jurisprudence that does not back away from explaining the justice it seeks to do.

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Equal Partners: The Salience of Roles in Marriage and Family

By refusing to acknowledge differences between men and women, we have a refusal by definition to consider even the possibility of complementarity. We insist that everything that a male and female does in the context of the family is an overlap of what the other does and that the sexes are absolutely redundant and there is nothing that either could receive from the other. A lecture by Professor of Law at George Mason University School of Law, Helen Alvaré.

In the world we live today, the phrase equal partners will probably satisfy a lot of people, particularly people who like the word partners, not spouses, and people who don’t like the words marriage and family. But then they would really be upset with the next part of the title which uses the words roles in marriage and family. All three of those words are really getting a run for their money right now. In the work I do in the United Nations, in particular, you would never see the words marriage and family in documents about women, children, and families; it is as if they do not exist. You’ll notice that the word roles is central in this title. What I offer is going to bridge the two parts of this title, Equal Partners and the Salience of Roles.

We have to acknowledge that many role assignments to men and women end up inuring to the detriment of women. On their face, many of these role assignments are not just objectively placing women in the lesser position, but society has accounted these roles as lesser. Philosopher Prudence Allen investigated such questions from the perspective of the concept of woman in philosophy from the beginning of recorded philosophical inquiry to the present. If you look at her material, you will see that, while women’s traits would not objectively be ranked less on their face, they often were ranked less in fact. Consider the following pairs of traits, with women’s traits listed first and men’s traits second: body/mind; body/rational faculties; matter/spirit; domestic or private sphere/ public sphere; practical/intellectual; intuitive/rational; concrete/abstract; detail oriented/big picture; local/national; linear thinking/complex thinking; follower/leader; passive/active; dependent/ independent; receiver/giver; invisible influencer/visible influencer; gentle/rough; weak/strong; non-violent/violent; calming/provoking; innocent/worldly; relational/individualistic; communitarian/ individualistic; collaborative/hierarchical; scattered/focused. And here is an interesting set: virtue/vice or vice/virtue. Depending on the era, those switch places, as does another pair, tempted/tempter; tempter/tempted.

Those are some of the leading dichotomies, if you will, through history, but it is by no means sure that the assignment of those dichotomies will not shift or even reverse in our present time. The usual rankings assumed that the male trait was objectively

superior, but, again, we don’t know that these rankings will remain stable in the future. Societies, economies, and practices change, and what are now called female traits—particularly collaboration or relationality—are today, getting their due. They’re being seen as valuable in and of themselves and to the society, in part through the work of some of the feminists of the late 20th century.

Still, I’ll argue that while it remains fraught to speak of dichotomies, roles, differences in natures, it remains rational—and even helpful—to do so, but in a new framework. This framework, a way to speak of these things that provides a foundation also for speaking equally of roles and equal partnerships between men and women, is derived from the theology of Catholic teaching. It is called the anthropology of women, or the anthropology of the dignity of women, or the anthropology of sexual difference. A lot of it has echoes or analogies or common references to the Family Proclamation of the Church of Jesus Christ of Latter-day Saints and I will point them out from time to time. I’m going to turn first to the question of why we can still even speak of the salience of roles of men and women, then I’m going to talk about how in particular a Catholic anthropology of roles or male and female puts them in a new framework that allows us to speak of equal partnerships in the same way that the family proclamation would speak of them on many points.

We’re very familiar with the modern iteration of the sexual revolution that has been unfolding for at least 50 years. During these 50 years, women’s acceptance of the dissociation of sex from babies and marriage has been the outstanding feature of this revolution. Women have voted with their feet by assuming roles that in some cases overlap quite neatly with those populated previously almost exclusively by men; but they have also voted with their feet in many cases to choose X but not Y in a way that indicates that the phrase “the salience of roles” is neither offensive nor inaccurate.

There is evidence, in other words, of persisting differences in the lives that women and men choose even though virtually every choice is now open to women. Women still prefer some jobs over others, as do men. Women still profess a higher interest in getting married than men do, and getting married earlier, too. Women express preferences for fewer sexual partners in their lifetime. They express more regret and actually experience more depression than do men about sexual encounters that occur outside the context of commitment. It is women who dominate lone parent households by a whopping 85 percent to 15 percent female to male. Women also more often express a preference for flexible or part-time work schedules in order to spend more time with their children and with elderly family members for whom they care.

