The Rise of Religious Freedom and How It Shaped Political Theology in The United States

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Abstract:

The idea of religious freedom did not rise out of Hinduism or Islam. It also did not originate from the enlightenment but instead arose from the teaching of the holy scriptures as understood throughout the history of the church. The seeds of religious freedom were sown by the early church fathers, grew in the rich soil plowed by the reformers and began to bear fruit with the American founding fathers and the birth of a new nation founded in part by a desire for religious freedom. This paper will look at the development of religious freedom both theologically and historically within the church and the impact it had on the US founding fathers and the unique political theology they developed.

On May 6, 1776, thirty-two "sons of Virginia" representing every county of the state met at Williamsburg to pass a resolution calling for the Virginia delegates at the Continental Congress to move for independence from Britain.[1] This Virginia Convention was also tasked with drafting a bill of rights and a constitution for the now independent state of Virginia.

At the age of fifty-one, elder statesman George Mason of Gunston Hall emerged from retirement to represent Fairfax County and agreed to write the first draft of both the Virginia Declaration of Rights and the Virginia Constitution. After a few changes and additions, the Declaration of Rights was read to the entire Convention on May 27, 1776. In Section 16 on Religion, Mason, following the thinking of the era, wrote that government must uphold "toleration in the exercise of religion." Religious tolerance was understood as permission given by the state to individuals and groups to practice religion. Mason's language echoed John Locke's writings and the movement in England toward religious tolerance.

However, a young James Madison (then 25 years old) objected to Mason's toleration clause and successfully led an effort to modify Mason's original language. Madison argued that religious liberty was a natural and inalienable right. It was possessed equally by all citizens and had to be beyond the reach of civil magistrates. The problem with religious tolerance, he argued, was that what the state gave, it could also take back. Madison changed Mason's "toleration in the exercise of religion" to "free exercise of religion." The revised Declaration of Rights was passed unanimously on June 11, 1776.

With this small but significant change in the Declaration's language, Virginia moved from toleration to full religious freedom – a precedent that would not only help shape the new nation's

[1] The Second Continental Congress was convened on May 10, 1775, at Philadelphia's State House, to consider if the colonies should declare independence. By May of 1776 they were close to passing the resolution which necessitated the Virginia Convention actions. Less than two months after the Virginia Convention's vote the Second Continental Congress, on July 2, 1776 released the Declaration of Independence written by another Virginian, Thomas Jefferson.

commitment to free exercise of religion, but its very political theology. Government would no longer have the power to decide which groups to "tolerate" and what conditions to place on the practice of their religion. This revolutionary idea was designed to protect and promote a vital role for religion in public life.

The other twelve states adopted this idea of "religious liberty" over the next ten years and had it written into their constitutions. Eventually, it was Madison who codified it in the First Amendment of the United States Constitution, as one of the cornerstones of the United States' Bill of Rights. For the first time, religious freedom and the liberty of conscience it sustains became an inalienable right.[2] Madison would later write, "The Religion then of every man, must be left to the conviction and conscience of every man to exercise it as these may dictate."[3]

Madison's idea of religious liberty emerged as one of the unique contributions of the American Experiment,[4] but where did it originate? It is the thesis of this paper that the idea of religious freedom did not arise out of Hinduism or Islam. It also did not originate only from the enlightenment thinkers but instead emerged from the rich teaching of the holy scriptures as understood throughout the history of the church. The seeds of religious freedom were sown by the early church fathers, grew in the rich soil plowed by the reformers, and began to bear fruit with the American founding fathers and the birth of a new nation founded in part by a desire for religious freedom. This paper will examine the development of religious freedom both theologically and historically from within the Christian church and the impact it had on the United States founding fathers and the unique political theology they developed.

Where Did the idea of Religious Freedom Originate?

