

THE COMING PERFECT STORM

Five Reasons Why Freedom of Religion & Conscience Is in Peril

by RANDALL B. SMITH



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THERE HAVE BEEN PERIODS in American history when the anti-Catholic forces in our society, always rumbling just beneath the surface, exploded and flowed out like molten lava down the slopes of Mt. Vesuvius. What brings about these periodic eruptions, I would suggest, is a particular confluence of events: a sort of “perfect storm,” so to speak (if you will allow me to shift metaphors).

One such confluence of forces occurred in the early part of the last century, when American Protestant distrust of Catholics came together with the nativist Anglo-American distrust of immigrants from places like Ireland, Italy, and Eastern Europe. To this already-potent brew was added the increasing distrust

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among America’s mostly Protestant upper classes of the working classes and the sorts of socialist ideas they might be harboring and anarchical plots they might be hatching. The results were not pleasant.

I suggest that another such “perfect storm” is gathering on the horizon, and that the “atmospheric conditions” coming together to form it involve a confluence of the following five factors:

First, the cheapening of the notion of religious conscience into a type of feeling.

Second, the loss of a proper sense of the moral good, such that the burden of proof has shifted from those who want to *permit* acts traditionally considered immoral onto those who want to *defend* established moral codes.

Third, the turning of the religious freedom clause of the First Amendment on its head, so that it is increasingly taken to mean freedom *from* religion.

Fourth, the increasingly dominant notion that refusing to affirm what another person proclaims as his or her identity is to do that person harm.

And fifth, the increasingly common failure of the state to recognize the crisis that arises in matters of conscience when it fails to distinguish between *permitting* something citizens consider morally wrong and *requiring* citizens to do something they consider morally wrong.

UNDERLYING NOMINALISM & VOLUNTARISM

There are, of course, other challenges we face—forces even more basic than these five, undergirding them all. So, for example, as sociologist Christian Smith documents in his most recent book, *Lost in Transition*, most emerging adults in America today claim to have no other basis for their moral judgments than their own brand of personal moral individualism. A high percentage of these emerging adults are also moral relativists who tend to treat every moral code as suspect. For them, the classical notion of freedom as “an ordered liberty directed toward the common good” has been diminished to “the license to have my desires satisfied.” Their largely unconscious appropriation of the principles of moral relativism and autonomous individualism has resulted in a culture whose dual mottos can be summed up by the phrases “No limits” and “No regrets.”

This culture is in turn supported and sustained, I would suggest, by an unquestioned and largely unconscious devotion to the twofold principles of nominalism and moral voluntarism: *nominalism*, the notion that words do not express the essence or reality of a thing, but are merely *names* we assign arbitrarily; and *voluntarism*, the belief that moral commands cannot be tied to any firm grasp of the nature or reality of things, but are merely the projections of an individual’s will-to-power. The result is that many emerging adults seem to believe they have an inalienable right to craft their own personal definition of reality, which is formulated so as to permit them to do as they please.

I have no doubt, for example, that many of my students would respond to *What Is Marriage?*, the recent book by Ryan Anderson, Sherif Girgis, and Robert George, more or less like this: “But why should I define marriage *that way*? If I define marriage *that way*, then some people’s personal freedom will be constrained, whereas if I define marriage some other way, then people will be free to do what they want.” Thus, marriage is whatever one *calls* it. On this view, not only are there no objective moral truths, but words themselves become nothing more than avatars—ephemeral entities to be manipulated in the pursuit of pleasure—in an intrinsically meaningless, “no limits” universe.

And yet, our society’s moral individualism and moral relativism are like the trade winds that constantly blow;

they are not, by themselves, what will cause the coming perfect storm. They make people skeptical about the Church’s teaching, but they don’t necessarily make people *refuse to tolerate* Catholics (and other traditionalist Christians) *politically*. For that to happen, those potentially dangerous trade winds have to come together in a particular way, with a particular focus.

In our own time, we are increasingly seeing the folly of the government’s inability to distinguish between allowing an action and coercing cooperation with it.

