

LECTURE

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A New Time for Choosing on Life, Liberty, and the Pursuit of Happiness: Today's Challenges to the Principles of Ronald Reagan's Conservative Manifesto

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Abstract

America exists to defend the unalienable rights of the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." These truths have been challenged in the past 50 years in ways that Ronald Reagan could not have imagined in 1964. Unless they are protected in law and—more important—lived out in culture, constitutional self-government will be increasingly at risk. In this new time for choosing, we must return to the synthesis of the American Founding: ordered liberty based on faith and reason, natural rights and morality, limited government and civil society—with the laws of nature and nature's God providing the standard.

The more things change, the more they stay the same. Rereading "A Time for Choosing," it is amazing to see just how much things haven't changed.

Ronald Reagan expresses concern that government taxes too much of our incomes, that government spends more than it raises, that government is transforming into a welfare state that's trapping the poor, that government debt is skyrocketing, that the debt is held by foreign interests overseas, and that we have enemies abroad who reject the moral foundations of our political order.

Sound familiar?

The more things change, the more they stay the same—or do they?

While others will focus on how similar our challenges and opportunities are to those of 50 years ago, I will focus elsewhere. There are

KEY POINTS

- The right to life is for all human beings, wanted or unwanted, born or unborn.
- The right to liberty means that citizens, the groups they form, and the businesses they run should be free to act in the public square according to their conscientious beliefs.
- The right to pursue happiness for non-autonomous children is protected by encouraging a man and a woman to commit to each other in marriage so that any children that their union produces will have access to the love and care of their mother and father.
- In this new time for choosing, we must return to the synthesis of the American Founding: ordered liberty based on faith and reason, natural rights and morality, limited government and civil society—with the laws of nature and nature's God providing the standard.

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three broad areas that concern us today that were *not* mentioned in Reagan’s original “Time for Choosing” speech. Today, these issues create a new time for choosing. While Reagan’s speech was largely concerned with a time for choosing about *politics*, this new time for choosing is about politics *and culture*.

Reagan didn’t specifically address the type of culture that allows for our experiment in self-government to be successful—because it was not under serious attack at the time. More or less everyone recognized the importance of the institution of marriage, the dignity of unborn children, and the significance of religious freedom. But over the past 50 years, each of these has come under sustained attack. If we are to sustain the choice of freedom Reagan called us to a half-century ago, today we must decide to stand for the culture that makes freedom possible. We have reached a new time for choosing.

Reagan appeals to the American Revolution and bemoans the fact that “Our natural, unalienable rights are now considered to be a dispensation of government, and freedom has never been so fragile.”

Rightly understood, America exists to defend the unalienable rights of the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

These truths have been challenged in the past 50 years in ways that Reagan could not have imagined in 1964. Because they were not the challenges of his day, you will find no discussion of the right to life, or religious liberty, or marriage in Reagan’s text. And yet, they animate many of our debates today. Unless they are protected in law and—more important—lived out in culture, constitutional self-government will be increasingly at risk.

Life

The right to life is not only for the strong and powerful, the rich and famous, but for all human beings, including the weak, marginalized, and infirm—wanted or unwanted, born or unborn. Redefining who is included in the community of rights-bearing individuals so as to exclude the unborn does exactly what Reagan rejected: It considers rights “to be a dispensation of government.”

It isn’t surprising that Reagan doesn’t mention abortion, for in 1964, no one seriously thought a so-called right to choose was a real constitutional right, nor that it could trump the natural right to life. It wasn’t until 1965 that the Supreme Court would start developing ideas about a right to privacy beyond the scope of the Constitution, and it wasn’t until 1973 that the Court extended that right to abortion on demand—a ruling that even many liberal scholars decry as having no basis in the Constitution.

Redefining who is included in the community of rights-bearing individuals so as to exclude the unborn does exactly what Reagan rejected: It considers rights “to be a dispensation of government.”