There is a common narrative taught in the majority of today's colleges and generally accepted as historical fact by most academics that attributes modern western political thought, including the rise of religious tolerance, to a process of secularization in Europe during the 17th century called the "Great Separation." Mark Lilla describes this event in his book *The Stillborn God*:

> Something happened — or rather, many things happened — and their combined force would eventually bring the reign of political theology to an end in Europe. Not just Christian political theology, but the basic assumptions upon which all political theology had rested. Christianity as a religious faith survived, as did its churches. The Christian tradition of thinking about politics that depended on a particular conception of the divine . . . did not. It was replaced by a new approach to politics focused exclusively on human nature and human needs. A Great Separation took place, severing Western political philosophy from cosmology and theology. It remains the most distinctive feature of the modern West to this day.[5]

This story of the "Great Separation" begins in medieval and Renaissance Europe where political theology was informed by Christian thought and seen in the context of the scriptures'

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[2] This did not happen for everyone right away; the issue of slavery would take another 100 years and a civil war to resolve.

[3] George Madison makes this comment in a track he wrote in 1785 entitled, *Memorial and Remonstrance against Religious Assessments*. The track was anonymously published in opposition to a proposed tax funding preachers in the state of Virginia and to support Thomas Jefferson's "Bill for Establishing Religious Freedom in Virginia."

[4] Daniel Dreisbach. Lecture at Reformed Theological Seminary, DC, February 2008.

[5] Mark Lilla, *The Stillborn God* (New York: Random House, 2007), 57.

call to live our lives based on God's design and desire. As the story goes, by the end of the sixteenth century, this worldview with its biblically informed "political theology" begins to erode and by the seventeenth century totally collapses. This tectonic shift was supposedly driven by many events across multiple disciplines. Distressed by the horrors of the Wars of Religion, philosophers rejected the claims of biblical authority and saw religion as inherently dangerous to civil peace. This intellectual upheaval was fueled by new scientific discoveries coupled with the strident philosophical skepticism of men like Montaigne and Charron. As Harvard professor Eric Nelson writes:

> It is this separation, we are told, that is responsible for producing the distinctive features of modern European political thought, including (but by no means limited to) its particular notion of individual rights, its account of the state, and its embrace of religious toleration. These innovations could not appear on the scene until religion had effectively been sequestered from political science. It is, then, the peculiar achievement of the seventeenth century to have bequeathed us a tradition of political thought that has been purged of political theology.[6]

This idea that individual rights, freedom of conscience, religious toleration and limited, constitutional government were all fruits of banishing religion from the public sphere is not new. It was widely taught in this country by the 1970's and by some accounts, modernity itself emerged from this great separation.[7] Today, these ideas are so widely accepted that, for many, it is difficult to imagine any other way of seeing the world. But is this narrative true?

The real truth about the rise of these liberal ideas can be found in another story that begins 1,500 hundred years before the Enlightenment in the birth of the early Christian church and how they understood and applied the teaching of the Old and New Testaments to their everyday lives.

Is the Idea of Religious Freedom Biblical?

"Thou shalt not encroach upon the religious liberty of your fellow citizens" is not something you will find in the Bible. Yet, even H.L. Mencken, normally a strong critic of religion, wrote in a 1926 essay entitled *Equality Before the Law*,

> The debt of democracy to Christianity has always been underestimated…. Long centuries before Rousseau was ever heard of, or Locke or Hobbs (sic), the fundamental principles of democracy were plainly stated in the New Testament, and elaborately expounded by the early fathers, including St. Augustine.[8]

God the Creator, who is the supreme authority over his entire creation, appoints lesser authorities, to whom we are to submit, to rule in certain areas (Rom. 13:1-7). As the Apostle Paul explains, government is one example where God appoints authorities for the support of public order and the common good. Yet, we must always remember that the scripture also teaches the

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[6] Eric Nelson, *The Hebrew Republic* (Cambridge: Harvard University Press, 2011), 1.
[7] Mark Lilla, *The Stillborn God* (New York: Random House, 2007), 55-101.
[8] H.L. Mencken, "Equality Before the Law." Chicago Tribune. February 28, 1926, 73.

rule of civil magistrates over us is not absolute. Only God's moral law binds our consciences. We are to obey God even if it means disobeying lesser rulers in certain situations.

It is the tension between these two principles that we see acted out in the New Testament. In the book of Acts, we read of government officials telling Peter and John not to talk about Jesus:

> Then they called them in again and commanded them not to speak or teach at all in the name of Jesus. But Peter and John replied, "Judge for yourselves whether it is right in God's sight to obey you rather than God. For we cannot help speaking about what we have seen and heard" (Acts 4:18-20).

