From Silver to Gold: The Next 25 Years of Law and Religion

The Future of Law, Religion, and International Affairs
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Let me start with a story to establish my bona fides as an optimist. You know the difference between an optimist and a pessimist is a pessimist has more facts. And so you have to selectively choose and intentionally choose to be an optimist and get your licks in every chance you can.

And then following that brief story, name what I think are some of the culprits because, by the way, religion is a non-state actor. Religious freedom is a non-state actor. Whatever happens here happens other places, and vice versa. It knows no boundary. It knows no national flag or should know no national flag. So, I'd like to suggest some things that have happened in this country and without that have been detrimental to the cause of religion and religious freedom. The beginning of wisdom is calling something by its proper name. I think we have to name these things before we begin.

And then I would suggest going where angels fear to tread, a few thoughts for the next 25 years that perhaps will make us more a little bit optimistic. And then in all of this, sprinkled throughout, I list seven trends or strategies or issues, if by reason of strength, prophetic utterances. Seven of them because seven, of course, is a heavenly number. And if you know what happened to Old Testament prophets when they got one of them wrong, they were taken out in stone. So, if I want to be around for the golden anniversary, I should perhaps give some cause and caution to limiting myself to seven.

Let me tell this story. When I was at the State Department we lived in Washington. We had a pastor at the National Presbyterian Church, Craig Barnes – some of you will know him. Craig was invited by the number two man at the Pentagon for a meeting, specifically a luncheon.

Now, that's kind of tall cotton for a young Presbyterian pastor, so of course, he said yes. And he went, and when he got there, he was surrounded immediately by all the brass – and there's a lot of brass in the Pentagon – that he ever thought imaginable. There were admirals there. There were Army people with seven, eight, nine rows of ribbons. There were Marines there – of
course, to give the whole event a little class, they had a couple of Marines there – I was a former Marine. It's all about the uniform.

And they sat down to the starchy luncheon with these starchy generals and admirals, and it wasn't very long because – before all the small talk was done away with -- and one of the admirals had just taken over the Seventh Fleet and was responsible for that area that included Kosovo, brought up the issue of the day. He said to Craig, he said, "Tell us about forgiveness. We are seeing things in Kosovo that we have never seen before."

Now, I find that to be an absolutely extraordinary picture. Here you are in Washington, the power capital of the last remaining super power. You go over to this five-sided building that spends a half trillion dollars a year, with all of its wired diagrams, and they have come to the conclusion -- in spite of the fact that this is the biggest army and the best army, capable of supplying shock and awe at a moment's notice anywhere, any corner of the world -- they had come to the conclusion that they had a hole in their body armor. And so they asked the pastor if he would spend some time with them that day to talk about forgiveness.

Now, you can take a lot of things away from this. I only offer one takeaway, and that is to say there are tremendous resources available in the religious community from religious and spiritual leaders perhaps that can only be supplied by folks like that, at a time when we don't have all the answers in the world.

Let me mention a few foes of religious freedom. I think one of the things that's certainly happened in my lifetime and it has taken on a speed of its own the last 20 years has been the politicization of religion. I wasn't familiar with the history that Jeremy has spoken of, but certainly, we have seen the cultural wars, which is to say conflict created by two sides fighting things out, and in a sense, destroying the best of our religious traditions.

In 1992, when Bill Clinton became president, someone – a national religious leader, somewhat left of center – excuse the shorthand – who said to me, "We finally have our man in the White House." I thought that was a very strange statement for a religious leader to make. And then in 2000, when George W. became president of the United States, I had someone come and say exactly the same thing. "We finally have our man in the White House." And you have this sense that the best of our religion, the best of our faith was picking up the hard edge of ideology. And when it does that, it irresistibly – there's a gravitational tug that pulls it in the direction of power. And when it gets that power, it doesn't let go of that power. Unfortunately, it's a power that precludes. It's a power that divides.

I cannot understand why it's so important to have our man in the White House. These are folks that forever had the opportunity to speak with “Our Father Who Art in Heaven.” Why in the world would they stop with this self-imposed glass ceiling in a political, supercharged environment? Where to join the fray immediately 50 percent of the United States would be against whatever you wanted to do.

Well, we always talk about that today in terms of the Religious Right. The Religious Left has organized in the same way. The only difference between the left and the right is the left doesn't
have the same microphone. They don't make as much noise. Perhaps, and I'm not sure I'm right on this, but perhaps they have been too willing to sacrifice absolutes. Not that they don't have them, but they're too willing to submerge them in favor of political détente, easy ecumenism, dialogue.