Indeed, public opinion and legislation prior to *Roe* were strongly supportive of laws protecting unborn children. In 1963, abortion activist Alan Guttmacher “admitted that any change in the abortion law that suggested the non-humanity of the fetus would ‘be voted down by the body politic.’”¹ He was right. In 1967, Arizona, Georgia, New York, Indiana, North Dakota, New Mexico, and Nebraska all rejected liberalizing abortion laws. In 1969, the same thing happened in Iowa, Minnesota, Nevada, and Illinois. In 1970, it happened in Vermont and Massachusetts. In 1971, 12 different states defeated laws to liberalize abortion.

Of course, there were some states that ultimately did liberalize their abortion laws, though none went as far as *Roe*’s abortion on demand. Unfortunately, one of those states was California; its governor, Ronald Reagan. But in June of 1967, he signed the law reluctantly, thinking that the Democrat-majority legislature would override any potential veto, and he tried to make the law as harmless as possible, limiting the cases of justified abortion to rape, incest, and the health of the mother. The bill was titled the “Therapeutic Abortion Act,” and Reagan sadly would learn that doctors were willing to call just about any

1. Russell Hittinger, “Abortion Before Roe,” *First Things*, October 1994, <http://www.firstthings.com/article/2010/03/abortion-before-roe> (accessed April 3, 2014).

abortion “therapeutic.”² He immediately regretted the decision.³

What Reagan learned from his experience in California prompted him to champion the pro-life cause in the White House. A little-known fact about President Reagan is that he is the only sitting President to have ever published a book—a book promoting the culture of life. In *Abortion and the Conscience of a Nation*, Reagan pledged that his Administration would champion the pro-life cause because it was dedicated to the “preservation of America as a free land, and there is no cause more important for preserving that freedom than affirming the transcendent right to life of all human beings, the right without which no other rights have any meaning.”⁴

Indeed, Reagan had learned that if government could redefine who was a natural rights bearer, then rights were just a “dispensation of government.” And so the basic right to life forces on us a new time for choosing.

Religious Liberty

The Declaration speaks of “Life, Liberty and the pursuit of Happiness,” so I’ll proceed from the subject of life to liberty.

Reagan, of course, spoke at great length about economic liberty, but he never mentions in this speech the first right protected in the Bill of Rights: the free exercise of religion. Maybe that’s because in 1964, more or less everyone could agree that it should be protected. There was no need to single it out for attention, because it wasn’t threatened.

Sure, there are interesting—and some disturbing—court cases from this time about school prayer and nativity scenes and 10 Commandment displays and public reimbursement for textbooks and busing to Catholic schools. But almost every case that rais-

es concerns had to do with Establishment Clause issues. Very few cases, if any, were decided against the free exercise of religion.

Indeed, the Court had ruled just a year before Reagan’s speech that Adell Sherbet, a Seventh-day Adventist, could not be denied unemployment compensation because she refused to work on Saturday, which her religious tradition recognizes as Sabbath. The court would rule a decade later that an Amish father didn’t have to send his children to high school in violation of his faith’s practices.

The right to liberty takes on particular importance when dealing with the most important—and sacred—things.

These rulings were part of a larger trend protecting liberty. After all, back in 1943, the Court had ruled that government couldn’t force school children to salute the flag or recite the Pledge of Allegiance.

Today, by comparison, the government claims it can force employers and individuals to pay for coverage of abortion-inducing drugs.⁵ Government has shut down Christian adoption agencies that want to find homes for orphans with married moms and dads.⁶ And state governments have tried to coerce Christian photographers, florists, and bakers to celebrate same-sex relationships as marriages.⁷ Reagan could hardly be faulted for not seeing these present-day grave threats to liberty. It comes as a shock even today to many Americans, as it should.

