

The Hard Work of Citizenship: Defining Religious Liberty
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Dear brethren and sisters, in just seven days - on Saturday, September 17th - we will celebrate the 229th anniversary of the signing of the Constitution of the United States by the Founding Fathers. Throughout the long, hot summer of 1787, they met in Independence Hall in Philadelphia, debating ideas and writing, reviewing and rewriting numerous drafts of what would become the most remarkable framework of government ever forged, set forth in the most hallowed document of its kind ever to issue from the pen of man. The Lord Himself declared that this Constitution was established "by the hands of wise men who [He] raised up unto this very purpose... " (D&C 101: 80). It is no mere coincidence that next weekend the new Philadelphia Temple will be dedicated, 229 years from the date of this historic signing. A House of the Lord then will stand but a few blocks from that other sacred edifice, Independence Hall.

I

For us, living more than two centuries later, the events of the founding live on in a kind of rosy-hued, sanctified mist of patriotism. However, the true events that led to the signing were quite different and at the time seemed far from being either "sanctified" or "rosy-hued". The thirteen colonies that had won their freedom from Great Britain only four years earlier, were in shambles. The so called "united" states were anything but united! In fact, the men who came together in Philadelphia that hot summer acted largely behind a shroud of secrecy. Officially, they had assembled to amend the ineffective Articles of Confederation. However, once together they set to work to fashion an entirely new document out of whole cloth, as it were.

The meetings in that muggy chamber were often fractious. Representatives of large states saw things differently than the representatives of small states. Some delegates wanted a strong central government; others feared that would lead the new nation back into the same monarchical swamp from which it had just emerged. There was no existing model that they could copy. They were pioneering something that had never been done before. They argued passionately and often disagreed vehemently. Their loyalties and friendships were strained to the breaking point. At times it looked hopeless.

But the Spirit of the Lord was with them as they worked to compromise their differences. Day by day, sometimes hour by hour, and draft by draft by draft, there gradually emerged, like a magnificent statue from a block of marble, a document which begins with these simple, profound words: *"We, the people, in order to form a more perfect union..."* The system of government that arose from those often tense and difficult days is a system that is rooted in *"we, the people"*; it is a government that quite literally depends upon you and me and our fellow citizens for its operation. That same pattern of government has been copied by every one of the fifty states. Hence, in every single city, town and hamlet in every single state, these founding documents make very clear that the powers of government derive from-and depend upon-we, the people. You and me.

II

We live in a day when candidates for office are often heard to say that they "stand for the Constitution." Usually they are speaking in a kind of code advancing a particular political platform. But, the simple fact, my dear brethren and sisters, is that in this challenging season *all of us-each and every one-must* "stand for the Constitution"-not as political partisans, but as *citizens* engaged in the processes of government in order to defend our religious liberty.

I have recited this brief history to make two essential and related points. First, the Constitution itself, though inspired by Heaven, was the product of hard work by men who sensed a destiny in this country and were devoted to it and who worked to find compromises that benefited the common good. And, second, particularly important for our purposes this evening, the very Constitution they established requires us- "we, the people"-to do the *hard work of citizenship* that is necessary to protect and preserve rights so painfully established. As Elder Oaks has taught us already this evening, we likewise must engage in the struggle to preserve religious freedom by striving to find appropriate compromises with those who have different priorities.

We Americans have become far too accustomed to leaving the definition of religious liberty rights and limitations to the courts. Of course, the courts have an important role to play, particularly in setting outside limits on rights and freedoms. But, as Elder Oaks has already noted, the courts are only able to decide whatever particular case is before them. For the citizenry to rely only on the courts amounts to *lazy* citizenship. Rather, it is for us-"we, the people"-to do the *hard work* of citizenship by determining through democratic processes the basic boundaries that protect and define the rights and liberties of *all* the people, including religious rights. *That* was the intent of the Founders. Defining those democratic processes in our Constitution was *their* hard work of citizenship. Using those processes "*to form a more perfect union*" in our day is the hard work of *our* citizenship.

My beloved friends, we are *saints-Latter-day saints*; and we are also *citizens*. We have assembled this evening as *saints* in order to receive a call to service as *citizens-to* join together with others in that "hard work of citizenship" in defense of religious liberty. We must do that work in our local communities, through the organs of state and local government, through school boards, service organizations and professional associations, at public hearings and in coalitions with other citizens. The days are long past-if indeed they ever really existed-when we can lead narrow, provincial lives merely as "saints", focused only on our families and our local Church congregations. Tonight, we have heard a clarion call from an Apostle of the Lord to also be citizens in defense of our most basic civil rights-the freedom to practice our faith, the freedom to trumpet our beliefs in the public square and the freedom to live according to our core principles in every aspect of our lives. Those who follow me on this program will offer some suggestions and guidance on how we can do that.