The apostles of Jesus were echoing the spirit of religious protest sounded some five hundred years before by Daniel's three friends. Faced with the threat of death, they flatly refused to worship before the religious and civil statue of Babylon's king:

> Shadrach, Meshach, and Abednego replied to him, "King Nebuchadnezzar, we do not need to defend ourselves before you in this matter. If we are thrown into the blazing furnace, the God we serve is able to deliver us from it, and he will deliver us from Your Majesty's hand. But even if he does not, we want you to know, Your Majesty, that we will not serve your gods or worship the image of gold you have set up" (Dan. 3:16-18).

As the early Christian church was persecuted, they struggled with applying these two biblical principles. Out of this struggle was born the important idea of an "unconstrained conscience" which at its very core requires immunity from religious coercion and contains the seeds of religious liberty.[9] These early believers held that no one should be compelled to violate his conscience by being forced to embrace another religion against his will. Nor should they be kept from expressing freely and publicly their deeply held religious convictions by being forbidden to worship God according to the dictates of their conscience. For them this was not just an intellectual exercise, many were martyred because they would not betray the debates of conscience.

Commenting on this very idea, the early church father Tertullian, in 197 AD, in a letter to the magistrates of Rome, writes that he and other Christians cannot be coerced into sacrificing to pagan gods because "we stand immovable in loyalty to our conscience."[10] In the same treatise, he effectively invented (or discovered) the principle of religious freedom and was, in fact, the first person in human history to use the very phrase "religious liberty." Fifteen years later he writes to a Roman proconsul:

> "It is a fundamental human right, a privilege of nature, that every man should worship according to his own convictions. One man's religion neither harms nor helps another man. It is assuredly no part of religion to compel religion, to which free will and not force should lead us."[11]

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[9] J. M. Roberts, *The Penguin History of Europe* (London: Penguin Books, 1996), 94.
[10] Tertullian, *Apologeticus*.
[11] Tertullian, *Ad Scapulam*.

Tertullian was not a lone voice on this subject in the early church but was joined by others including Lactantius. Their influence on the emperor Constantine can be seen clearly in his so-called Edict of Milan in January 313, which was signed by both Roman emperors, Constantine ruling the West and Licinius the East. This agreement establishes religious freedom throughout the entire Roman Empire. As the church historian Eusebius commented at the time:

> …every man, according to his own inclination and wish, should be given permission to practice his religion as he chooses…Christians and non-Christians alike should be allowed to keep the faith of their own religious beliefs and worship…This we have done to make it plain that we are not belittling any rite or form of worship.[12]

Using the scripture as their source, the argument for religious freedom of these early church fathers' centered around two ideas: "religion as an inner conviction that cannot be coerced and the freedom and dignity of human beings made in the image of God."[13] These two ideas would lay the groundwork for the later, fuller doctrine of natural rights and a more robust vision of religious freedom.

Yet, with Constantine making Christianity the *ex facto* state church, persecution diminished and so did the need for religious freedom. Over the next 1,000 years in the Western church, Tertullian's ideas of religious freedom would be replaced by the concept of religious tolerance while two other significant ideas would be more fully developed: conscience and separation of church and state.

The Reformation and The Further Development of Religious Liberty

While the Bible may not comment specifically on religious liberty, it does have something to say about conscience, but it is not a subject emphasized throughout the Bible. The Greek word *suneidesis*, which we translate as conscience, is only used once in the Septuagint and never occurs in the four gospels. Paul uses it twenty times out of the thirty times it is used in the New Testament.

The Bible closely associates this idea of conscience with understanding. After all, the Greek word *suneidesis* literally means "a knowing with" or "a knowledge shared with another."[14] William Perkins, the sixteenth-century English Puritan explains: "Conscience is a part of the mind or understanding from whence knowledge and judgment proceed as effects."[15] The conscience is that aspect of the inner man's understanding that bears witness to God's truth and influences personal judgment. We have a conscience because, "in the beginning," God wrote his laws on Adam's heart. Paul explains this in Romans, writing:

> They show that God's law is not something alien, imposed on us from without, but woven into the very fabric of our creation. There is something deep within

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[12] Eusebius, *The History of the Church*, Book 10, paragraph 5.