FACTOR 1: THE CHEAPENING OF RELIGIOUS CONSCIENCE

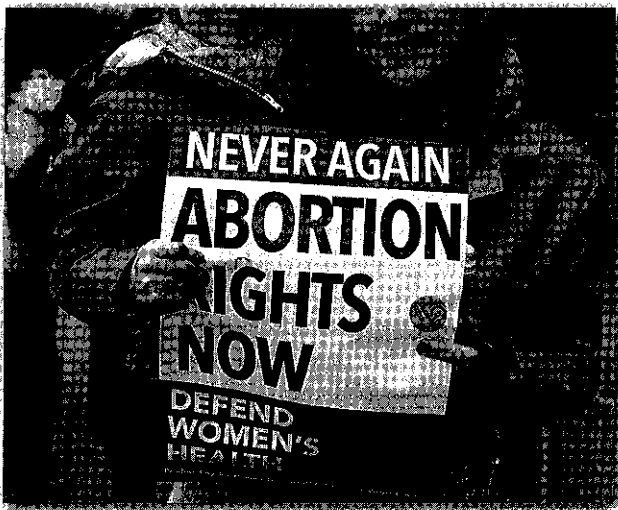
Which brings us back to the convergence of the five factors I mentioned above, the first of which is the cheapening of religious conscience from a judgment about the objective rightness or wrongness of an act into a species of personal feeling or subjective internal sanction. So, for example, a 2007 statement (renewed in 2010) by the Ethics Committee of the American College of Obstetricians and Gynecologists (ACOG) describes conscience as “the private, constant, ethically attuned part of the human character.” “An appeal to conscience would express a *sentiment*,” explains the committee, “such as ‘If I were to do ‘x,’ I could not live with myself/I would hate myself/I wouldn’t be able to sleep at night.’” Thus, “not to act in accordance with one’s conscience is to betray *oneself*—to risk personal wholeness or identity” (emphases mine). On this view, conscience is a *sentiment*, a type of deep feeling about things that, if I go against it, will make me feel bad—as though I’ve betrayed, not another person, but *myself*.

Once you’ve succeeded in turning conscience into a subjective feeling rather than a reasoned judgment, questions will naturally arise about the precise nature of that feeling. How strong is it *really*? And how bad would doing the act in question really make you feel about yourself? Would you, for example, really lose sleep? Or is what you feel something more akin to a sort of distaste? And if so, should your distaste for the act in question really be allowed to trump the public interest?

Thus, a little further on in the report, we find the ACOG Ethics Committee declaring that “claims of conscience are not always genuine.” Rather, “they may mask

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distaste for certain procedures, discriminatory attitudes, or other self-interested motives.” A medical provider’s “authenticity of conscience” must therefore be “assessed,” says the committee, “through inquiry into (1) the extent to which the underlying values asserted constitute a core component of a provider’s identity, (2) the depth of the provider’s reflection on the issue at hand, and (3) the likelihood that the provider will experience guilt, shame, or loss of self-respect by performing the act in question.”



*International Women’s Day Protest
Dublin, Ireland, 2014*

FACTOR 2: BURDEN OF PROOF SHIFTED

Notice how posing the issue of conscience in this way shifts the burden and grounds of proof. Here we come to my second factor. The burden is no longer on the state or professional organization to show that *it* has a compelling interest to overrule my moral judgment; the burden is now on *me* to show to the state’s or organization’s satisfaction that my professed moral judgments are sufficiently sincere and authentic to justify its forbearance—sufficient, that is, to allow me to claim for myself what is often termed (in a nice turn of phrase) a conscientious “exemption” from the norms of the ruling societal elite.

Once judgments of conscience have been diminished to the level of a subjective feeling, another set of questions that unavoidably arises is when and how such feelings should be allowed to trump public judgments. A banker might feel bad about having to foreclose on a person’s unpaid house mortgage, for example, but that doesn’t allow him to refuse to do his job. A police officer might feel guilty about having to clear protesters out of a public park, but that doesn’t mean he can refuse the mayor’s order to do so.

Thus, “even when appeals to conscience are genuine,” declares the ACOG report,

there are clearly limits to the degree to which appeals to conscience may justifiably guide decision making. Although respect for conscience is a value, it is only a *prima facie* value, which means it can and should be overridden in the interest of other moral obligations that outweigh it in a given circumstance. Professional ethics requires that health be delivered in a way that is respectful of patient autonomy, timely and effective, evidence based, and nondiscriminatory. By virtue of entering the profession of medicine, physicians accept a set of moral values—and duties—that are central to medical practice.

