

## **The Global Crisis of Religious Freedom: the Stakes for America and the World**

Testimony before the Senate Judiciary Committee  
Subcommittee on The Constitution, October 2, 2018  
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Chairman Cruz, Ranking Member Hirono and Members of the subcommittee, thank you for holding this important hearing and inviting me to testify.

I seek today to draw your attention to a dangerous development for American security, and for American democracy. *We are witnessing a global crisis in religious freedom, with profound humanitarian and national security consequences for our nation. While our twenty-year policy of advancing religious freedom in U.S. foreign policy is gaining steam, it is being handicapped by the decline of religious freedom in the West, including in our own country.*

*In America, the right of free exercise of religion was historically understood to be the “first freedom”-- the birthright of every human being, and necessary for democratic success. Today religious liberty is increasingly, and disastrously, being treated as an illicit and unconstitutional claim of privilege by religious people, and a front for bigotry and hatred. Religious individuals and communities, including Muslims, Jews, and Christians, are being vilified by private actors, and coerced by the state, because of their unpopular religious beliefs and practices.*

*While that stunning development has not yet yielded violent persecution, it is turning the First Amendment on its head. It suggests an authoritarian impulse in culture and law that imperils our democracy, weakens our desire and our ability to respect each other despite our deep religious and political differences, and reduces our capacity to fight the global upsurge in religious persecution, including religion-related terrorism.*

### **Introduction**

With the First Amendment’s guarantee of the free exercise of religion, our Founders sought to ensure the presence of religious voices in our public life. They were convinced that full and equal participation by all America’s religious individuals and communities was necessary to our nation’s well-being.

Unfortunately, there is growing evidence that the Founders’ understanding of religious freedom, one which existed for over two centuries, is declining in America. If this is true, all of us are being harmed, whatever our religious convictions, or even if we have none. And our country is being harmed. Among other things, a declining respect for religious freedom is contributing significantly to our cultural and political divisions, which seem to worsen by the day.

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Part of the problem is that many of our fellow citizens are learning from law and public policy the false and dangerous lesson that religion, and therefore religious freedom, are negative, even destructive, elements of American life. That lesson, regrettably, is also being learned by many of our schoolchildren. It is being learned by college-aged youth, young adults who, like their counterparts down the ages, are uncertain what they believe, and perhaps inclined not to affiliate with any religion. Skepticism and non-affiliation are part of our bevy of fundamental rights as citizens; they are rights that derive precisely from the constitutional guarantee of religious freedom. However, just as our government may endorse no religion, so too it may not endorse skepticism about, or non-affiliation with, religion.

The growing ambivalence in America about religious freedom constitutes a serious problem for us all. It is a great irony that contemporary empirical evidence is confirming that the Founders were right – evidence that religious freedom is a necessary, moral good for each of us. It protects a God-given right at the heart of what it means to be human. Every human being, and every society, needs religious freedom.

The evidence also shows that religious freedom in its public expressions enables stable self-government, encourages economic development, and undermines religion-related violence. Today that includes violent religious extremism and terrorism.

Unfortunately, religious freedom is also in great peril globally. Indeed, violent religious persecution and terrorism are spreading, creating a crisis in many countries that harms minorities and their societies, but also America's fundamental interests abroad and our security at home.

For twenty years U.S. foreign policy has sought to advance international religious freedom and reduce religious persecution, but it has had little success, in part because our foreign policy experts, like many of our fellow citizens, are confused or ambivalent about the meaning and value of religious freedom.

I was one of those foreign policy experts. I spent the better part of my career as an American diplomat basically indifferent to the importance of religious freedom. Then, in 1999, I joined the Office of International Religious Freedom, which had just been created in the U.S. Department of State. I quickly lost my indifference.

What I saw in that job was staggering. I saw terrible human suffering from religious persecution. I saw families and communities at risk of destruction, and entire societies destabilized politically and economically because religious freedom simply did not exist. And I saw governments and policy makers indifferent to the sufferings of their citizens and the instability it foreshadowed.

I came to understand why our Founders believed that religious freedom is the most fundamental of all our rights as human beings, and why they understood that freedom to be necessary for the success of the American experiment in democracy, in part because of its positive effects on social harmony, economic development, and political stability.