[13] Robert Louis Wilken, *The Christian Roots of Religious Freedom* (Marquette University Press, 2014), 69.

[14] Henry George Liddell and Robert Scott, A Greek-English Lexicon (Oxford: Clarendon Press, 1994), 1704.

[15] William Perkins, *William Perkins: 1558-1602: English Puritanist*, ed. Thomas F. Merrill (Netherlands: B. De Graaf, 1966), 5.

> them that echoes God's yes and no, right and wrong (Romans 2:14-15, The Message).

We were created in the image of God. Even though we are now fallen images, warped and damaged by sin, our conscience still has an intuitive knowledge of the true God and an understanding of right and wrong. This is why Paul says that we are without excuse—in our rebellious nature, we intentionally exchanged the truth about God, truth we know intuitively, for a lie (Rom.1).

The goal of the Christian believer is to develop a mature conscience informed by the scriptures. While the work of Jesus Christ has cleansed the conscience of the believer,[16] it is restored over time as the Holy Spirit teaches the believer what is right and wrong from God's word.[17] This instruction transforms us from the inside out and begins to develop deep-seated conviction regarding how we should live our lives, which in turn guides and directs us in all the decisions we make.

It is Martin Luther who returns to the biblical concept of conscience in the Protestant Reformation. On October 31, 1517, Luther posts his Ninety-Five Theses on the church door in Wittenberg, launching the Reformation in earnest. The Reformation produced a new focus on *freedom* of conscience, with dramatic social and political consequences. It created new notions of religious liberty as well as new frameworks for civic life. At the same time, the reformers, building upon centuries of religious thought on conscience, dignity, and freedom, found additional support from new resources.

This idea of conscience is more fully developed by Luther and the other reformers as they struggle to leave the Roman Church. Luther's famous "Here I Stand" speech is a classic example of how the early reformers saw the rights of a free conscience being bound by scripture:

> Unless I am convicted by Scripture and plain reason—I do not accept the authority of popes and councils, for they have contradicted each other—my conscience is captive to the Word of God. I cannot recant, and I will not recant anything, for to go against conscience is neither right nor safe. Here I stand, I can do no other. God help me. Amen.[18]

For Luther, it was the Bible that informed his conscience. As J.I. Packer writes: "The Christian's conscience… as Luther memorably declared at Worms in 1521, is and must be subject to the Word of God—which means the teaching of Holy Scripture."[19] Luther's stance against the Roman church is not just because his autonomous conscience tells him that they are wrong; instead, his conscience tells him that he must stand against Rome because its teaching is in clear violation of the scriptures. To act contrary to the urging of one's conscience is wrong, for actions that go against the conscience cannot arise out of faith.[20] (1 Cor. 8:7–13; 10:23–30).

John Calvin, like Luther, also supported this idea of liberty of conscience informed by God's word. For example, Calvin writes in his *Institutes of the Christian Religion*: "The restraint thus laid on the conscience is unlawful. Our consciences have not to do with men but with God

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[16] Heb. 9:14; 10:22.

[17] Hebrews 10:16.

[18] Martin Luther quoted by Roland Bainton, *Here I Stand* (Nashville: Abingdon Press 1990), 144.

[19] J.I. Packer, *A Quest for Godliness* (Wheaton: Crossway, 1990), 107.

[20] R. F. Youngblood, F. F. Bruce, and R. K. Harrison, *New Illustrated Bible Dictionary*. (Nashville, TN: Thomas Nelson, Inc., 1995).

only."[21] Yet, Luther and Calvin's most significant contributions to religious liberty were in principle, not practice.

The further development of the foundational principles of conscience and religious liberty would await the work of the later reformers like John Knox, Theodore Beza, Johannes Althusius and John Milton. These reformers and those who would follow them took Calvin's insights into the nature of corporate rule and created "a robust constitutional theory of the state that rested on the pillars of rule of law, democratic process and individual liberty."[22]

> In the Calvinist Tradition, religious rights were first, for they were the easiest for persecuted Calvinists to conceive; other rights developed gradually and sporadically over the next centuries, and with varying intellectual foundation and institutional force. From the start, religious rights were the cornerstones of Calvinist rights theories—freedom of conscience, freedom of exercise, and freedom of the church.[23]

Their efforts would be significantly enhanced from two unlikely sources, the Torah and a full array of ancient rabbinic sources.