But the right to liberty takes on particular importance when dealing with the most important—and sacred—things. Citizens, the groups they form, and the businesses they run should be free to act in the public square according to their conscientious

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2. Ramesh Ponurru, *Party of Death: The Democrats, the Media, the Courts, and the Disregard for Human Life* (Washington: Regnery, 2006), pp. 1-2, <http://www.amazon.com/The-Party-Death-Democrats-Disregard/dp/1596980044>.
 3. Paul Kengor and Patricia Clark Doerner, “Reagan’s Darkest Hour: ‘Therapeutic’ Abortion in California,” *National Review Online*, January 22, 2008, <http://www.nationalreview.com/articles/223437/reagans-darkest-hour/paul-kengor> (accessed April 3, 2014).
 4. Ronald Reagan, *Abortion and the Conscience of a Nation* (Nashville: Thomas Nelson, 1984).
 5. Sarah Torre and Elizabeth Slattery, “Obamacare Anti-Conscience Mandate at the Supreme Court,” Heritage Foundation *Legal Memorandum* No. 115, February 13, 2014, <http://www.heritage.org/research/reports/2014/02/obamacare-anti-conscience-mandate-at-the-supreme-court>.
 6. Sarah Torre and Ryan T. Anderson, “Adoption, Foster Care, and Conscience Protection,” Heritage Foundation *Backgrounder* No. 2869, January 15, 2014, <http://www.heritage.org/research/reports/2014/01/adoption-foster-care-and-conscience-protection>.
 7. Ryan T. Anderson and Leslie Ford, “Protecting Religious Liberty in the State Marriage Debate,” Heritage Foundation *Backgrounder* No. 2891, April 10, 2014, <http://www.heritage.org/research/reports/2014/04/protecting-religious-liberty-in-the-state-marriage-debate>.
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beliefs. As Michelle Obama put it, religious faith “isn’t just about showing up on Sunday for a good sermon and good music and a good meal. It’s about what we do Monday through Saturday as well.”⁸ And yet we see the Obama Administration redefining religious liberty to mere “freedom to worship”—piety restricted to the privacy of a chapel—and that forces us into a new time for choosing.

Marriage

The pursuit of happiness is normally protected by allowing autonomous adults to act without government interference. In fact, much of Reagan’s speech was an argument defending just such freedom. This system of natural liberty works well when civil society is strong and does what it is supposed to do.

Recognition of marriage serves the ends of limited government more effectively than does picking up the pieces from a shattered marriage culture. When the family disintegrates, social welfare programs multiply—and as they grow, civil society weakens.

The heart of civil society is the family. Government protects the right to pursue happiness of non-autonomous children by promoting the truth about marriage—encouraging a man and a woman to commit to each other permanently and exclusively so that any children that their union produces will have access to the love and care of their mother and father.⁹

It isn’t surprising that Reagan mentions marriage only once in his speech, as marriage rates in the 1960s were robust. But already, Reagan could see

how government policy was discouraging marriage. Here’s what he said:

Not too long ago, a judge called me here in Los Angeles. He told me of a young woman who’d come before him for a divorce. She had six children, was pregnant with her seventh. Under his questioning, she revealed her husband was a laborer earning 250 dollars a month. She wanted a divorce to get an 80 dollar raise. She’s eligible for 330 dollars a month in the Aid to Dependent Children Program. She got the idea from two women in her neighborhood who’d already done that very thing.

The problem, of course, was marriage penalties in public policy. The more things change, the more they stay the same. Our welfare system today includes manifold penalties for marriage. The logic works exactly as Reagan identified 50 years ago: Government will give you more stuff if you aren’t married, and in providing such a perverse incentive, government reinforces behavior that traps people in poverty in the first place.