I was grateful to be part of a talented State Department team charged with increasing religious freedom and reducing persecution. But I also discovered that the State Department as a whole

did not share the view that religious freedom is important for our country, and as a consequence was not prepared to incorporate religious freedom into the mainstream of US foreign policy. The Department had a kind of “religion avoidance syndrome,” characterized by an underlying sense that religion isn’t relevant to diplomacy. Of course, no one at State supported religious persecution. But few were prepared to counter it by promoting religious freedom.

After four years in that job – for me four transformative years -- I left the Foreign Service to write a book about the experience, and about why religious freedom is important for our nation and the world. I later joined with other colleagues to establish two private religious freedom organizations. One was at Georgetown University where we developed the ideas and evidence, and funded scholars around the world. The other is an independent non-profit called the Religious Freedom Institute. There our Action Teams, drawing on the best research and evidence, develop and implement strategies to advance religious freedom on the ground, both here and abroad.

But I have to tell you that most Americans, like me some years ago, are living their lives without much awareness of an international crisis with profound and growing implications for ourselves and for the world.

I want briefly to outline that crisis for you. What is it, what causes it, and what does it mean for the world and for our country?

### **The Evidence: Outside the West**

Studies from multiple sources, including the non-partisan Pew Research Center, show a worldwide decline in religious freedom, characterized by a global increase in religious violence and persecution. While there are many causes of rising persecution, much of it stems from state coercion of religious communities and the growth of religion-related extremism and terrorism. These pathologies are related. Where religious freedom is weak, government coercion and violent extremism, including religion-related terrorism, are often not far behind.

Pew began its systematic reports on global religious restrictions in 2007. They rank every country in the world as “low, moderate, high, or very high” in government restrictions on, or social hostilities toward, religion or religious communities. The reports show that since 2007 somewhere between 60 and 75 percent of the world’s population lived in countries with high or very high combined scores for government restrictions and social hostilities.

In the most recent report, for 2016, that percentage rose to its highest level ever - 83%. That means that in 2016 over four fifths of the world’s population lived in countries where religious freedom either did not exist, or was under enormous pressure.

Most of those countries are either Muslim-majority states, nations with Communist governments (China, North Korea, Vietnam, and Cuba), or large countries whose cultures and laws have been formed by other majority religions, such as Hindu India, Buddhist Burma, or Christian Russia.

A deeply troubling element of the Pew reports is that social hostilities toward religion score “high” in many Western countries, such as the UK, France, Germany, Italy, Spain, Australia, and the United States. Government restrictions are also “high” in France, and are on the high side of “moderate” in several Western nations, including the U.S. It is stunning, and simply unacceptable, that dozens of nations thought to be “undeveloped” score better on government restrictions and social hostilities than Western European nations and the United States. In the latest report (2016) the two regions where social hostilities experienced the greatest median growth were Europe and the Americas. Violent persecution is not the norm in the nations of the West. But we would be foolish to conclude that it can never happen here.

The Pew reports, and others, confirm what I discovered when I was in the State Department: in part because they live in nations without religious freedom, millions of human beings are vulnerable to violent religious persecution and terror -- such as torture, rape, murder, unjust imprisonment, unjust execution, or forced migration -- either because of their religious beliefs and practices, or the beliefs and practices of their persecutors. Those persecutors can be governments, or they can be non-state actors such as mobs or terrorists who are often encouraged or abetted by governments.

The vast majority of the victims are religious minorities, and they come from virtually all the religious traditions of the world. Studies show that numerically the greatest numbers of victims are Christians, with Muslims a close second. The victims also include Jews, Sikhs, Buddhists, Hindus, Baha’i and Ammadiyya. They include many tiny religious communities such as the Kakai, the Sabeen-Mandaeans, and the Yezidis of Iraq who have suffered devastating displacement, torture, rape and death at the hands of ISIS. All the non-Muslim minority religions of Iraq, including its two-millenia old Christian presence, are at risk of elimination.

The countries where minorities are persecuted by governments are spread around the world, and are, for the most part, outside the West. The persecutors include secular authoritarian states like China, which is officially atheist and is viciously attacking its Uighur Muslim minority, as well as intensifying its oppression of Tibetan Buddhists and Christians. Another is Syria, where the savage Assad regime persecutes any religious group that challenges its power. Still others are theocracies in Iran and Saudi Arabia where both governments brutally persecute all religious actors, including Muslims, who do not accept their extremist versions of Islam.