The Reformed commitment to "*Sola Scriptura*" triggers a revival of interest in original (Hebrew) Old Testament texts beginning in the sixteenth century that would continue for the next two hundred years. As Eric Nelson writes in his book, *The Hebrew Republic,* the study of the Bible as a Christian duty "led Protestants back to the original texts of the Hebrew Bible and the New Testament to an unprecedented degree."[24] As Hebrew texts and grammars became more widely available in Christian Europe, scholars also turned to the "full array of rabbinic sources" that had also become available, including the Talmud, Midrash, targums, and medieval law codes. It is in these sources that scholars begin to uncover the argument that in the first five books of the Bible, God reveals to man the perfect form of government, the republic. Nelson goes on to convincingly argue the ideas of religious tolerance, rough material equality, and republican government entered Western political thought not because of the "Great Separation," but after being discovered in the Hebrew Bible. Therefore, we see in the seventeenth century Reformation political theology reentering the mainstream of European intellectual life. Os Guinness echoes this idea in his book *Last Call for Liberty,* writing:

> … the precedent and pattern of the Sinai covenant was rediscovered and developed by the Reformation. Along with the truths of calling and conscience, it became one of the three most decisive gifts of the Reformation that shaped the rise of the modern world.[25]

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[21] John Calvin, *Institutes of the Christian Religion*, Book IV.x.5 (Grand Rapids: Eerdmans, 1997), 416.

[22] John White Jr., "Calvinist Contributions to Freedom in Early Modern Europe," in Timothy Samuel Shah and Allen D. Hertzke, eds., *Christianity and Freedom: Volume 1 Historical Perspectives* (New York: Cambridge University Press, 2016), 217.

[23] John White Jr., Calvinist Contributions to Freedom in Early Modern Europe." In Timothy Samuel Shah and Allen D. Hertzke, eds., *Christianity and Freedom: Volume 1 Historical Perspectives* (New York: Cambridge University Press, 2016), 229.

[24] Eric Nelson, *The Hebrew Republic* (Cambridge: Harvard University Press, 2011), 13.

[25] Os Guinness, *Last Call for Liberty (*Downers Grove, IL: InterVarsity Press, 2018), 23.

These discoveries significantly enhanced and reinforced two essential ideas that were, as I have already pointed out, beginning to be more fully developed at the onset of the Reformation; religious toleration and separation of church and state. As Nelson argues:

> The pursuit of toleration was primarily nurtured by deeply felt religious convictions, not by their absence; and it emerged to a very great extent out of the Erastian effort to unify Church and State, not out of the desire to keep them separate. Once again, I argue that the Hebrew revival played a crucial role in forging this nexus between a pious Erastianism and toleration. It was a particular understanding of what the Jewish historian Josephus had meant by the term "theocracy," mediated through a series of rabbinic sources, which convinced a wide range of seventeenth-century authors that God's own thoroughly Erastian republic had embraced toleration.[26]

These reformed ideas of religious toleration and freedom of conscience were embraced by the Puritans and the English Separatists who found themselves persecuted for what they believed. It is this contingency that leaves Europe and heads to a new world seeking a place where they can live out their lives free from religious persecution. J.I. Packer points out that the Puritans viewed conscience as "the mental organ in men through which God brought his word to bear on them."[27] As we will see, it is this definition that will cause great hardship for many in the founding of what would become America.

Religious Freedom, America, and the Founding Fathers

The seventeenth-century American colonists crossed the Atlantic with a robust notion of personal freedom. As William Penn writes, "Every Free-born subject of England is heir by Birth-right unto that unparalleled privilege of Liberty and Property, beyond all the Nations in the world beside."[28] And as Os Guinness writes, they bring with them two centuries of developed political theology:

> …the rule of law, the consent of the governed, the responsibility of rights, the separation of powers, the notion of prophetic critique and social criticism, transformative servant leadership, the ethics of responsibility, the primacy of the personal over the political—all of these ideals and more are the legacy of Exodus, and their effect was to provide a massive boost for the ancient liberties of the English. Most importantly, the Sinai covenant at the heart of the exodus story came to America with the English and put its stamp on American history through its decisive contribution to the US Constitution and the notion of constitutionalism.[29]

Yet, the majority of European settlers coming to the new colonies during the seventeenth century came from countries with established national churches and for them a society without

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[26] Eric Nelson, *The Hebrew Republic* (Cambridge: Harvard University Press, 2011), 4.