The “first important consideration in defining limits for conscientious refusal,” then, “is the degree to which a refusal constitutes an imposition on patients who do not share the objector’s beliefs.” Clearly the Ethics Committee views its own professional standards as binding moral norms, yet it relegates the moral judgments of its members to the status of private feelings. There is little question which of the two will win out in the end. “Providers have an obligation to provide medically indicated and requested [abortions],” demands the committee, “regardless of the provider’s personal moral objections.”

But if judgments of conscience are mere sentiments, why should the patient’s sentiments about what is good for him trump the sentiments of the health care pro-

vider? Well, as we all know, there's not exactly a level playing field when it comes to anything related to the assertion of the inalienable right to sexual license, which characterizes the wealthy societies of the world. But there are other factors at work here as well—factors that have caused the state increasingly to empower individuals who *oppose* society's traditional sources and norms of moral judgment by shifting the general burden of proof onto those who are now forced to argue (often in vain) in favor *retaining* them.

FACTOR 3: RELIGIOUS FREEDOM TURNED ON ITS HEAD

Which brings us to the third factor mentioned above: that the courts have increasingly turned freedom of religion on its head to mean freedom *from* religion. In current circumstances, if someone's "sentimental" conviction that it is wrong to do abortions or to perform services for same-sex "weddings" can be shown to have arisen from a religious source, then instead of the conviction being seen as belonging to an especially protected category of rights, it is now taken to be especially suspect.

Even if a medical provider's *personal* moral sentiments *might*, in some limited number of circumstances, be allowed to weigh against his public duty to provide abortions, a *religiously* grounded sentiment certainly cannot be allowed do so. That is because of the supposed constitutional "wall of separation" between church and state—a wall that is increasingly understood to protect the state from any moral objections to its actions that the churches might raise, rather than to protect the churches from any attempt by the state to control them.

This relates to a problem identified by the philosopher Alasdair MacIntyre in *After Virtue*. The traditional justification for moral rules is that they help transform us from the imperfect, selfish selves we usually are to the more perfect, unselfish selves we must be if we are to flourish as complete and whole human persons. Thus, when a society loses its grasp, as ours has, on the *telos* or end of the moral life and can no longer rely upon a shared notion of the human good, its rules will cease to make sense according to any publicly shared standard and instead come to be seen as intolerant and intolerable burdens on the freedom of individuals to do as they wish.

Indeed, the greater the distance between the type of person we must become if we are to flourish and the type of person we are in our untutored, imperfect state, the more alien and unnatural will the traditional moral rules seem to us. The moral rules are relatively easy for those who are virtuous, but hard or impossible for those who are not. The result is that, in our current cultural circumstances, the moral principles that are most contrary



Los Angeles, California, 2014

to our untutored desires—the ones that require real virtue and discipline—are going to seem most oppressive and thus least defensible.

Add to this problem the fact that, for modern man, as Charles Taylor and others have shown, the development of personal subjectivity and "the self" has become paramount. In this cultural context, the individual's major life-project is not (as it would have been for earlier generations) pursuing the common good or bringing oneself into accord with the eternal order of the cosmos, but rather creating one's own self-identity.

FACTOR 4: FAILURE TO AFFIRM EQUALS HARM

This brings us to the fourth factor. When others fail to affirm the life-choices an individual has designated as central to his self-created identity, the failure is deemed a public "harm" that ought to be proscribed by law, just as certain types of discriminatory behavior are forbidden. So, just as you can't prevent a man proud of his black heritage from posting pictures of Malcolm X on his cubicle wall, so, too, it should be legally unacceptable to ask a gay man not to post a picture of a naked man in the shower on his. Just as it would be impermissible to require persons of color to use separate washrooms from those designated for whites, so, too, it should be legally unacceptable to require a man who identifies as a woman to use a washroom separate from the designated ladies' room.