And when they've done that, somehow they got lost in the spongy parenchyma of the liberal movement. Sadly, both the right and the left have made religion unattractive in this country.

And I mentioned absolutes. That's another issue, another foe of religious freedom perhaps. The Problem with Absolutes, is the title of a book that my hero, John Witte, has written.

We all have them. We bet on their viability. It's what we take to the bank. We bet that we are right, both for this world and the next. And it's not really always religious in nature. Stalin had an absolute. You had to be atheist until, of course, you needed the Russian Orthodox Church to pull your protestants out of the fire. But atheism became an absolute. Jacques Chirac, secularism became the absolute in France. And so they exist in many different forms. The problem with absolutes, as you heard over and over again this week, is we don't know them absolutely.

There are Biblical insights to this in the Hebrew Bible, Isaiah. There's this verse that says, "If the heavens are higher than the earth, so are my ways, sovereign God. So are my ways and my thoughts different than yours." In the New Testament you have that verse that's often quoted, "Now we see through a glass darkly." We've got a smudged mirror. Someday we'll know, even as we are now, but right now we don't know it all. If people would just absorb that insight, at the very least, we should be a little more humble. We should have a different kind of tone in politics. We should have a different kind of discourse in this world. Sadly, that doesn't work that way. We have a conflict between a place to stand our absolutes and pluralism. And we have yet to develop the humility and the respect to embrace both.

My first trend, indices, prophetic utterance: negotiating tension between absolutes and pluralism is absolutely key to the next 25 years. Please, let's not make false choices. But figuring out how to do deal with that tension is going to be important.

Internationally, you also have power and paranoia. Authoritarian countries fear what they cannot control. They fear what they don't understand, and then they crack down on things. China did not understand at all why 10,000 [people] would come and do a workout in front of their – one of their major government buildings, and so they cracked down on them, and they're still cracking down on them. And it's a horrific crackdown.

But if you can't control it, you worry about it. Beijing would get along a whole lot better with the Catholic Church if the Papacy would move from Rome to Beijing. That's the only problem. They fear what is outside of their jurisdiction. They fear their borders. They fear what they can't control.

To their credit, let's remember that they had a bird's eye view of some of the key, important historical events in the world. From their paranoid and parochial perches, they saw the fall of
Well, there are other countries where there have been majority religions that haven't behaved well. We talked at our table about India. India prides itself on being the biggest, largest democracy in the world. There are things that happen in India that are very, very difficult to assimilate if you're into human rights. Everyday there are is another abuse of religious freedom.

Pakistan, now called the scariest country in the world. In these countries, minorities are scared; they're afraid. And the fact that there's so many laws about conversion, which is to say anti-conversion legislation, being ramped up, says that the majorities are also afraid.

Let me say as a second prophetic utterance: this anti-conversion legislation, which, by definition, is coercive. I mean, for faith to be authentic, it has to be freely embraced. And when you have to have an anti-conversion law, you're going against every international covenant that's ever been put together on human rights, not to mention what it means to be uniquely and distinctly human. Free choice under the sovereignty of a God.

The other issue that I'll mention as a foe of religion is the fact that we come very easily to categories. Someone mentioned yesterday the easy categorization. Once we establish a category – and by the way, this is an intellectually lazy exercise. It means you got 1.3 or 1.4 or 1.7 billion Muslims over there and you don't understand them, so you do the “Cliff Notes,” you create a category, and you make “one size fits all,” and everybody is in that category. How destructive, how demeaning.

The problem with a category is once you create a category, you can begin to stereotype those people that you've categorized. Once you begin to stereotype them, you can demonize the ones that you have stereotyped. Once you begin to demonize them, you can hate the people that you have begun to demonize. And then this negative spiral goes forth. And in a lot of the parts of the world today, you have sectarian violence of the worst kind: religious identity against religious identity, blood flows like water and the worst kinds of things happen.

Let me say this as a third thing to watch in the next 25 years and it gets to Islam: The potential for a second attack of the 9/11 variety in the West, if that ever happens in the next several years, we will lose the voice of moderation in this country. Muslims are already afraid. There is a great deal of anxiety in the Muslim communities in America because of how we might treat them. But there's a moderate voice. There's a reflective voice. There's a thinking voice.

Let me tell you, when the person strapped on the bombs and walked into that pizza parlor in Israel and blew up a whole bunch of innocent people, the moderate voice was silenced forever. You lose memory. You lose a sense of nuance. The category firms up, and it becomes us and
them, and there's no middle ground.