It isn’t surprising, though, that apart from this one mention, marriage never surfaces in Reagan’s speech. In 1964, marriage was in pretty good shape. To give just one statistic: Throughout the 1940s, ’50s, and early ’60s, births to unwed mothers were in the single digits. In 1965, when the “Moynihan Report” was issued, the concern was that the out-of-wedlock birth rate for blacks was 25 percent. Today, 40 percent of all children, 50 percent of Hispanics, and 70 percent of African Americans are born outside of marriage.¹⁰

This breakdown of marriage most hurts the least well-off. A leading indicator of whether someone will know poverty or prosperity is whether, growing up, he or she knew the love and security of having a married mother and father. Marriage reduces the probability of child poverty by 80 percent.¹¹

8. Michelle Obama, “Remarks by the First Lady at the African Methodist Episcopal Church Conference, Gaylord Opryland Resort, Nashville, Tennessee,” White House Press Office, June 28, 2012, <http://www.whitehouse.gov/the-press-office/2012/06/28/remarks-first-lady-african-methodist-episcopal-church-conference> (accessed March 4, 2014).

9. See Sherif Girgis, Ryan T. Anderson, and Robert P. George, *What Is Marriage? Man and Woman: A Defense* (New York: Encounter Books, 2012), and Ryan T. Anderson, “Marriage: What It Is, Why It Matters, and the Consequences of Redefining It,” Heritage Foundation *Backgrounder* No. 2775, March 11, 2013, <http://www.heritage.org/research/reports/2013/03/marriage-what-it-is-why-it-matters-and-the-consequences-of-redefining-it>.

10. U.S. Census Bureau, National Center for Health Statistics, 2011, <http://www.familyfacts.org/charts/205/four-in-10-children-are-born-to-unwed-mothers> (accessed April 3, 2014).

11. Robert Rector, “Marriage: America’s Greatest Weapon Against Child Poverty,” Heritage Foundation *Special Report* No. 117, September 5, 2012, <http://www.heritage.org/research/reports/2012/09/marriage-americas-greatest-weapon-against-child-poverty>.

Recognition of marriage serves the ends of limited government more effectively, less intrusively, and at less cost than does picking up the pieces from a shattered marriage culture. As our experience over the past 40 years has shown, limiting the size and scope of government is impossible without a strong civil society and stable marriages.¹² When the family disintegrates, social welfare programs multiply—and as they grow, civil society weakens.

1964 is an important date, besides being the year Reagan delivered this speech, as the year President Johnson launched the “War on Poverty.” Since that time, poverty rates haven’t moved much, but welfare spending hasn’t just doubled, or tripled, or quadrupled, but increased more than 16-fold.¹³ Total government spending at all levels now amounts to nearly \$1 trillion each year on means-tested welfare programs that provide cash, food, housing, medical assistance, and targeted social services for poor and low-income Americans.

Redefining marriage fundamentally reorients the institution of marriage away from the needs of children toward the desires of adults.

Negative incentives for marriage aren’t the only way government has weakened marriage. One could look at the various safe-sex sex-ed programs that our government-run “public schools” have forced on children. But also consider how government redefined marriage a generation ago. Again, sadly, Reagan plays a leading role.

California was the first state to adopt no-fault divorce, as Reagan signed it into law in 1969. Still, marriage has a legal presumption of permanence. But whereas before this law, couples had to cite a serious reason for filing for divorce—the three A’s of abuse, abandonment, and adultery in common law—with no fault-divorce, one could cast away one’s spouse for any reason or no reason at all. In the 1970s and ’80s, the majority of states adopted

no-fault divorce, and the U.S. divorce rate roughly doubled during that time.

Of course, not all of the increase in divorce is a result of the law, but the law did teach. The law shaped culture, culture shaped beliefs, and then those beliefs shaped actions. In effect, the law began to redefine marriage, weakening the norm of permanency.

Today, unthinkable in Reagan’s time, there are those who would redefine marriage to eliminate the norm of sexual complementarity. To make marriage not about the union of man and woman, husband and wife, mother and father, but just about consenting adult love of whatever size or shape.