Unfortunately, the evidence shows that democracy alone does not ensure the presence of religious freedom or the absence of persecution. Long-standing democracies like India experience fierce persecution of non-Hindu minorities by extremist Hindu nationalists. Persecution of non-Muslim and Muslim minorities occurs routinely in neighboring democratic Pakistan. In Indonesia, the largest Muslim nation in the world and a functioning democracy, religious minorities such as the Ahmadiyya are often subjected to brutal violence.

Minorities are even more vulnerable when nations are shifting unsteadily between democracy and dictatorship. In Burma, an extremist understanding of Buddhism has fed the terrible expulsion and slaughter of the Rohingya Muslim minority. In Russia, the Russian Orthodox Church, persuaded of its right to a religious monopoly, feeds discrimination against, and periodic government persecution of, non-Orthodox minorities such as the Jehovah’s Witnesses.

The “newest” persecutor, and in many ways the most terrible, is religion-based terrorism. Versions of it exist, or have existed, in most world religions, but currently the greatest threat is from Islamist terrorism of the kind represented by the likes of ISIS, Al Qaeda, Boko Haram, Al Nusra, and Al Shabab. Deaths and injuries from religion-related terrorism have dramatically increased over the past decade. In its latest report on global restrictions on religion, the Pew Research Center found that as of 2016, 33 nations experienced what it characterized as “violence that resulted in many casualties” from religion-related terrorism. That’s up from eight nations in 2007, an increase of 75% in just under a decade

Let me give you two stories that are typical, drawn from a long and growing list of tragic stories, to illustrate the suffering of religious minorities because of their beliefs and practices, or those of their tormentors.

One of the largest Indian states is Gujarat, a Hindu province governed by Hindus but with a substantial Muslim minority. In 2002 an inter-religious dispute, which included violence by Muslims, led angry Hindu mobs into Muslim villages in Gujarat. The mobs surrounded houses where many of the Muslim men were at work, and mainly women and children were at home.

When they saw the mobs gathering, the terrified women phoned the local Hindu police, begging for help. The police did not come. Many of the women were raped. Pregnant women saw their babies ripped from their wombs and slaughtered before their eyes. Many innocent human beings died terrible deaths that day.

Why? Because their religion was the wrong religion, all of its adherents blamed for the violence of a few. Because the attackers had no understanding of human dignity as reflected in the concept and practice of religious freedom. They either did not know, or rejected, the Hindu versions of religious freedom taught by Mahatma Gandhi. In one of the most haunting reports I have ever read, Human Rights Watch captured what happened. The report’s title was taken from what the Hindu police told the frantic Muslim women when they begged for help: “We have no orders to save you.”

My second story of religious persecution took place in Libya on the shores of the Mediterranean. There, in 2015, twenty-one Egyptian Christian men were marched into the beach by ISIS terrorists, each with a hood over his face, and each with a machete. You may have seen photos or even videos of this massacre – one of the vilest and most dreadful events ever recorded on film. ISIS filmed it so that all of us could understand what they were doing and why.

As the ISIS terrorists beheaded the Christians one by one, many of the men had the name of Jesus on their lips when they died.

Why were they slaughtered like animals? Because their religion was the wrong one. Because their attackers had interpreted their own religion as beckoning them to destroy all Muslims and non-Muslims who did not embrace their despicable version of Islam. Because they rejected with utter contempt the idea that Islam could accept the religious freedom of other people.

Global religious persecution also includes non-religious minorities, that is, groups that are not associated with any religion. Religious freedom includes the right not to believe, and not to be persecuted by governments or others acting for religious reasons. Put differently, persecution of non-religious people is, in fact, religious persecution if it is done for religious reasons.

For example, ISIS and Al Qaeda have drawn upon their extremist interpretations of Islam to attack groups defined more by their ethnicity than their religion, such as the Turkmens of Iraq. In Iran, the government has cited Islamic teachings in the brutal torture and killing of LGBT persons. In Pakistan and Indonesia, atheists have been targeted for violence after being labeled as apostates from Islam. All these acts constitute religious persecution and must be countered by the kind of religious freedom that protects the right not to believe.

