

FREEDOM OF CONSCIENCE AND RELIGION

**A CASUALTY OF THE
AUTONOMY DOCTRINE**

CARDUS

**MARCH 15, 2017
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Executive Summary

This paper by Professor Douglas Farrow of McGill University is both a timely and forthright contribution to the growing discussion on the impact of the autonomy doctrine on a broad range of concepts, beliefs, and our understanding of truth itself. The powerful criticism of this doctrine offered here is insightful. The paper offers a very helpful summary of the development of the autonomy doctrine philosophically and historically. In his arguments Prof. Farrow asserts that the increasingly widely held belief in the radical autonomy of the individual is having and will have a severely constraining effect on religious freedom. For Prof. Farrow the world is being fundamentally reordered in such a way around the individual that there is no longer any room for counter claims founded upon conscience and religious faith except insofar as they may be an aspect of a given person's individuality. Under the autonomy doctrine such claims must be assessed for what damage they might cause to another person's autonomy. The paper goes on to argue that under this conception of autonomy the human individual is no longer viewed as an accountable moral agent but rather a self-creating, self-measuring, and self-terminating being and no form of perceived religious intolerance must be permitted to infringe on this new conceptualisation of the social contract. For Prof. Farrow, this development is a disturbing one. He examines how this idea has taken root in Canada not simply as broadly-held opinion but institutionally through legislation and regulation. Finally, Prof. Farrow assesses this increasing entrenchment of the autonomy doctrine particularly in how this doctrine misunderstands the human body and how ultimately certain fundamental freedoms, such as freedom of religion and conscience, will become subservient to this self-same doctrine.

— Dr. Andrew P.W. Bennett,
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Introduction

*Will is an activity which, like life itself, is so pervasive, so many-sided, so incalculable, as to resist definition, since to define we must make distinctions and set limits.*¹

The 2016 report of the US Commission on Civil Rights, *Peaceful Coexistence: Reconciling Nondiscrimination Principles with Civil Liberties*, includes this gem from chairman Martin Castro: “The phrases ‘religious liberty’ and ‘religious freedom’ will stand for nothing except hypocrisy so long as they remain code words for discrimination, Islamophobia, Christian supremacy, or any form of intolerance.” Castro complains that “we now see ‘religious liberty’ arguments sneaking their way back into our political and constitutional discourse (just like the concept of ‘state rights’) in an effort to undermine the rights of some Americans.” R. R. Reno, the editor of *First Things*, remarked in response: “Let’s be clear. This is really only about gay and transgender rights and the insistence that everyone must affirm the sexual revolution in all its phases. Apparently this imperative has veto power over the civil rights and liberties of others, especially religious believers.”² I suspect Reno is right, though it remains to be seen what difference, if any, the new American administration will make.

At all events, something very similar appears to be going on in Canada, to judge by bill C-16 and by developments at the Office of Human Rights, Freedoms, and Inclusion, which seems to be backpedalling on the former in order to advance the latter. That Canada has an Office of Inclusion already worries me. What *is* inclusion anyway, and why does it warrant enumeration along with rights and freedoms? There is a quite astonishing level of confusion about the meaning and relation of words such as “inclusion,” “exclusion,” and “pluralism”—a most unfortunate typology that has wisely been abandoned, even by people who once promoted it, as incoherent.³

1 Henry Wilkes Wright, *Faith Justified by Progress* (New York: Charles Scribner’s Sons, 1916), 45.

2 R. R. Reno, “While We’re At It,” *First Things*, November 2016, 69–70.

3 That threefold typology was developed in the field of religious studies by Alan Race in the early 1980s, as a

The Ontario Human Rights Commission and various other bodies have gone so far as to suggest that inclusion entails, for example, identifying someone (specifically a “Trans” someone) by that person’s preferred pronouns. But this reading of inclusion inevitably places it in competition with freedom of conscience and religion, not to mention freedom of speech and association. Inclusion thus means affirmation and even participation on the terms set by another, which amounts to *colonization* of the linguistic, cultural, moral, and religious space of the people and communities of whom this inclusion is demanded.⁴

The inclusion of “inclusion” with rights and freedoms is a clear sign that the truly fundamental rights and freedoms identified by the Charter are not, in the mind of officialdom, so fundamental after all. I want to try to explain why this is so, or how it came to be so, beginning with the observation that we have been witnessing a gradual shifting of the load carried by the “rights” vehicle: first, from a rights-and-responsibilities axle to a rights-and-freedoms axle; then from the rights-and-freedoms axle to a rights-and-expectations axle—or perhaps we should say rights-and-demands. Freedom of conscience and religion may appear to flourish in the first shift, but plainly languishes in the second.

When we think in terms of rights and responsibilities, we are thinking within an ordered moral universe, where what is objectively right (*dignum et iustum*, fitting and just, according to an established standard or point of reference) determines what is due to, and what is due from, individual subjects within that world. When we think in terms of rights and freedoms, we lay less stress on what is objectively right and on the obligations thus created, and more stress on the liberty that enables one to pursue the right or the good as one understands it, without supervision or compulsion. Here religious freedom flourishes, as I said, but religion itself begins to lose its purchase. Its power to bind (*religare*) either the individual or society—hence also the state—decreases. When we think in terms of rights and expectations, we are hardly thinking at all of what is objectively right, but concentrating instead on what is subjectively generated, on what belongs to the individual qua individual.

means of promoting pluralism over inclusivism or exclusivism. Gavin D’Costa, one of its leading exponents, has since acknowledged its faulty logic and renounced it on the very sensible grounds that the pluralist himself “is surely, and can only be, an exclusivist,” because the pluralist is just as determined as anyone else to present his view as the right one and to see it prevail. In Canada today, our officials are trying to promote pluralism for the sake of inclusion, or is it inclusion for the sake of pluralism? Nobody seems really to know, or to grasp the fact that in the last analysis they too are exclusivists—of the kind that wish to impose their muddled thinking on everyone else by force of law. See further Douglas Farrow, *Desiring a Better Country: Forays in Political Theology* (Montreal: McGill-Queen’s University Press, 2015), 108–9, 178.