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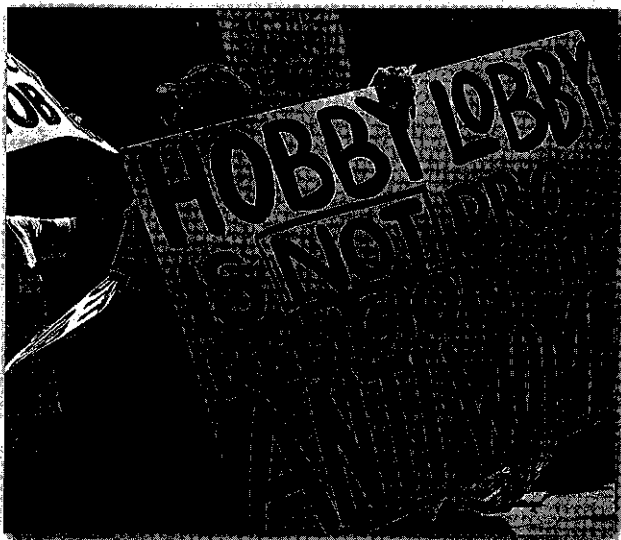
identity, we find the idea that such self-definition is a fundamental right. And since rights are to be protected by the state, we find citizens increasingly claiming that their “private” decisions must not only be allowed by the state, but also be enabled and facilitated by it, to the point of having the state use its coercive power to punish those who refuse to cooperate.

Decisions about euthanasia, contraception, and abortion, for example, are said to be made within a protected “zone of privacy,” a place where the community’s moral norms must not be allowed to intrude. And yet the individuals who engage in such “private” behaviors are increasingly demanding that the state take responsibility for them and facilitate their choices by forcing doctors to euthanize them and abort their children or by forcing other citizens to pay for their contraception.

One might have thought that private matters should be left private. But instead, things that used to be considered private, such as one’s sexual proclivities or use of contraceptives, have now become matters of public concern, while things that used to be considered open to public discussion and debate, such as the rightness or wrongness of certain forms of killing, have been dismissed to the realm of the purely private.

FACTOR 5: FAILURE TO DISTINGUISH BETWEEN PERMITTING & REQUIRING

Which brings us to the fifth and final factor contributing to the coming storm: namely, the state’s increasingly dangerous failure to distinguish in matters of conscience between *permitting* things many citizens consider morally wrong—pornography, for example—and *requiring* citizens



Burbank, California, 2014

to participate in things they consider morally wrong. This failure is not unique to our times; it was on display during the pre-Civil War era, when the courts demanded that citizens opposed to slavery not only refrain from disturbing Southern slave owners who traveled North with their slaves, but also, under penalty of law, that they send any escaped slaves back to their owners in the South. The first was annoying, the second intolerable.

In our own time, we are increasingly seeing the folly of the government’s inability to distinguish between allowing an action and coercing cooperation with it. Perhaps this is most notoriously on display in the same-sex marriage debate, where providers of services are being *required* to take part in same-sex faux weddings, and adoption agencies are *required* to provide children to same-sex couples.

THE ALINSKYITE APPROACH

What has made this risk from government’s coercive powers especially acute in recent years, moreover, has been the extent to which more and more Americans are taking Saul Alinsky as their model of political engagement, rather than Washington, Madison, Hamilton, and Jay. Organized mobs, sit-ins, disruptions of public meetings, and a steadfast refusal to allow the opinion of the hated “other” either to be heard or to be taken seriously have become the political tactics of choice.

When Ryan Anderson of the Heritage Foundation travels around the country giving talks defending the traditional view of marriage, he is rarely (if ever) engaged in the sort of forceful and intelligent exchanges that characterized the famous debates between Lincoln and Douglas, and the Federalists and Anti-Federalists before them. He faces sit-ins; chanting, disruptive mobs; sneering, vitriolic contempt; and his opponents’ steadfast refusal to deign to enter into argument with him. The Founders would have called this “the tyranny of the mob”; our modern intellectuals call it “the face of democracy.”

Many of these Alinskyite radicals undoubtedly consider themselves the true children of the counter-cultural revolutionaries of the sixties. And yet, consider how much different it would have been for, say, a young Quaker pacifist facing the draft board during the Vietnam War had he lived under the current cultural and political regime:

“I’m a pacifist,” our young Friend says to the draft board official, “and I am opposed in conscience to war.”

“That’s just a feeling you have,” the Alinskyite official tells him. “It makes you uncomfortable; it may even make you feel guilty. And privately, of course, you’re allowed to be uncomfortable. And we’re not taking away your right to write against the war in protest. But your uncomfortable feeling cannot be allowed to trump a

legitimate public interest. You call it 'killing'; we call it 'defending the homeland from the worldwide communist conspiracy.'"

"But I'm a Quaker," the poor, naïve Friend replies, "and my religion has taught me that all war is wrong."

"Yes," the Alinskyite says, "but that's precisely what makes your opposition suspect; we must insist on a separation of church and state."