But this is not the end of the story of who gets persecuted. It is not only minorities who are vulnerable. Reformers within *majority* religious communities are also under siege. This is a critical but often ignored element of the global crisis. For example, laws and public attitudes that encourage violent reactions against blasphemy, apostasy, and defamation of Islam have the effect of discouraging Muslim voices of reform. The laws ensure that extremists dominate public discourse about Islam, providing support for extremist ideologies and deepening the crisis.

Let me give you one example of how this works. In 2011 Pakistani official Salmon Taseer was murdered. Taseer was a Muslim from the majority Sunni religious group and the governor of Pakistan's largest province, the Punjab. He was murdered because of his opposition to Pakistan's blasphemy laws and his support for a Christian woman, Asia Bibi, who had been imprisoned for blasphemy – essentially for criticizing Islam's prophet Mohammed. Asia Bibi is still awaiting execution after ten years suffering in prison. Her case is an outrage and the government of democratic Pakistan is responsible for her suffering and that of her family. She and they are perfect examples of a minority under persecution.

But the larger point is that Salmon Taseer's murder demonstrates how blasphemy laws discourage voices of reform from within the most important community – that of the majority religion -- and encourage an extremist interpretation of Islam. Polls showed widespread approval of the blasphemy laws Mr. Taseer was criticizing, as well as general approval of the murder. It took the Pakistan government years to bring the murderer to justice. But in a society that values religious freedom in law and culture, anti-blasphemy laws would not exist. At a minimum, Taseer's criticism of those laws would be met by counter-argument, not by murder. The message of anti-blasphemy laws to reformers like Taseer is that whoever criticizes Islam, including members of the Muslim majority, is deserving of punishment, either by the state or by private actors.

I hold no brief for those who insult Islam or defame its prophet. But the idea that the proper response to defamation of Islam, or any other religion, is criminal prosecution, let alone violence or murder, is malevolent, destabilizing, and dangerous.

My religion is insulted regularly by the entertainment industry and the media. When that happens I too am outraged. But if my response, or that of others who agree with me, is hatred and violence, then we reject our own religious teachings and undermine the ordered liberty on which

our nation was founded. Vigorous, principled, civil disagreement is the only way people with profound differences on sacred matters can live together in a civilized society. Muslim societies in the Middle East, like Hindu, Buddhist and Christian societies elsewhere, must learn to deal with insults by the use of reason rather than violence.

But today, this toxic attitude -- that anyone offending Islam must be punished – is not only responsible for many of the growing numbers of attacks on religious minorities worldwide. It is also responsible for deterring the voices of Islamic reform. As noted, this attitude is also present in other societies, including Hindu India and Buddhist Burma, a reality, I would submit, that warrants far more attention that it has received from Western policy makers and the media.

Unfortunately, it is also present in Western democracies, where an absolutist form of secularism is demanding that the voices of religious communities of all stripes be silenced, or removed from public life, a subject to which I will return.

### **The State Department Response**

The United States was the first nation in the world to mount a serious response to the emerging global crisis of religious freedom. In 1998 Congress passed the International Religious Freedom Act, which requires the United States to advance religious freedom in its foreign policy. It created an office of International Religious Freedom in the Department of State, headed by an Ambassador at Large, and gave them the authority to carry out this new initiative. This is the office I joined in 1999. For the past 20 years it has been staffed by smart and courageous people.

Unfortunately, skepticism on the part of State Department leadership about the possibility or value of advancing religious freedom abroad has kept the policy in the background of diplomacy. The result has been foreign policy “actions” that are mainly rhetorical and reactive. They have not been effective in changing things on the ground. For example, the Department issues reports and condemnations after some tragedy like the murder of Salmon Taseer has occurred. It produces very good, often searing, annual reports describing the actions of the worst violators. It threatens (but rarely delivers) economic or other sanctions.

All of this is important, but it is not enough. The United States needs, but does not now have, an all-of-government strategy designed to get in front of the problem, for example, by demonstrating to societies like Pakistan that more religious freedom can help them achieve their own goals, such as internal stability, economic development, and reducing religion-related violence and extremism. A policy based entirely on rhetoric, or the threat of sanctions, can have some impact, but it cannot begin to solve the problem.