In terms of the appropriateness of talking about the salience of roles, there’s also the fact that the most famous “scientific” gambits for the proposition that there are no important differences between men and women have really been exposed as failures, lies, or worse. The research upon which the most strident claims of the 20th century were made for the claim that there’s no difference between men and women has been shown to have some common problems. In a forthcoming book, Prudence Allen identifies the most common problems as the following: They are often based upon research that wasn’t just using flawed methods, but outright fraudulent methods; they used research that harmed the innocent and the consequences of their research also harmed the innocent; they tried to argue from animal behaviors to human behaviors; and researchers argued from the exception to the rule.64

Even knowing what we know about the problems with these claimed scientific findings, we have to acknowledge that there still is a great resistance to acknowledging differences between men and women. We have to sympathize somewhat with those who are afraid to acknowledge those differences. It is true that various cultures, governments, or even religions have relied on these differences as reasons to treat women with less than equal dignity, but we cannot let fear of what might happen with these dichotomies be the last word. We have to concern ourselves first with what is true, not only because it is important to acknowledge what is true about the human person, but also because refusing to acknowledge differences between the two sexes has played an important role in instigating real social harm. People who claim that there is no difference between male and female have argued that it makes no difference in married life if the man and the woman switch roles or if they have an agreement to observe a rigid fifty-fifty division of everything that people do in a marriage and yet we find that couples who live this way actually have the highest risk of divorce. People who live with a marital philosophy of measurement confound their own inclination toward their own vocations in marriage and the creation of a marital culture of abundance or giving, so it is actually couples who switch roles or “keep accounts” who have the least successful marriages, not the most successful.

Further, by refusing to acknowledge differences between men and women, we have a refusal by definition to consider even the possibility of complementarity. We insist that everything that a male and female does in the context of the family is an overlap of what the other does, and that the sexes are absolutely redundant and there is nothing that either could receive from the other. In a variety of academic disciplines this has also lead to a real lack of studying of the phenomenon of complementarity.

St. John Paul II approached this question in a reflection on women called Mulieris Dignitatem (which means on the dignity of women), published in 1988.65 Mulieris Dignitatem refused to accept these historically received dichotomies on their face with their greater and lesser ranking and innovated the understanding of the meaning of being created in the image and likeness of God. This is something many religions share. The LDS Family Proclamation is clear that all human beings are in the image and likeness of God, right away a basis for a kind of equality that is hard for

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64 Prudence Allen, The Concept of Woman Volume III, (forthcoming, manuscript shared with author).
anything else in the world to match. And Mulieris Dignitatem highlighted something new. It stated that human beings image God in a way that is fully as important as free will and rationality; it is that we were made in and for relationships in the sense that men and women together image God, not one to the exclusion of the other. By this I do not mean that neither the man nor the woman alone can image God. Each does. But together, they are a particularly rich image of God, because they offer a glimpse of his relational self as Trinity. Theologian Margaret McCarthy has a wonderful analysis of the relational aspect of Imago Dei. She analogizes this relationship between men and women to that between Jesus and His Father. The Father is a father by virtue of having a son and the Son a son by virtue of having a father. Applying this analysis to men and women, each is the only one fit to be of mutual help to the other ontologically. Each is the only one who can make the other apparent with the help of the Lord, as Genesis says. Each needs the other to understand more about the very identity and image of God.

Once this human imaging of a Trinitarian God as relational is brought to the fore, then men and women are not only essential partners, but the woman’s capacity to bear new life and her special gift of attention to new life—which Benedict XVI calls her “capacity for the other”—can be identified and valorized. The old dichotomy’s instinct to rank traits is transcended in favor of seeing one always in light of the other, which is very much my understanding of the way the family proclamation talks about the gifts of the husband and wife as an equal partnership, but definitely different: not less than one another, but each in light of the other; interacting mutual gifts.

While Mulieris Dignitatem eschews rankings of gifts or traits, it easily affirms the differences between the sexes. This transcends the inclination of history to rank and the inclination of secular feminisms to avoid acknowledging differences because of the belief that they can only lead to rankings. Mulieris Dignitatem accomplished this by framing all differences as gifts received in order to be given. You’re given a gift in order to give it. There is a theologian, Brian Johnson, who talked about a new framework for understanding Catholic morality: All behavior has to be judged in terms of whether it capacitates the other to be a gift. To love another is to capacitate who they were meant to be by God.