III

I have mentioned that word *priorities*. Before I conclude let me say something about priorities in our religious rights and freedoms. These are offered as a guide, a template-a *way of thinking* about freedom of religion-that can assist you as you survey the array of issues that may

beckon your involvement and engagement with others. The central principle to bear in mind is that not all religious liberty claims are "created equal." Some rights are critical; other perceived rights not so much. As a general principle, religious liberty claims are more compelling the more closely they relate to purely private, family and ecclesiastical matters; and conversely, less compelling the closer they get to public and governmental functions. There may be exceptions, but this is a good starting point.

The innermost core. Certain freedoms are at the core of religious liberty because they lie within a fundamentally private sphere. On these freedoms, there is not much room for compromise. They include freedom of belief; freedoms related to family gospel teaching and worship; freedom to express your beliefs to another willing listener, such as missionary work; freedoms related to the internal affairs of churches, including the establishment of Church doctrine, the selection and regulation of priesthood leadership and the determination of membership criteria; and the freedom to build temples and meetinghouses within the framework of fair and reasonable zoning and land-use regulations. These rights include the same right of free speech and expression in the public square as any other citizen; the freedom to publish beliefs; the freedom to debate public policy, including controversial matters; and the freedom to petition the government for protection of one's interests. These are the freedoms inherent in American citizenship and are non-negotiable.

Near the core. Next is a cluster of rights very near the core. These include the right not to be punished, retaliated against or excluded from one's profession or employment based solely on one's faith. America has no religious test for public office. Similarly, there should be no religious test for working in the various professions regulated by the government. Those with traditional beliefs regarding marriage, family, gender and sexuality should not be excluded from being professional counselors, teachers, lawyers, doctors or any other profession where the government grants licenses.

Rights of non-profit organizations. Near these core interests are freedoms that relate to religiously important, non-profit functions carried on by religious organizations and religious schools, colleges and universities. Religious non-profits should have the freedom to have employment policies that reflect their religious beliefs, including the freedom to hire based on religious criteria. Religious colleges should have the freedom to establish honor codes that reflect their religious teachings. Religious charities should have the right to conduct their good works according to the dictates of their respective faiths.

Moving beyond the core. However, as we move beyond these core interests into more commercial settings, our expectations of unfettered religious freedom must be tempered. This is not because commerce is unimportant but because it overlaps with what for decades have been considered civil rights, such as the right not to be discriminated against in employment or denied service at a place of public accommodation based on certain characteristics. Claims by business owners for religious freedom are strongest in small, intimate and family business settings; and correspondingly weaker in large and impersonal corporate settings. It is in these commercial settings where defenders of religious freedom sometimes must be willing to make prudential compromises.

The outer circle. Finally, there are zones beyond these priorities where claims for religious liberty are much weaker and will be very difficult to defend. Some of these pertain to government services, where officials are required by law to perform certain functions. In these areas, religious beliefs should be reasonably accommodated, but other governmental interests may significantly limit the degree of accommodation. For instance, if it is your job to issue marriage licenses as an employee in the county clerk's office and no one else can easily take your place, then your freedom to refuse to issue licenses for marriages that are contrary to your religious beliefs may be very limited.

In summary, there is a hierarchy of religious freedoms, and we have no choice but to set priorities. Those that relate to private and ecclesiastical contexts, or are part of the rights of all citizens, are the most basic and least subject to compromise, while those that relate to commercial and governmental settings will of necessity require greater pragmatism and compromise.

IV

The United States of America is a great, pluralistic nation. It is a nation of immigrants, who hail from every continent and clime. Every religious faith across the planet can be found here, as well as those with no faith at all. Our population is comprised of the religious and the irreligious; of the believer, the agnostic and the atheist; of the secularist and the spiritualist; of white and non-white; of rich and not-so-rich; of the urban dweller and the country dweller. Yet, with a vision that in retrospect was stunning and most certainly inspired, the Founders assembled in the humid, stuffy chambers of Independence Hall have reached down through the centuries and handed to us a formula for governing ourselves—a formula derived from compromise. It is a formula that permits a balancing of differing perspectives through principled compromise and mutual accommodation. It is a formula set against a backdrop of inviolable rights—chief among them the right to the "free exercise" of religion. Engaging in that process and finding such *compromises*—that is the hard work of citizenship. We are Latter-day Saints. May we also, like the Nephites of Captain Moroni's day, *run* to the Title of Liberty as "latter-day" citizens.