Well, I told you I was an optimist. How do we get back to optimism?

**I would suggest three things: a new language, a new methodology, and a new player.** This is where fools indeed rush in. I am not a lawyer, neither do I play one on TV, but the language that I would suggest needs to be changed is legal language. I want to suggest it. I'm going out on a limb here that the old values be re-codified.

I have four Rs. There's probably a whole lot of other things, but I just want to mention, by way of example, four. Tolerance to respect; oath to reverence; pardon to redemption; and conflict management to reconciliation. The easiest one to talk about is respect. I think we need to retire the word tolerance.

Stephen Carter talked about this in his book in 1994. It is still very viable and useful today. Tolerance is not equality. Tolerance is forbearance. Tolerance takes us to the lower common denominator. Tolerance is a cheap form of grace applied to people I don't especially care for. "I don't like you, but I will tolerate you. Isn't that big of me?"

Respect, on the other hand, respect takes us to a whole new place. Respect focuses on those things we have in common, one of which is, for many of us, we feel we've each been created in the image of God. That is worthy of celebration. That is worthy of respect. Respect, perhaps the most important component, and I will come back to it because it is that for all of us to strive for.

A little bit more difficult to talk about, going from the oath to reverence, made possible through respect. Hardest to codify. The fuzziest of exercises. I think we need a more reverential tone, that there is something holy. Yeah, get nervous. There's something holy in this institution of legal tradition because it involves people, uniquely, distinctively human. Laws where legality and morality become one. The reverence is a higher motivation than a mere allegiance.

Let me move on quickly. I see my first ten-minute marker coming down.

Pardon to redemption. Pardon to redemption is like taking pity to mercy. Pity is feeling sorry for somebody; mercy is feeling sorry for somebody and doing something about it. And I'm talking about the action word in redemption. We've just commemorated a year anniversary of that horrible scene in Pennsylvania in the Amish schoolyard where the man walked in, tied up everybody and began to execute the young girls. Killed five before the police came. He turned the gun on himself and killed himself.

At the end of the day, members of the Amish community went and sat with the perpetrator's wife. They grieved with her. They felt her grief as well as their own. They went to be with her. When the perpetrator was buried, 72 members of the Amish community came to the funeral. They have now collected $4.3 million to take care of the victims. A portion of that goes to those kids that the perpetrator left behind. I would suggest that they showed us a redeeming moment, not simply saying, "We forgive you." Not simply the pardon, but the action word, the redeeming
moment.

And then finally the big one here in changing our conversation, our language, this conflict resolution, to reconciliation. Reconciliation, the word has been around for a couple thousand years. The rationale and the need, every since Adam and Eve opted for the apple. We've got to talk about reconciliation.

There are four components, very briefly. There's truth telling; a confessional about looking back to the past and recreating the past in a way that you can say, "That's what I did to you. That's what I did against you, and I'm sorry."

By the way, this is why the Arab-Israeli peace treaties have never come to fruition. We've always brought over old men to let them shake hands in a rose garden for a photo-op. We never got to the hard place of, "This is what I did to you in 1948." "Yeah, and this is what I did to you." And until that's done, we're always going to paper over the past.

Mercy, the engine that drives this. People who can say they're sorry; people who refuse to wear the mantle of victimhood. Justice; lawyers love justice. Forward-looking. Make sure that that history that's just been forgiven doesn't repeat itself.

And then peace. Security for all on both sides of the green line, on both sides of the wall, on both sides of the missile shield. Make people feel comfortable and secure. That's peace. This is what that young pastor was trying to tell the folks at the Pentagon.

My fourth point here is that reconciliation strategies, this is going to determine the relevance of our movement, our impact and our seat at the geopolitical table. Reconciliation strategies need to dominate the methodologies of religious freedom.

Okay, secondly, a new methodology. We've had the methodology of the last 40 years where the Left and the Right have gone at each other, culture wars, neither side fought very fairly. We've had one approach to take away those things that simply offend us and maybe all the problems would go away. That's a problematic methodology. And by the way, methodologies are never really talked about in terms of religious freedom. You just have laws that you implement, but we need some methodologies.

But here was the problem with removing the offense. If Christmas trees in a Seattle airport offend you, we take them out. If the cross at William and Mary offend you, we'll take it out. If we don't like people who pray five times a day or people who pray to a certain person or people who end their prayers a certain way, we'll just remove them. Well, the problem with that there's no end game. There's no list of the things that can offend people. You can go and go and go, and one day you wake up and you say, "Gee, am I in France?"

