

# LECTURE

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## Defending Religious Liberty for All

*Kevin J. Hasson*

### Abstract

*The recipient of this year's Salvatori Prize for American Citizenship is the founder of the Becket Fund for Religious Liberty, a nonprofit public interest law firm that is dedicated to protecting the free expression of all faiths, motivated by the idea that because the religious impulse is natural to human beings, religious expression is natural to human life and convinced that if everybody in America does not have religious liberty, then nobody in America has religious liberty. Today, believers are opposed by the forces who believe in nothing. Therefore, they need to defend the forces who believe in truth against the forces who believe in nothing and who are opposed to the very idea of anybody making truth claims in public.*

**MATTHEW SPALDING:** The purpose of the Salvatori Award is to recognize those who uphold the first principles of liberty, exemplify the virtues of America's Founders, and promote the independent and entrepreneurial spirit of American citizenship.

Two years ago, we awarded the Salvatori Prize to the Tea Party movement as a whole, recognizing its role in fomenting a nationwide effort to change the direction of American politics. The deeper importance of that movement is not its opposition to the current Administration but its turn (or return) to the principles of the American Founding, not just flying the Gadsden Flag but returning to the Declaration and the Constitution as its grounding and source of guidance.

This outbreak of sentiment and good sense—spontaneous, nationwide, and leaderless—suggests the possibility of a great renewal of these principles in the public mind and perhaps even in the public square. But we must remember that such a renewal is possible only because of the efforts of many who have been working in these vineyards for some time, preparing the ground for the larger effort. Thus, we have given the Salvatori Award to great

### KEY POINTS

- Never before have we had a situation where the fight is not between principled people fighting over their principles.
- The fight is between people who believe in something against people who believe in nothing. They are nihilists, and the threat is unprecedented.
- It is a fight not only over who God is, not only over if God is, but about who we are: whether we are a people who are born with our eyes focused to the far horizon and who seek to reach out and grasp eternal truths, or whether we are accidental organisms adrift in a cold known universe where the only thing to do is try to wring whatever drops of pleasure we can out of an inherently unsure existence before we all lapse into nothingness.

This paper, in its entirety, can be found at <http://report.heritage.org/h1209>

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scholars, including Robert George of Princeton and the wonderful public historian David McCullough.

This year's recipient unites a deep commitment to the foundational principles of the Declaration—its self-evident truths about man and the fundamental rights with which he is endowed by his Creator—with a powerful and passionate commitment to the rule of law established by our Constitution, designed to protect and secure those rights for everyone equally.

Our awardee defends and advances the principles at the very heart and soul of our nation—indeed, the first and most fundamental principle: religious liberty. “Can the liberties of a nation be thought secure,” Thomas Jefferson once asked, “when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God?”

Today, unfortunately, rather than seeing religious liberty as a human right, many, especially among our intellectual and cultural elites, think religious truth is the enemy of human freedom and that pluralism means relativism, a claim increasingly pushed by an ever more central and bureaucratic government—witness the recent regulation issued by the Department of Health and Human Services.

A magna cum laude graduate of Notre Dame Law School who also has a degree in theology from Notre Dame, our recipient began his career in the Office of Legal Counsel of the Justice Department in the second Reagan Administration.

In 1994, our recipient left a prominent law firm and a good, well-paying job to found a nonprofit public interest law firm to protect the free expression of all faiths, motivated by the idea that because the religious

impulse is natural to human beings, religious expression is natural to human life. “Human truth undergirds religious liberty,” he has written. “Coercing conscience is wrong, because human beings are born with an innate thirst for transcendence, a demand to search for the true and the good, and the need to express that truth in public, not just private. And that can only be done with integrity when it's done freely.”

Through eloquent speaking, graceful writing, and powerful arguments, he has advanced the cause of religious liberty and tirelessly defended it. Though certainly not the largest, his start-up is widely regarded across political and religious lines as the best religious liberty law firm in the United States, with an impressive track record that includes convincing the Ninth Circuit Court to reverse itself when it came to the words “under God” and, most recently, securing the most significant religious liberty decision in the past half century in *Hosanna Tabor v. EEOC*.

And so, on behalf of The Heritage Foundation, we are honored to announce, and please join me in congratulating, the recipient of the 2012 Salvatori Prize in American Citizenship, the founder as well as the heart and soul of the Becket Fund for Religious Liberty, Kevin J. “Seamus” Hasson.

—*Matthew Spalding, PhD, is Vice President of American Studies and Director of the B. Kenneth Simon Center for Principles and Politics at The Heritage Foundation.*

**KEVIN J. HASSON:** Thank you from the bottom of my heart: to Attorney General Ed Meese, to Dr. Matthew Spalding, to everybody involved with the Salvatori Award, to The Heritage Foundation, and to all of you for doing what I know to be

a difficult thing to do. And that is to spend your life at something that is not always popular, is always difficult, and in the end is the right thing to do.

Everybody knows that “you can't take it with you.” That's a saying that has lost some of its meaning because we are so used to hearing it. “You can't take it with you,” and indeed you can't. It is true of your money, it's true of your talent, it's true of your time.

But what too few people recognize is that while you can't take it with you, you can send your profits on ahead—if you invest wisely with your time and your talents and your resources. This is just another way of saying what the Gospel makes clear—that those who seek their lives lose them and those who lose their lives save them.