It is important to acknowledge that things have improved at the State Department in the past few years. U.S. IRF policy began to move in a positive direction under the leadership of President Obama’s last Ambassador at Large, Rabbi David Saperstein. There has also been an awakening at Foggy Bottom to the reality that the non-Western world is highly religious, whether we like it or not, and we must therefore incorporate religion more effectively into our diplomacy. This awakening was reflected in the creation of the Office of Religion and Global Affairs established under Secretary John Kerry.

But the prospects for U.S. policy are even brighter today. The current Ambassador at Large Sam Brownback, with the wholehearted support of Secretary of State Mike Pompeo and Vice President Mike Pence, has in less than a year laid the groundwork to advance international religious freedom more successfully than ever before. Last month's unprecedented Ministerial to Advance Religious Freedom brought to Washington some 80 official delegations and 400 civil society leaders from around the world, and produced a multilateral plan of action. Secretary Pompeo, who convened the Ministerial, has announced that it will be repeated in 2019. Those who have been fighting to improve US policy for years are greatly encouraged, and are working hard to help this promising new multilateral initiative succeed.

But, notwithstanding the critically important support of the Secretary of State, the Vice President, and the President, our diplomatic, political, and Congressional leaders remain hesitant to do the hard work necessary to address the structures and causes of religious persecution – the religious and cultural traditions, laws, and political institutions that do not support religious freedom. In my view, this has harmed fundamental American interests by restricting our policy to speeches and reports. I am very hopeful that the new initiative under Secretary Pompeo and Ambassador Brownback will move the United States and others beyond rhetoric to effective diplomatic action.

### **The Justice Department**

Unfortunately, the U.S. failure to address religious persecution in China with success is not limited to our foreign policy. The Justice Department has also taken positions that threaten to undermine the strong protections that Congress has provided for those suffering religious persecution abroad. In a recent case, *Ting Xue v. Sessions*, the United States Court of Appeals for the Tenth Circuit held, at the Department's urging, that a Chinese Christian lacked a "well-founded fear of persecution" within the meaning of the asylum laws even though his decision to attend an unregistered house church had led to his being arrested, beaten, jailed for three days and four nights, forced to pay a major fine, required to take reeducation classes, and warned not to attend illegal church meetings.

The immigration judge denied Ting Xue's asylum petition, saying his fears of future persecution "do[] not amount to more than a restriction on [his] liberty and *thus do[] not rise to the level of persecution* [emphasis added]." The Board of Immigration Appeals affirmed, as did the Tenth Circuit, holding that the "level of harassment" Xue experienced was not "persecution" under the asylum laws. Xue petitioned for certiorari in the U.S. Supreme Court, and thankfully the Solicitor General, perhaps recognizing the absurdity of this result, settled his case. Ting Xue and his family are now living peacefully and productively in the United States.

In the Tenth Circuit, however, *it remains the law that asylum applicants do not have a well-founded fear of religious persecution if they are "free" to practice their faith in secret*. This view essentially reduces freedom of religion to the private, interior freedom of belief and worship, not the freedom of religious exercise enshrined in our Constitution and laws. It also conflicts with the view of at least three other federal circuits. As the Seventh Circuit powerfully put it in one case: "Christians living in the Roman Empire before Constantine made Christianity the empire's official religion faced little risk of being thrown to the lions if they practiced their religion in

secret. It certainly doesn't follow that Rome did not persecute Christians, or that a Christian who failed to conceal his faith would be acting 'unreasonably.'" *Muhur v. Ashcroft*, 355 F.3d 958, 960 (7th Cir. 2004).

A group of interested lawyers and scholars including myself have been encouraging Attorney General Sessions to use his statutory authority under the immigration law to address this problem, and to make clear that one may suffer persecution even if "free" to practice one's faith alone and in private. That view is far more consistent with the protection that our nation has historically accorded to our "first freedom."

I would submit that the impoverished view of religious freedom as mere "freedom to believe and worship" has taken hold among some in our foreign policy establishment as well, and plays some role in the highly-rhetorical and largely ineffective international religious freedom practices adopted by the State Department over the past two decades. It is difficult to mount an effective strategy to advance religious freedom in China, or anywhere else, if you believe it to be primarily a private right of belief and worship, with no legitimate role in public affairs.