Mulieris Dignitatem boldly asserts that love is the meaning of life and women are first, or prior, in the order of love: the first to be entrusted with new life. It bases its conclusions not only on the fact of women’s fertility, but also women’s demonstrated gift for acknowledging the other. The recognition of women’s gift for loving other people means, John Paul II claims, that she teaches the man his fatherhood, not to lord it over him, but to enable him to give the gifts that men give to their wives, to their children, and to the world. This feature of Mulieris Dignitatem claims that women are gifted with

70 Genesis 4:1 (English Standard Version).
a capacity for the person, but its simultaneous insistence that love is the meaning of every human life, upends the entire historical inclination to account feminine traits as lesser both because they are feminine, and because such a ranking assumes that worldly goods and power are the measure of success rather than the capacity to love well. If that is the measure of success, then this discussion of who the woman is and what her primary gift is, has a whole new aspect.\footnote{John Paul II, \textit{Mulieris Dignitatatem (On the Dignity and Vocation of Women)}, (Boston: Daughters of St. Paul, 1988).}

\textit{Mulieris Dignitatem} redeems the body while not exalting it as higher than the spirit or soul. Because the body’s mortality and its other limitations and feelings were noted, women’s association with bringing forth new life and caring for persons was counted against them. From these premises flow the problems we see with women’s bodies treated as things, as property. This includes prostitution, pornography, trafficking, and demands that sex is the price of a romantic relationship. \textit{Mulieris Dignitatem} brings the body into the economy of salvation, teaching that it images a God in relationship, that it points toward the goal and the good of the male-female union. It points toward the social context of every human life that bodies are obviously not built to be alone; they are built for relationship. It points toward God in pro-creative activity. So, \textit{Mulieris Dignitatem} reinterprets the meaning of all human bodies. I would like to conclude with thoughts about where we might go from here, particularly on the matter of women’s roles in light of the signs of the times.\footnote{Ibid.}

First, I think the word “roles” may be irreversibly tainted in the modern world. It might be more useful to speak of women’s and men’s gifts, capacities, or contributions. Second, I think any reflection about the future of women needs to be framed in the context of the gifts that men and women bring to one another. Third, the secular feminist response to women’s historical inequality is to deny all differences, to say everybody is the same, to deny complementarity, and to deny that marriage has anything to do with happiness, freedom of women, or children. This secular feminist response is hurting poor, vulnerable, and minority populations and children the most. The religions like ours, which have deep grasps of the family have a lot of work to do, not only among our own, but also out in society to overcome this.

Fourth, women have to be particularly active participants in the movement for religious freedom around the world. It is important work to assist authorities in less-privileged countries to understand that they can embrace authentically pro-women reforms without swallowing all of this horrid women’s platform that comes from the West that says abortion, contraception, and avoiding marriage and childbearing are the keys to women’s freedom. This is delicate work, but it has to be done while promoting religious freedom. Fifth, we have had a natural experiment over the last several decades that allows us to observe what happens when a substantial number of women actually can choose how they would like to spend their whole lives: Women still want to marry and have marital children. Sixth and finally, women seem very much in a position to be excellent communicators of all these messages that I am putting forward. They do not have to adopt male ways of doing things. Women are brilliantly placed to communicate not just the power of this gospel, but the power of this truth that everybody knows by the time they die: Human beings are not made to live as individuals; they are made for the law of love, which is a cycle of entrustment and fidelity.
As I said, it was an attack upon women’s natural desire and instinct to hold sex, marriage, and childbearing together that really gave us this sexual revolution. Around the world today, it is the woman who is urged, often by self-proclaimed women’s groups, to abort her child. It is the woman who is urged to distrust men as a general hermeneutic. It is the woman who initiates divorce proceedings in the United States in 66% of all marriages and in the majority of marriages not marked by violence. It is the woman who is assured that non-marital childbearing is morally neutral and that labor-market accomplishments are far more valuable than anything she could be doing with the family. It is the woman who is targeted to deny the fundamental truth that human life is about relationship, not autonomy. This is terribly ironic when you consider that it is probably the woman who is entrusted first with the opposite message. This is not an absolution of men; it is an identification of areas where women could be exhorted to lead the way out of the crises that we are in with regard to relationships between men and women, with regard to the family, and with regard to marriage.