"But I am convinced that killing and war are immoral," the Friend persists, certain of the justice of his cause.

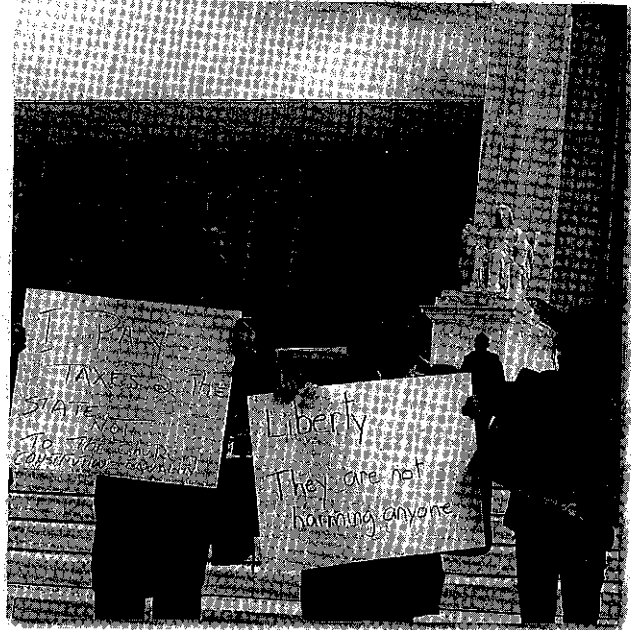
"In making this claim," the official replies, "you are making a moral judgment on others who fight, and that's discriminatory. Your statement is an offense against them, and to allow you to persist in your opposition would be harming them by denying their soldier-identity."

"But wait," the young Friend says, perhaps actually starting to quake as it begins to dawn on him how thoroughly the modern state has succeeded in insulating itself from all claims to conscientious objection. "I'm not demanding that *others* not go," he says, retreating from any hope he might have harbored that his personal moral objection to war might affect public policy. "I'm simply asking that *I* not be forced to do something I judge to be morally wrong."

"No," the official replies; "the American people have a *right* to the public defense. If we allow you an *exemption* from your public *duty*, especially one based on a religiously based conviction, we would be *harming* those who have chosen to become soldiers and have agreed to kill the people we've determined to be our country's enemies."

If our young Friend hoped for support from the liberal media, given our current cultural conditions, he would be sorely disappointed. No liberal commentator or media pundit would be likely to leap to the defense of one who dared to challenge the norms of the reigning cultural elite. Granted, if the elite at some point turned against the war, our Friend might gain support for his cause, but as long as *those who matter* supported the war, he would stand alone.

Were he then to look for intellectual aid and comfort from any of the prominent Quaker intellectuals resident in America's major universities, he might find them disarmingly silent as well. If these academics had already given themselves over to the latest fads of "cultural accommodation," our young Friend would find them either strangely silent or, indeed, positively embarrassed by his unenlightened opposition to the current cultural consensus. He might even find that they had become some of his most strident critics, so much of an irritant would he have become, reminding them uncomfortably of the old



Washington, D.C., 2013

"unsophisticated" and "unenlightened" Quaker pacifists they used to be, before they sold their souls for the thirty pieces of silver of cultural acceptance.

STANDING OR FALLING TOGETHER

We too often take freedom of religion and freedom of conscience as two distinct realms. But Pope John Paul II saw that these two fundamental freedoms stand or fall together, since both are grounded in man's search for the truth of things.

When people lose their devotion to that search for truth and settle, as so many of our contemporaries have, for trying to ground freedom of conscience in nothing more than individual human autonomy, they will soon find themselves like Thomas More in *A Man for All Seasons* (a play often lauded for its "respect for the individual conscience"). Alienated from the powers-that-be and striving only to be left alone to write, to think, and to pray, More was surprised when the ruling forces would not allow him even that small privilege. Though reputed to be one of the wisest men of his day, he could not see the truth that his uneducated wife Alice grasped instinctively. "Do you really think they will leave you alone here to think?" she asks him incredulously. "Poor, silly man."

A political authority that feels it can strip the public square of God's voice when it suits it, or when that voice has become inconvenient to its claims to plenipotentiary powers, will not scruple at stripping the public square of all other, lesser voices when it feels they have begun encroaching upon its claims to absolute sovereignty. ♦