## The Evidence

What is the evidence that religious freedom is necessary for individuals and societies everywhere? If it is necessary, and if the result would be more stability and less violence around the world, the State Department, U.S. political leaders, and the Congress should be willing to engage in the hard work of advancing it. Indeed, they should be eager to try something that might forestall the need for U.S. military force, and the steep price in blood and treasure we have paid in recent years.

My colleagues and I have spent the last decade at Georgetown University, Baylor University, and at the Religious Freedom Institute, conducting research on these questions.<sup>1</sup>

We have documented something that America's Founders seemed intuitively to have understood: religious freedom is necessary if human beings and societies are to flourish. First of all, any person who is denied the right to believe, or to act publicly on religious belief as a citizen or part of a religious community, equal to all others in public and political life, is being denied something at the heart of what it means to be human – which is why our Founders called it the first freedom.

In addition, the evidence shows that when governments deny religious freedom to their own citizens and religious communities they are not only denying a fundamental human right. They are undermining the chance for stable self-government, economic growth, ensuring the equality

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<sup>1</sup> For a sampling of the evidence see: Nilay Saiya, *Weapon of Peace: How Religious Freedom Combats Terrorism* (Cambridge University Press, 2018). Byron Johnson, *More God, Less Crime: Why Faith Matters* (Templeton Press, 2012). Monica Toft, Daniel Philpott, and Timothy Samuel Shah, *God's Century: Resurgent Religion and Global Politics* (W.W. Norton & Company, 2011). Thomas Farr, *World of Faith and Freedom: Why International Religious Liberty is Vital to American National Security* (Oxford University Press, 2008). Brian J. Grim and Roger Finke, *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty First Century* (Cambridge University Press, 2011)

of women, and reducing the corruption endemic to concentrations of power. More, they are encouraging violent persecution, violent religious extremism, and religion-related terrorism.

The reverse is also true. The evidence shows that when a society values and protects religious freedom, the results are good for everyone – religious or not. Those results include more stable and less corrupt government, more economic growth, better health outcomes, more equality for women, less government corruption, and less religious violence.

Part of the genius of the American founding was its constitutional guarantee of the free exercise of religion for everyone. The colonies had experienced religious violence and persecution. The Founders' solution was to provide religious freedom for all citizens and religious communities -- equally. No religion could establish a monopoly. The guarantee of free exercise on an equal basis has helped make America the most stable democracy in history, despite our deep and continuing differences over religion.

The Founders also understood that religious freedom was good for the economy. William Penn, the Quaker founder of Pennsylvania, said in effect to immigrants and settlers "if you are engaged in commerce, come live and work in Pennsylvania colony. We have religious freedom here and it's good for business." He was right. And they came

But the most exciting evidence of all is something that the Founders did not predict, although they would have recognized the logic. It is that religious freedom undermines violent religious extremism and terrorism. It can be a counter-terrorism policy for the United States, helping to prevent the spread of groups like ISIS and Al Qaeda. It does this in part by giving space to the voices of Islamic reform.

Let me give you an example. Sayyid Qutb was a member of Egypt's Muslim Brotherhood. His writings contained extremist interpretations of Islam that helped radicalize Osama Bin Laden and thousands of future terrorists. Qutb himself was radicalized in part by being thrown into an Egyptian prison and tortured. It was here he wrote many of his books. In a system that protected religious freedom, or even religious tolerance, his extremist arguments about Islam would not have been met with prison and torture, but with counter arguments from moderate Muslims about what their religion requires of its adherents. Imagine a young Saudi Osama Bin Laden who was as influenced by the moderates as the radicals. What might a modicum of religious freedom in Saudi Arabia have meant for the future incubation and leadership of Al Qaeda?

Advancing religious freedom can help stabilize nations like Egypt, Iraq, or Russia, whose stability is vital to our interests. It can reduce armed conflict and undermine religion-based terrorism in places like Pakistan, Afghanistan, and Nigeria. It can reduce the suffering of people persecuted for their religious beliefs in nations like China and India.

In short, the empirical evidence shows that advancing international religious freedom should be part of America's own national security strategy, as well as its human rights policy. But it is not understood that way. Former Secretary of State Madeleine Albright wrote after leaving the State Department that her generation of diplomats was trained to stay away from religion. As one of

those diplomats I can attest that she was right. And while that problem is less dominant today than two decades ago, it remains an obstacle to effective policy.