Women could lead the way toward prioritizing again the demands of love. Empirical data indicate that if women understood their power in the marketplace of relationships, and acted by making demands of men and of employers when it came time to marry and have a family, they would not only serve their own interests but also the interests of the neediest, including in particular those of children and of poor women. They would vindicate the cause of the human being to a great degree.

It is not weakness; it is not just bowing to the demands—to the fiats—of religion for women to do this. Rather, it is cooperation with the internal logic, the natural law, and the law of freedom that is coextensive with the law of love. Women have the power, at this moment in time, to bring this message to the fore and because they have the power, they also have the duty to do so.

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For the full lecture, please click here.

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IT'S HALF-TIME IN AMERICA: MAJOR INTERNATIONAL CHALLENGES AHEAD

At the 2012 Super Bowl, Clint Eastwood said, “It’s half-time. Both teams are in their locker rooms discussing what they can do to win this game in the second half. It’s half-time in America too. People are out of work and they’re hurting...and we’re all scared, because this isn’t a game...the fog of division, discord, and blame ma[kes] it hard to see what lies ahead...But we find a way through tough times, and if we can’t find a way, then we’ll make one.” Despite the formidable challenges now facing our nation, I share Eastwood’s basic optimism. A lecture by Senior Fellow in International Affairs at The Wheatley Institution, former president of the Center for Strategic and International Studies (CSIS), and former U.S. army brigadier general, Amos A. Jordan.

At the 2012 Super Bowl, Clint Eastwood said, “It’s half-time. Both teams are in their locker rooms discussing what they can do to win this game in the second half. It’s half-time in America too. People are out of work and they’re hurting...and we’re all scared, because this isn’t a game...the fog of division, discord, and blame ma[kes] it hard to see what lies ahead.” Then he went on to assert that we can and will find a way, pulling together to win in the second half. He added, “We find a way through tough times, and if we can’t find a way, then we’ll make one.”

Despite the formidable challenges now facing our nation, I share Eastwood’s basic optimism. This evening, I will discuss several of those outstanding challenges and ways to meet and master them. The first and most immediate challenge facing us is getting our national house in order. This task has a number of dimensions, the most urgent ones being the nation’s fiscal mess and the status of our K-12 education.

Our fiscal problem stems from the fact that as a nation, we have—for about three decades—been spending more dollars than we have been taking in through taxation and other revenue measures. We have been making up the very large shortfalls by borrowing—in many cases from abroad—mostly from China, as well as from American bond buyers. These years of the locust have produced a national debt that is almost overwhelming in its dimension. It’s approaching 17 trillion dollars.

Now I don’t know about you, but I have a hard time grasping the idea of a trillion. I can think in terms of millions, maybe billions, but I just can’t get ahold of the idea of a trillion. President Reagan had the same problem, so he had his aides provide an illustration. They told him that if he had a stack of one-thousand dollar bills four-inches thick, he would be a millionaire. If that stack of one-thousand dollar bills was 300 feet high, he would be a billionaire. To be a trillionaire, the stack would reach into the

76 Ibid.
stratosphere, some sixty miles. To measure our current national debt, the pile of one thousand dollar bills would have to reach about a thousand miles deep into space. That illustration does not exaggerate our problem.

We have been annually adding about a trillion dollars of further deficits to that huge debt. Just now—thanks to sequestration last year—it will not be quite that bad, but these imbalances simply cannot continue. Otherwise, the value of the American dollar will plunge, foreign trade will implode, and we will no longer be able to find other nations willing to cover our borrowing. We must get our fiscal house in order. But our political system refuses to face the facts. Spending cannot be reduced substantially without cutting huge, politically untouchable entitlements: Social Security, Medicare, and Medicaid. Controlling escalating health costs for Medicare and Medicaid is particularly important. Unfortunately, the new health care system, so-called Obamacare, does not meet this problem of escalating costs.

Facing the challenge of increasing revenues is equally or even more difficult than cutting spending. Politicians and tax increases simply do not inhabit the same universe. The only time you hear a politician talk about taxes is when he is talking about cutting.

It is clear that we have to have a complete reworking of our tax system. Eliminating or sharply curtailing tax breaks that protect various groups or interests from taxes is one of the most important things that needs to be done. It would not only permit overall lower rates, but also promote fairness. Unfortunately, every tax break is guarded zealously by the favored groups or interests and their expensive lobbyists.