[27] J. I. Packer, *A Quest for Godliness* (Wheaton: Crossway, 1990), 107.

[28] William Penn, quoted in Daniel Hannan, *Inventing Freedom: How the English-Speaking Peoples Made the Modern World* (New York: HarperCollins, 2013), 127.

[29] Os Guinness, *Last Call for Liberty (*Downers Grove, IL: InterVarsity Press, 2018), 23.

an established church was unimaginable. What they did not realize was that the deep-seated conflict between their view of freedom of conscience, religious tolerance, and state- established church would soon be apparent.

Liberty of conscience, from the Reformed perspective, does not give us the freedom to do anything we want, it instead binds our conscience to the will of God. Also, our consciences should not be bound by false religion, or extra-biblical scruples and traditions, because we are ultimately only answerable to God. The problem in the new American colonies was that once the early settlers became the ruling authority, they applied these principles to everyone and began to persecute all those who disagreed with them. They reasoned the concept of liberty of conscience did not allow men or women to believe in false religion, nor did it give them the freedom to hold to unbiblical positions on moral issues.

Puritan minister Roger Williams provides a good example of this. The Puritans in Massachusetts felt called by God to establish a holy commonwealth, a new Israel, based on a covenant between themselves and God. Williams challenged the Puritan vision and argued God had a very different plan for human society. He claimed that the civil authorities of Massachusetts had no authority in matters of faith. According to Williams, the true church was a voluntary association of God's elect. "Soul liberty," as Williams called it, was understood as the freedom to follow an individual's heart in matters of faith without outside coercion by the government. Williams's argument for separating church and state was centered on his conviction that every individual's conscience must remain free to accept or reject the word of God. In 1635, after being banished from Massachusetts, Williams founded what became the sa Rhode Island. Williams's colony did not have an established church, making it the first society in America to grant liberty of conscience to everyone.

In 1670, Quaker William Penn wrote a comprehensive statement on religious toleration, which serves as a theoretical foundation for his experiment in the practice of religious liberty in Pennsylvania. Penn makes an essentially religious argument for religious toleration, resting his appeal on divine authority. Penn claimed that intolerance violates liberty of conscience and is not only an offense against others but also, ultimately, an offense against God.[30]

What we see in this period from the early founding of the first colonies to 1750 is a gradual extension of a new vision of religious liberty that broadens the Christian view of liberty of conscience. The idea that religious liberty can also include others, even those with whom "we" disagree, slowly becomes a central American conviction. This vision coalesces around a view of liberty of conscience that endorses religious tolerance. It is this principle that provides the promise of full freedom for people of all faiths and of one that would lay the groundwork for the establishment of true religious freedom by the founding fathers.

With a keen historical awareness of the inherent dangers of wedding the political powers of the government with the church, the founding fathers looked to balance religious obligations with Madison's rediscovered religious freedom. Notes Gregory Wallace:

> For Madison and others, religious obligations were paramount. Defining the proper relation between religion and civil government meant drawing a jurisdictional boundary between two potentially competing authorities, one spiritual and the other political. That line was drawn with the understanding that duty to God, as perceived within the individual conscience, is superior to political,

[30] William Penn, *Selected works of William Penn in Five Volumes*, 3rd ed., vol. 3 (London: James Phillips, 1782), 12-13.