We have focused almost entirely on respect. Respect. Understanding someone. Having the knowledge of someone. Having the wisdom to put that together so that respect can emerge as a new behavioral change. We cannot just look at this airy, fairy word out there. We've got to put legs under it and make sure that people understand what we're talking about.
I have used for many, many years as a mantra for religious freedom, to understand your own faith or your lack of faith, wherever you got to and how you got there, understand how that happened. Understand the heroes of your faith. Understand the orthodoxy. Understand the verities. Understand why, in the words of Pascal, good men believe it to be true.

And then just as importantly, understand and know your neighbor's faith so well that you can offer a legitimate and sincere respect for it. This is what Osama bin Laden could not do. Osama bin Laden looked at the Islamic faith, and he began to pick and choose. He came down on the side of jihad against the West; at that point it became murder. And so you had someone who didn't know his own faith and didn't respect someone else's. He was working with a redacted gospel. And when he took a misunderstood faith, an inappropriately applied faith, and kept it in the hands of this religious zealot, bad things began to happen. National security issue.

Understand faith and respect your neighbors.

I would say this as item number five in terms of our prophetic utterances: we need to emphasize respect every chance we get as behavioral change in the next 25 years. That goes without saying.

Let me also say that not only Osama bin Laden got it wrong, but our foreign service establishment got it wrong as well. I think there's a hangover. I think there's a hangover that comes from the fact that we grew up saying there's two things we don't talk about in polite company: religion and politics.

Folks, religion and politics are at the nexus of 95 percent of the problems in the world. You got to talk about them, and not only admit that they are geopolitical issues, but we've got to understand them deeply, the motivation, the rationale from a non-Western perspective. We're not doing that right now. And so my item number six: foreign policy establishment needs to embrace religion as a key geopolitical component in the way I've just described it. It's something indeed to watch in the next 25 years.

Finally, a new player. A new player – and I do this very, very quickly because my time is almost out – the cultural anthropologist. America has never been very big on culture, I don't know why. Perhaps because we have large oceans on one side of us, and we've got good neighbors on the other side. But we are certainly not a people of culture nuance, and we are paying a heavy price for that in much of the world that we're trying to occupy right now. Abroad, however, and especially in the developing world, culture is everything.

I had a friend teaching a class to a group in Laos, an indigenous church. And he was talking about the parable of the Good Samaritan. And at the end he asked for feedback, and they started giving feedback to him and they started to talk about the parable of the Good Samaritans. The one had morphed into the plural. And he was saying, "No, no, no, there's only one." And he said, "Wait a minute. No self-respecting Lao would ever take a walk on the highway all by himself."

Multiply that cultural insight times a thousand. And if we're not in the business of understanding
and promoting and embracing culturally congruent faith positions, we have problems.

But here's the other issue that comes out of this. In Laos, they have 63 laws total. That's all they have. So, they don't have anything that we would call a tradition of law or a rule of law, certainly no settled law. But to the practiced eye they have culture that's predictable, culture that's transparent, culture that's an organizing principle. And I would say to you until we get rule of law and all the things that you know are good and right and blessed, we may have to pay some attention to what their culture giving us—settled culture in anticipation some day of settled law.

**My seventh piece, my seventh prophetic utterance, my seventh issue to watch is what happens to the cultural anthropologist in our world.** I think that we need to embrace them. I think they will make our lives immeasurably easier.

I need to conclude. I have one minute, and I will conclude in one minute. I started with an optimistic story. Let me end with one. The terrible civil war in Mozambique went on for, like, 16 years. Civil wars are the worst to get over. They began to meet, the both sides, FRELIMO and RENAMO in the late 1990s, began to meet. And at the table where they were meeting was a Catholic lay order of Sant'Egidio.

Now, the ambassadors came and went as they were called back. The political folks came and went as the elections neared and they couldn't be there. These guys stayed at the table. They persisted. Their motivation was love of neighbor. That's the only thing. Today in Mozambique, there's a peace agreement that is lasting. On a continent where not many things work, they have found a way to do something sustainable. The hero in all of that is the lay Catholic order of Sant'Egidio.

Once again, like our young pastor going to the Pentagon, we will have the chance and an opportunity to do very positive things. I'm not Pollyannaish. I think there'll be time when we'll feel like the Old Testament prophets, reluctant to accept the role, projecting the minority voice in face of a hostile minority, held accountable to a higher truth every time out. But we can prepare for that day by elevating the language we— to better articulate the old vision, embracing a new methodology, a methodology of respect. And locking arms with the best of our cultural anthropologists. Thank you.