Still, with political courage and effort, the challenge can be met. Last year, President Obama appointed a bi-partisan commission, named after its co-chairs—generally called the Simpson-Bowles Commission—to tackle the fiscal problem and to lay out a balanced program to sensibly manage a transition to solvency. The commission did so, but sadly, its recommendations were shelved—they quietly disappeared—because political courage was in short supply. A renewed effort akin to Simpson-Bowles is needed. We have to bite the bullet, not only for the present, but for the future national solvency that your generation will need. Your political leaders, particularly your senators and congressmen, should hear from you about deficits and debt.

Putting our national financial house in order is also required because our national position in the international system rests on our economic strength, which is the basis for our military and political strength. Our ability to secure our interests, both at home and abroad, rests on economic strength. Our ability to provide aid to allies and to meet the threats that are constantly arising is underpinned by economic strength. National economic health is absolutely essential.

Turning to the topic of education: There is now considerable attention to education arising out of a growing awareness that our nation’s system of K–12 education does not provide students adequate preparation for college or for careers in a globalized world—a world in which graduates from Provo High will not be competing for jobs with Seattle High but with Shanghai High or Singapore High. Those foreign graduates are the ones that we have to be aware of and competing with.

Moreover, the quality of our K–12 education varies wildly from state to state. Students in West Virginia or Mississippi for example are generally short-changed when compared with students from Oregon or New York. Our international ranking for K–12 education puts us in the middle of the international pack, next to Bulgaria. We cannot continue to be a world leader if we are in the middle of the pack. A coalition of
educators, business leaders, and state governors has developed a national program to meet this challenge. This is recent. It is called Common Core. The Common Core standards provide a series of academic benchmarks that set the minimum skills a student should acquire at specific grade levels.

Although all but four states have adopted Common Core, there continues to be scattered opposition and confusion, partly arising out of misperceptions and the erroneous idea that with Common Core, teachers across the nation will be required to teach a uniform curriculum from common materials and common course work. But Common Core does not require that level of specificity. We will still have local control of education; it will just be measured against benchmarks that will show us how well we are doing.

Finances and education—which at first blush seem to be largely domestic challenges—are ones with enormous international ramifications. These are not the only priority tasks before us; there are a host of other first order challenges: coping with climate change or countering terrorism, for instance, also demand our attention. Let’s look at a different kind of challenge, one that’s provided by various nation states. Again, the list of possible challenges to examine is long. From the list, I have chosen China and Iran, which pose particularly interesting problems.

China leads the list of states that we need to examine. It’s size—one billion, three hundred million people—is about four time our size. Its remarkably rapid economic growth, its booming international trade, its vigorous search for energy and other national resources, its seat on the United Nation’s Security Council, its growing military strength, its vigorous diplomacy, its status as the second largest economy in the world—second only to ourselves—all these combine to make it a primary force in the international order. We must focus on China, for it will become an even more important actor in the future. Its economy is growing now about three times as fast as the United States’. It has recently slowed down, but for three decades it increased its gross national product about 10% a year. Now that growth is down to 7.5%, still about three times our rate.

The Chinese view the world differently than we do and will take every opportunity to shape that world favorably for China; either by direct or indirect means. We are dealing with supremely qualified, driven leaders intent on making China number one. We need hard-headed realists such as China has.

Beginning about three years ago, China adopted a much more assertive, even aggressive, foreign policy. It is now at loggerheads with Japan over a number of tiny, rocky islands in the East China Sea. More importantly, it has been increasingly assertive about its claims for dominion over the South China Sea and all the resources beneath the sea. That’s a large body of water, and China has only a weak historical and geological basis for its demands for control. But despite this weakness, it has labeled control of that sea as a core interest. Core interest is a policy-laden term, one that it uses for Taiwan and Tibet. That claim for control is already causing ship-to-ship collisions and conflicts between Chinese naval vessels and Philippine fishing boats.

The international community, including the United States, insists that the sea is an international waterway, as it has always been, and that claims regarding it have to be negotiated multilaterally. Senior Chinese officials have responded that if we insist that the waterway’s nature is multilateral and claims concerning it have to be settled multilaterally, that insistence is tantamount to a declaration of war against China. We
are in a situation where we cannot back off. It is hard to predict how this will evolve, but we can be sure that the South China Sea will be a future danger zone.

In addition to problems arising from China’s assertiveness on the South China Sea, we have a relatively new significant problem of increasing Chinese cyber-attacks on American business and government. China denies responsibility for these, but the evidence—even pointing to a specific building in Shanghai as the source of the attacks—is conclusive. This is not a matter of individual unofficial hackers, this is China.