### **The Explanation**

What is the explanation for this aversion to religion and, especially, to religious freedom? Given the highly religious nature of the rest of the world, and the role of religion in so many of the issues we face in foreign policy, why not do the hard work to convince other nations that moving toward religious freedom is in their interests? Religious freedom diplomacy would certainly be far less expensive in American blood and treasure than the use of military force.

There are several answers to that question. Some have little to do with religion and more to do with bureaucratic inertia. But, as I see it, the core of the problem is the decline of religious freedom in the West in general, and in the United States in particular. Too many of our political and diplomatic leaders, as well as our business and cultural leaders, no longer understand why our Founders called this the “first freedom.” Their attitudes reflect the general decline of religious freedom in our culture and politics.

Let me give you three brief examples of that decline.

First, the treatment of American Muslims as equal citizens in law and culture is increasingly at risk. All of us should be concerned about increases in discrimination and violence against Muslims simply because they are Muslims. My colleagues and I work closely with American Muslim leaders and we see them as powerful allies in the fight for religious freedom here and abroad. We must incorporate American Islam into that fight. But we must first ensure that Muslims have full religious freedom at home. It is particularly important that security-minded Americans, or those who may be distrustful of Islam itself, understand that their opposition to full and equal religious freedom for Muslims is both un-American and harmful to our interests.

Second, we are seeing a rise in anti-Semitism. Until recently this vile phenomenon seemed to be centered in the Middle East and, more alarmingly, in Europe, where it has been on the rise – for example in the British Labour Party. We should all be troubled that America is experiencing incidents of anti-Semitism, such as the desecration of gravesites in Jewish cemeteries, and the anti-Semitism that accompanies the racism of white supremacists. Grounded in the traditions of the violent Ku-Klux-Klan, white supremacists have traditionally reviled the Jews. As a southerner, and a convert to Catholicism, I cannot forget that the ugly stain of southern racism was also virulently anti-Catholic. As we work to remove the evil of racism from our country, we must also rid ourselves of its malevolent and nativist offspring – deep religious prejudice. America does not work as our Founders intended unless Jews and members of all other minority religions are viewed as free and equal, both as individuals and as members of religious communities within civil society.

Third, we are seeing an attempt by the state and by private actors to restrict the free and equal exercise of religion in American public life – precisely the opposite of what the Founders intended with the First Amendment. Today there is a growing attempt to silence traditional religious voices. Even our courts appear to be following powerful elements in American society

whose interests would be served by muting or removing from our political discourse traditional religious ideas and actors, including those of Christians, Muslims, Jews, and others.

While there are long-term reasons for this development, including secularization, the most immediate cause is recent shifts in public opinion toward normalizing sexual freedom and same-sex marriage, and the right to determine and change one's gender.

Americans of good will have deep, vigorous, and abiding disagreements over these issues. But recent shifts in public opinion and public policy have had a sudden and distinctly negative impact on religious freedom. That is not good for any of us, whatever our views of sexual morality or gender. It is not good for our country. The primary effect is to undermine the core meaning of the First Amendment, which is this: Protecting the free exercise rights of religious individuals and communities is not only the right thing to do, the defense of a fundamental human right. Protecting free exercise for everyone is also necessary to limit the power of government, to ensure the provision of services in civil society that government would otherwise have to provide, and to contribute to our debates over what constitutes the common good and how it should be reflected in law and public policy.

At a minimum, religious actors have a right to contend in political life for their religiously-informed conceptions of the common good on an equal basis with other ideas and actors and, if they are persuasive to their fellow citizens, to prevail. The First Amendment's purpose is undermined, and American democracy harmed, if these arguments, and their equal opportunity to form the basis for law and public policy, are arbitrarily banned from public life. Moreover, the attempt to do so is helping to deepen our already deeply-divided nation.

Let me give you one timely example. Virtually all of you know the story of Jack Phillips, the baker who was sued by the state of Colorado for refusing to create a wedding cake for a same-sex wedding. The Colorado Civil Rights Commission and the state Court of Appeals ruled that, under its anti-discrimination law, Phillips must create the wedding cake. Mr. Phillips argued that the state was coercing him to violate his religious conscience by requiring him to employ his artistic talents in a ceremony that undermined one of his most sacred religious beliefs, i.e., the nature and sanctity of marriage. Mr. Phillips said that he should not be forced by the state to deny the two-millenia old Christian understanding of marriage as the union of one man and one woman. Believing that the First Amendment was intended by the Founders to protect people like him, he insisted that he could not acquiesce to the state's coercive demand.