> legal, or social obligations. Religion thus posited an ultimate limit on the power of the state. In this sense, the First Amendment was intended to function as a sort of religious "supremacy clause" which presumes that God exists and makes claims on human beings and that those claims are first in both time and importance to the claims of the state.[31]

Thomas Jefferson, in his *Notes on the State of Virginia* in 1782, wrote what many believe is the quintessential liberal formation of an individual's right to religious freedom:

> Our rulers can have authority over such natural rights only as we have submitted to them. The rights of conscience we never submitted, we would not submit. We are answerable for them to our God. The legitimate power of government extends to such acts only as are injurious to others. But does me no injury for my neighbor to say there are twenty gods, or no god. It neither picks my pocket nor breaks my leg.[32]

In the margin on this original copy of *Notes,* across from the passage above, Jefferson wrote, in his own hand, a quote in Latin from Tertullian's *Ad Scapulam* (see reference on page 8). As noted earlier, the quote from Tertullian contains the first articulation of religious freedom as a universal human right ever written. As you can see, the two passage are strangely similar. It has been suggested that Jefferson somehow found out about the passage after he wrote *Notes*. As Timothy Shah writes:

> One can imagine Thomas Jefferson, trudging up the religious freedom mountain, step by arduous step. And when he reached the top of the conceptual mountain, argument by argument, and reached his radical conclusions about religious freedom – not mere toleration – as a universal natural right, for all people, regardless of creed, can imagine his surprise: When he finally got to the top, he discovered that a North African Church Father was already sitting there – and had been for some sixteen hundred years.[33]

The founders believed virtue derived from religion was indispensable to limited government. Therefore, Madison's Constitution guaranteed religious free exercise while prohibiting the establishment of a national religion. This constitutional order produced a constructive relationship between religion and state that balances citizens' dual allegiances to God and earthly authorities without forcing believers to abandon (or moderate) their primary loyalty to God.

Madison and the other founding fathers' brilliant model of religious liberty is at the center of the success of the American experiment. Freedom of conscience wasn't just about Christianity or even religion for Madison and the other founding fathers. Instead, they wanted the country to accommodate all citizens—religious or not—therefore they needed to establish

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[31] E. Gregory Wallace, *Justifying Religious Freedom: The Western Tradition*, Penn State Law Review, Vol. 114:2, 490.

[32] Thomas Jefferson, *Notes on the State of Virginia* (query VII).

[33] Timothy Shah, "The Roots of Religious Freedom in Early Christian Thought." In Timothy Samuel Shah and Allen D. Hertzke, eds., *Christianity and Freedom: Volume 1 Historical Perspectives* (New York: Cambridge University Press, 2016), 58.

freedom for religion. This meant an openness to political and societal tolerance for the religious choices of others—Muslims, Buddhists, humanists and, yes, Christians.

Madison and the founding fathers crafted a unique political theological in part by doing two things that had never been done. First, they created a civil version of the reformers' view of liberty of conscience. The reformers believed that while our conscience should not be coerced, it was still bound by the word of God. The founders, incorporating the work of men like Williams and Penn, broaden the reformers' view of liberty of conscience by removing the biblical restraint that would let it apply to all members of the community. The second thing they did was to put this new civil liberty of conscience beyond the reach of the civil magistrates, creating for the first time in history true religious freedom.

Conclusion: Practical Conclusions for Christians Today

Historically, we see the best examples of human flourishing where people enjoy religious freedom, which is foundational for economic freedom and self-government. Unfortunately, our exercise of this inalienable right, as defined by James Madison and America's founders, is under attack today. There are those who would replace religious freedom with religious tolerance or worse—allow anti-discrimination laws to trump religious freedom completely. Those who should be most uneasy with this development--people of faith--seem unaware or unconcerned. The long-held truth of America's founders that freedom requires virtue, virtue requires faith, and faith requires freedom,[34] has been lost, even by the faithful.

A circuit court case in 2012, reviled a very troubling argument made by the Department of Justice in *Newland v. Sebelius*. In this case, the Catholic owners of Hercules Industries were challenging the government mandate to provide free contraception and sterilization surgeries to employees. This was the government's argument before the judge in defense of the mandate:

- Seeking profit is a wholly secularist pursuit.
- Once people go into business, they lose their religious freedoms in the context of those activities.
- Everyone who engages in secular undertakings must acquiesce to the principles of secular ideology.
- The government establishes this ideology through the passage of laws and the promulgation of regulations.