We should also note that to back up its recent assertive diplomacy, China has begun a large-scale military modernization program. By its nature, that modernization is clearly aimed at pushing the United States out of the Western Pacific. It is also aimed at disabling American military forces by blinding them if open conflict should occur. Last year, China shot down one of its dead space satellites to demonstrate its ability to cripple American forces which are heavily dependent on space communication. Of course, the American military is preparing measures to counter possible Chinese offensive actions.

Despite China’s attempts to conceal much of its military modernization efforts, American intelligence has largely pinpointed them and their vulnerability to Western countermeasures. China’s military muscle-flexing will be a source of continuing and probably broadening and escalating tension, I suspect, for decades of your lives.

One area of weakness is that China has a major environmental crisis on its hands. Its air and rivers are badly polluted. No one swims. No one eats river fish. You may recall that because of pollution, China shifted a number of factories out of Beijing at the time of the 2008 Olympics. In view of these pollution facts, it is not surprising that an environmental movement has begun to develop across China, but it has an uphill battle. Some limited ground may be won by those pushing environmentalism, but the increase of pollution will continue unless and until a combination of external pressures and popular distress will build a sufficient counter-force.

The development and application of counter-pollution measures and technology is an arena in which the United States and China could readily share experiences and cooperate. We need to seize such opportunities for collaboration. In the first instance, we should do so because we have a number of common problems and common interests that can best be tackled jointly, such as pandemics, global warming, piracy, and so forth. We should also do so because we need to put our relationship with China on the basis of coevolution, not just episodic cooperation. Coevolution means we are prepared to negotiate and cooperate continually in search for mutuality of interests. When we do not have an underlying conflict, it should be possible to find ways to cooperate. The world needs us to do so.

Now let’s turn to a second country briefly: Iran. It presents perhaps the most urgent, pressing challenge we confront. The international community, including the United States, is strongly opposed to Iran’s apparent drive to become a nuclear weapon state. Iran insists that its development of nuclear energy is purely directed to peaceful purposes. While it has a pair of small nuclear reactors, those do not begin to require the amounts of enriched uranium that Iran’s centrifuges are now spinning and producing. Moreover, Iran has recently added a further number of centrifuges to those already in operation.

Despite its on-again, off-again cooperation with the watchdog International Atomic Energy Agency (IAEA), it seems plain that Iran is building the capability to
become a nuclear weapons state. Whether it will proceed to that point is an open question, but given its malign activities in its neighborhood, including in Syria, and its sponsorship of terrorists world-wide, it is hard to take seriously Iran’s claims that its nuclear activities are solely peacefully directed. I should note that Israel views a nuclear armed Iran as an existential threat, which is not surprising, since former Iranian president Ahmadinejad once declared that Israel should be wiped off the map.

Bringing Iran to the negotiating table is difficult at this juncture, but the effort must continue, for otherwise disaster looms—Israel will surely attack as soon as it believes Iran has fashioned an atomic weapon—just the first bomb. To meet this danger, the United States is leading a further effort to strengthen sanctions on Iran. Sanctions aimed to persuade Iran to cooperate on nuclear issues are already having a disastrous effect on the Iranian economy. At the same time it pursues tough sanctions, the United States and its allies should mount a major public diplomacy effort to convince all Iranians that pursuing nuclear weapons will likely bring a devastating war.

There are some signs of hope on the horizon. We know that ultimate power in Iran is held by the Ayatollahs in Qom, not the politicians in Teheran, so the recent election of a relatively moderate president may weigh little. Yet his recent comments that he has the authority to negotiate with the West are most hopeful. The Ayatollahs may have concluded that perhaps the future of the theocracy is at stake. The Iranian public’s obvious yearning for peace and economic relief may also be a factor. Even so, the adversaries—Iran and Israel—are far apart, and war may in fact come. We should try to hold Israel back from early strikes while we strive to help the IAEA and the international community to find a viable compromise.

I began this lecture by citing an unlikely philosopher, Clint Eastwood. Let me close by citing another somewhat more renowned philosopher, Winston Churchill. He was speaking during the dark hour for England in its conflict with Nazi Germany. He said, “We must push forward. Never retreat. Never, never, never.” As you students face the challenges that I have listed and others that you will discover, I hope and trust that you will push forward. Never retreat. Never, never, never.