The state’s interest in marriage is not that it cares about my love life or your love life just for the sake of romance. The state’s interest in marriage is ensuring that kids have fathers who are involved in their lives, for when this doesn’t happen, social costs run high. As the marriage culture collapses, child poverty rises, crime rises, social mobility decreases, and welfare spending explodes. If you care about social justice and limited government, if you care about freedom and the poor, then you have to care about marriage.

Redefining marriage fundamentally reorients the institution of marriage away from the needs of children toward the desires of adults. It no longer makes marriage about ensuring the type of family life that is ideal for kids; it makes it more about adult romance. If one of the biggest social problems we face right now in the United States is absentee dads, how will we insist that fathers are essential when the law redefines marriage to make fathers optional?

Marriage, the fundamental institution of civil society, remains the best protector of the rights of children to pursue happiness. So now, with respect to the very definition of marriage, we are faced with a new time for choosing.

Why These Challenges Now?

These challenges have come now, particularly in the political realm, for three reasons. First, religious practice has weakened, and the role of religion in the public square is openly dismissed by the elites. Second, government has grown to exceed constitutional

12. Ryan T. Anderson, “The Social Cost of Abandoning the Meaning of Marriage,” *Heritage Foundation Issue Brief* No. 4038, September 9, 2013, <http://www.heritage.org/research/reports/2013/09/the-social-costs-of-abandoning-the-meaning-of-marriage>.

13. Heritage Foundation research, 2012, <http://www.familyfacts.org/charts/310/since-the-war-on-poverty-began-in-1964-welfare-spending-has-skyrocketed> (accessed April 3, 2014).

limits. And third, we've experienced a revolution: not the American Revolution but a Sexual Revolution in the 1960s.

With the American Revolution, religion and liberty went hand in hand so that Thomas Jefferson could declare: "The God who gave us life, gave us liberty at the same time." The American Revolution was not the French Revolution of Diderot, who said: "Men will never be free until the last king is strangled with the entrails of the last priest." That was the Sexual Revolution, which pitted religion at odds with "liberty"—or, more accurately, license.

Limited government and religious liberty are best served when the law reflects the truth about the laws of nature and nature's God.

At the same time, government changed. The result of the Progressive Movement is the administrative state. Limited government and the rule of law were replaced by the increasingly unlimited reach of technocrats in governmental agencies. As government started legislating about more and started administering more, there became greater potential for infringement on religious liberty.

So why is it that all these issues for the new time for choosing touch on government overreach on matters sexual? It's the rejection of the American Founding and an embrace of progressivism. Progressive politics and progressive sexuality, when combined, use coercive governmental power to enforce new sexual values.

One reason that Americans must work to protect life, religious liberty, and marriage is that *other* Americans are hard at work undermining these values. If there is a culture war in America, conservatives are not the aggressors. Conservatives cannot

exit the arena while liberals push for taxpayer-funded coverage of abortions; while liberals force employers and individuals to pay for coverage of abortion-inducing drugs; while liberals push to redefine marriage, shut down Christian adoption agencies, and try to coerce Christian photographers, florists, and bakers to celebrate same-sex relationships.

Limited government and religious liberty are best served when the law reflects the truth about the laws of nature and nature's God. All human beings are created equal and endowed by their Creator with a right to life. We are created male and female, and marriage, by nature, is the union of man and woman. Only by redefining these concepts based not on nature but on desire do we get government run amuck, a "right to choose" whatever we desire even if it entails another's death, marriage to be defined in accord with whatever adult desire wants it to be.

The Bible's moral principles and natural law reasoning alike call for conforming our desires to transcendent moral truths discernable in nature's design. Post-modernism says we should re-create nature in accord with our desires, and Progressivism says we should use the government to do so. Instead of protecting natural rights, we now promote desire-satisfaction and trample real natural rights and religious liberty in the process.

And so, in this new time for choosing, we must return to the synthesis of the American Founding: ordered liberty based on faith and reason, natural rights and morality, limited government and civil society—with the laws of nature and nature's God providing the standard.

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