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**WHEN IT COMES TO RELIGIOUS FREEDOM AND THE OTHER GREAT CONSTITUTIONAL QUESTIONS THAT ARE AT STAKE IN THE CURRENT MOMENT, HOWEVER DIRE THE SITUATION MAY SEEM, IT'S ALMOST CERTAINLY WORSE THAN YOU THINK.**

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I've had the great privilege of investing my life in the cause of religious freedom, for the past 17 years at the Becket Fund and a few years before that in the Office of Legal Counsel and in private practice, and it's been both a great cause and a real hoot. I couldn't recommend anything more highly than spending your life in a great cause, and that's what all of you are doing here today, and my hat's off to you. I'm not only grateful for your hard work; I admire your courage.

Because I have to say, when it comes to religious freedom and the other great constitutional questions

that are at stake in the current moment, however bad you think things are, however bleak it looks, however dire the situation may seem, it's almost certainly worse than you think.

The Obama Administration saw fit in the *Hosanna Tabor* case to appear before the Supreme Court of the United States and say that the First Amendment had nothing to do with the question of whether a church could pick its own ministers free from governmental intrusion. It was bad enough that the EEOC was on the wrong side of the case, but to come in and take the position that the First Amendment had nothing to say, that freedom of religion doesn't apply, that it was simply a matter of freedom of association—the same thing a bowling league might have—was astonishing. Even Justice Elena Kagan called the effort “amazing.”

That's symptomatic of a broader antipathy towards religion—in fact anything transcendent. That's typical of the principles (if they have any principles) of the leaders who are currently in power.

This is an apt moment to answer a question that has been asked of me in one form or another monthly for the last 17 years: “Why do I defend Hindus?” “Why does the Becket Fund defend Buddhists?” “Why does the Becket Fund defend Zoroastrians?” All these questions are different forms of the same one: Why do you defend people with whom you disagree? The answer is threefold: There is a good reason, there is a better reason, and there's the best reason.

A good reason for defending people that we disagree with is that it is smart. It is easier to set precedents with politically correct plaintiffs—plaintiffs that pose no obvious threat to the sensibilities of the court. So,

for example, we successfully defended 11 Buddhists who were meditating together without special zoning in Westchester County, New York. Imagine the case is a Bible study or a Rosary group and you can see that filing the case in Westchester County would not be a shrewd move. But file the suit on behalf of 11 Buddhists who are meditating together in silence and it's a great opportunity, especially since the government justified its intrusion on the grounds that silent meditation might produce too much noise. Some briefs just write themselves. So it's smart.

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**THE FIGHT IS NOW BETWEEN PEOPLE WHO BELIEVE IN SOMETHING AND PEOPLE WHO BELIEVE IN PRECISELY NOTHING. THEY ARE NIHILISTS, AND THIS IS A THREAT THAT IS SIMPLY UNPRECEDENTED.**

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A better reason is that if everybody in America doesn't have religious liberty, then nobody in America has religious liberty. We have to stick together with people with whom we disagree. There is just no point in sitting around hoping that the bear eats you last.

And then there's the best reason, and that is: The nature of this fight is unlike any other fight in the history of the Western tradition. This is not hyperbole. The way that religious fights have played out over the centuries has been in terms of Christians against Muslims, Muslims against Christians, Catholics against Orthodox, Orthodox against Catholics, Protestants against Protestants, Protestants against Catholics.

But never before have we had a situation where the fight is not between principled people fighting over their

principles. The fight is now between people who believe in something and people who believe in precisely nothing. They are nihilists, and this is a threat that is simply unprecedented.

It is a fight not only over who God is, not only over *if* God is, but at the very fundamental level, it is about who we are: whether we are a people who are born with our eyes focused on the far horizon and who seek to reach out and grasp eternal truths, or whether we are accidental organisms adrift in a cold and lonely universe where the only thing to do is try to wring whatever drops of pleasure we can out of an inherently absurd existence before we all lapse into nothingness. That is the vision that motivates the bad guys—yes, I'll call them bad guys even though that is not very polite.

That is the fight that we are in the middle of—repelling an assault by people who believe in nothing against the very idea of believing in anything. In a way, the fundamental nature of the problem needs a fundamental solution to it, and that is that there is a truth; that we are committed to finding it, committed to living our lives according to it, and committed to defending our fellow believers even if they believe the wrong thing at the moment.

We are manning the believer's side of the barricades against the forces who believe in nothingness. Therefore, we need to defend the rights of other people who believe in something—even if we think they believe the wrong thing. In so doing, we are sticking up for all believers against the nihilists. We are standing tall for those who are convinced there is a truth, against those who are opposed to the very idea of anybody making truth claims in public.

There, in a nutshell, is what I think the battle lines are. The fight is

a great one, and the cause is compelling. Couple that with the fact that “you can’t take it with you” but you can send your profits on ahead, and you have a call to arms.

It demands all we have. Leave it all on the field. And to quote one of the characters in *Monty Python*, “I’m not dead yet.” So in one fashion or another, I’ll be right beside you.

—**Kevin J. “Seamus” Hasson**  
*delivered these remarks upon accepting The Heritage Foundation’s 2012 Salvatori Prize for American Citizenship. The prize, named for the late entrepreneur and philanthropist Henry Salvatori, is presented annually to an American who advances the principles and virtues of the nation’s Founders.*