It was hard to believe that a government, which is based on a constitution that defines religious freedom, could make such an argument. In essence, it was an argument to redefine religious freedom out of existence or at least back 250 years to religious tolerance. The *Newland v. Sebelius* case helps us see not only how religious freedom is essential for living out a biblical understanding of work but also how religious freedom in our country is in jeopardy. Christians have argued that for followers of Jesus Christ nothing is secular, everything we do is spiritual. This is especially true about our work. As the Apostle Paul reminds the Corinthians:

> So whether you eat or drink or whatever you do, do it all for the glory of God (1 Cor. 10:31).

[34] Os Guinness, *A Free People's Suicide: Sustainable Freedom and the American Future* (Downers Grove, IL: InterVarsity Press, 2012), 93-129.

And again, he tells the Colossians:

> Whatever you do, work at it with all your heart, as working for the Lord, not for human masters, since you know that you will receive an inheritance from the Lord as a reward. It is the Lord Christ you are serving (Col. 3:23-24).

Therefore, whatever we do in our work, even in the work we do in the public square, is done to glorify God, serve the common good, and further God's kingdom. This is our high calling, and it is *all* spiritual activity.

Thankfully, the judge did not agree with the government in *Newland v. Sebelius*, however, over the last six years, there have been numerous examples of men, women, and children whose First Amendment rights have been violated by those trying to redefine the meaning of religious freedom and force faith out of the public square. Some politicians and members of the media belittle individuals' claims of religious conscience, treating religious freedom as an obstacle to be overcome rather than as important value to protect. Again, as Os Guinness writes in *Last Call for Liberty*:

> …America is now experiencing an open assault on freedom of religion and conscience. What was the founders' "first liberty" and the freedom that (Lord Acton wrote) "secures the rest" is in danger of being dislodged from its central and time-honored place in American life.[35]

Religious freedom is not just important for American Christians because it's in the Constitution. It's important because the principles that support religious freedom flow from God's word. True religious liberty provides the freedom to live and work within a Christian worldview seven days a week fulfilling God's call in our families, churches, communities, and vocations. We're called to be salt and light in the world – the public square, not in a closet. We must always remember that in Christianity, human liberty is both a theological and political telos.[36] As Lord Acton once said, "liberty is not a means to a higher political end, it is itself the highest political end."[37]

Leading historians are rediscovering the unappreciated role of Christianity in the development of basic human rights and freedoms from early church fathers through today. "These include radical notions of dignity and equality, religious freedom, liberty of conscience, limited government, consent of the governed, economic liberty, autonomous civil society, and church-state separation, as well as more recent advances in democracy, human rights, and human development."[38] While there certainly is no straight line from the early church fathers through the Reformation to today, scholars are documenting how the seeds of freedom sowed by men like Tertullian that produced fruit in Madison's republic.[39]

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[35] Os Guinness, *Last Call for Liberty* (Downers Grove, IL: InterVarsity Press, 2018), 144.

[36] Remi Brague, "God and Freedom, Biblical Roots of the Western Idea of Liberty," in Timothy Samuel Shah and Allen D. Hertzke, eds., *Christianity and Freedom: Volume 1 Historical Perspectives* (New York: Cambridge University Press, 2016), 391-402.

[37] Lord Acton, An Address Delivered to the Members of the Bridgnorth Institute February 26, 1877, https://acton.org/research/history-freedom-antiquity, accessed Nov 9, 2018.

[38] Timothy Shah, "Introduction" in Timothy Samuel Shah and Allen D. Hertzke, eds., *Christianity and Freedom: Volume 1 Historical Perspectives* (New York: Cambridge University Press, 2016), 5.

[39] An example is a collection of essays in Timothy Samuel Shah and Allen D. Hertzke, eds., *Christianity and Freedom: Volume 1 Historical Perspectives* (New York: Cambridge University Press, 2016).

In the 1830s, Tocqueville saw something unique and uplifting about the young republic, something that we must as Americans endeavor to preserve:

> It is the product of two perfectly distinct elements that elsewhere have often made war with each other, but which, in America, they have succeeded in incorporating somehow into one another and combining marvelously. I mean to speak of here the *spirit of religion* and the *spirit of freedom*.[40]

[40] Alexis de Tocqueville, *Democracy in America*, trans. and ed. Harvey C Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 43 (emphasis in original).