Mr. Phillips appealed to the Supreme Court, arguing that the government of Colorado was abridging his constitutional rights of free speech and free exercise of religion. In June the Court overturned the Colorado decision on the grounds that its Civil Rights Commission showed overt hostility to Mr. Phillips' religious beliefs. In its reasoning, the Court relied heavily on anti-Christian statements by one of the Commissioners. This decision is viewed by some religious freedom advocates as an historic victory. While it is clearly a short-term victory, it does not touch the fundamental issue of whether the state may coerce the religious conscience, notwithstanding the First Amendment's guarantee of the free exercise of religion, and its intended goal of ensuring the presence of religious voices – all religious voices, on an equal basis – in debates over law and public policy.

Indeed, the Court's unstated premise was that if the Commission had avoided such hostile rhetoric, and condemned Mr. Phillips's actions without appearing to impugn his religious motives, then the state could force him to deny his fundamental religious beliefs and participate in same-sex weddings. It now appears that the Colorado Commission may be taking the cue. It recently announced that it is again pursuing Mr. Phillips because he has declined to create a cake to celebrate the transition of a man into a woman.

Will the state of Colorado this time find the "right" way to force Mr. Phillips to violate his conscience? And if the case returns to the Supreme Court, will they, following public opinion, conclude that, absent overt hostility, state coercion is constitutional?

Whatever one's views on these issues, each of us should consider the costs of state coercion – any state, whether it is Colorado, the federal government, or any government. As alarming as condemnation of another's religion is, especially by the state, the First Amendment was designed to prevent state coercion, not mere rhetorical "hostility" to religion, for all the reasons adduced herein.

Unfortunately, the state of Colorado's coercion mirrors a growing trend in American society – an intolerance of dissent, an unwillingness to tolerate voices, especially religious voices, that represent differing ideas of the common good. Of course, the arguments of those who oppose orthodox Christian, Jewish and Muslim views on sexuality, abortion, transgenderism or anything else are entitled to equal respect in the American constitutional system, which includes freedom of speech.

But no one in America, including the courts, is entitled to eliminate from the field the beliefs and arguments of those who oppose them. This anti-pluralist, authoritarian trend, encouraged by the courts, is dangerous for the free exercise of religion and dangerous for democracy itself.

What would America be like without religious voices in our debates over the common good? What would we be like had we not experienced religious movements for abolition of slavery, temperance, the vote for women, opposition to or support for America's foreign wars, the modern civil rights movement, the pro-life movement, or the movement to protect and defend marriage and the family?

What would America be like without Frederick Douglas, Dorothy Day, or Reverend Dr. Martin Luther King, Jr? What would our nation be without Americans United for Life, or Americans United for the Separation of Church and State, entering into debates over law and public policy?

Many of these people and groups are controversial. But that is the nature of religion, and religiously-based claims about the common good. It was their diverse voices in public life that the First Amendment was designed to ensure. Without their claims competing on an equal basis in American civil and political life, I submit, America would not be America.

## **Conclusion**

Let me conclude by saying that the stakes of the global crisis in religious freedom could hardly be higher, for our country and the world.

It is both ironic and tragic that increasing numbers of our fellow citizens, including many among our political and foreign policy leaders, no longer believe in religious freedom, especially the right to exercise religion in public life. Those who neither understand nor believe in a product are unlikely to succeed in convincing others of its value.

Just as we seek to advance religious freedom with our diplomacy in places where government coercion of religious communities is triggering a humanitarian disaster and a grave strategic danger to our national interests, so too must we recognize the danger of government coercion within our own society. We must not forget that America was founded on religious liberty. Our founders firmly believed that without it, our great experiment in democracy would fail.

That is because the first freedom was, and is, a protection for all of us. Not just for Christians, Jews, or Muslims, and not just for religious people. Religious freedom benefits America. If we are not free to believe and to live our lives in accord with our deepest convictions about ultimate truth, then the consequences go far beyond the fate of any one religious group or any one nation.

Without religious freedom in full for everyone, none of us can be truly free.