⁴ Witness, for example, the Jordan Peterson affair at the University of Toronto, in which Professor Peterson’s resistance of this colonization has been met with outrage on the part of the colonizers.

This latter shift leads to a new and quite radical development of the doctrine of autonomy,⁵ which is insinuating itself into the realm of personal identity, swallowing up sex and race and age and nationality and religion and so on. And in autonomy we now invest almost everything we mean by dignity. *Autonomy-and-dignity!* is today's battle cry, the regular refrain heard in our courts, parliaments, and human rights commissions and tribunals. Autonomy-and-dignity has begun to supplant freedom of conscience and religion as the fundamental category for thinking about rights and freedoms. The world is being reordered around the individual subject in such a way, and to such a degree, that there is no longer room for the counterclaims of religion or conscience, except as largely impenetrable manifestations of one person's individuality that must be assessed by the damage they may do to another's.

Affirmation of the autonomous individual, not as an accountable moral agent or as a creature with religious obligations, but as *homo faber ipsius* without any fixed human form, as a self-creating and self-measuring and self-terminating being, is the order of the day. Moreover, this affirmation demands a certain participation by others in one's personal project. There must be no form of intolerance, especially intolerance of a moral or religious kind. The social contract is being revised to guarantee that. Once again, then—just as in older religiously or morally monolithic societies—you are included whether you like it or not. Only what you are included in is a form of life determined by the doctrine of autonomy and enforced by the state. You are being forced to be free, lest you inhibit the freedom of others.

In Canada, as in the United States, this second shift has now taken hold. The evidence is not merely in the oddly named office mentioned above, but also in bills such as C-14 and C-16, and in the older C-38, which underlies both, because it already establishes that the autonomy doc-

5 I do not mean to dispute Joan O'Donovan's claim ("The Concept of Rights in Christian Moral Discourse," *Lion and Lamb* 26 [Autumn 2000]: www.econi.org/lionlamb/026/concept.html) that the shift in question began to take place long ago: "A close analysis of the history of the concept of subjective rights reveals a progressive antagonism between the older Christian tradition of political right and the newer voluntarist, individualist and subjectivist orientation. Whereas in the older tradition, God's right established a matrix of divine, natural and human laws or objective obligations that constituted the ordering justice of political community, in the newer tradition God's right established discrete rights, possessed by individuals originally and by communities derivatively, that determined civil order and justice. In the older traditions, the central moral-political act on the part of ruler and ruled alike was to consent to the demands of justice, to the obligations inhering in communal life according to divine intention and rationally conceived as laws. In the newer orientation to political right that began to emerge in the fourteenth and fifteenth centuries, the active individual will occupied a central position. . . . Not until the seventeenth and eighteenth centuries did the subjective rights of individuals supersede the objective right of divinely revealed and natural laws as the primary or exclusive basis of political authority, justice and law. These centuries dominated the transformation of the Western Christian tradition of natural law and natural right into a tradition of natural rights." The lineage I want to trace here runs parallel to this analysis, and reaches a similar conclusion: "The secularisation of liberalism in the eighteenth and nineteenth centuries has meant that the self-positing, personal creative will acknowledges fewer and fewer external obligations and objective goods." However, we will follow this trajectory by attending to the concept of autonomy, observing its radicalization in our own century.

trine trumps even biological facts, and so also the traditional institutions (and associated protections) that are built on them.⁶ Ironically, C-38 itself was justified by the thesis that biology is destiny, whereas C-14 and C-16 are justified by the opposite thesis, the thesis that was really operative all along: Biology is *not* destiny. We should not merely scratch our heads at this substitution; we should put on our hard hats and prepare for trouble. For this thesis changes the basic relation between the citizen and nature, and so also between the citizen and the state. Indeed, it denies moral consideration to nature, and the obligation of the citizen and the state to nature's God. Such is the function of the autonomy doctrine in its current form.

Permit me to illustrate. Take this, for example, from the Senate debate on C-16, the Hon. Grant Mitchell moving its second reading:

Diversity, inclusion, acceptance and understanding are core Canadian values. We believe that they define who we are, and we are very proud that they do.⁷ . . . Before explaining the bill, I need to define what is meant by a few key terms. The term “gender identity” refers to an individual’s internal and personal experience of gender—their sense of being a man or woman, both, or neither. For most people, the sense of self as being a man or woman aligns with their anatomical and biological characteristics. For others, it does not. These people are referred to as transgender or trans people. “Gender expression” refers to how people publicly present their gender, through behaviour and outward appearance such as clothing, hair, body language and chosen name. “Gender identity” refers to who a person is in their very soul. “Gender expression” refers to how each person publicly presents their gender identity. A transgender person simply knows they are of a gender different from the one assigned to them at birth, the one indicated by the physical and physiological features of their body. They cannot live honestly or comfortably in their birth-assigned gender, where they are literally and profoundly uncomfortable in their own skins. If they can overcome their fear, they transition to their true gender identity. To do otherwise is to live in a continuous, often agonizing, confounding and alienating condition. In some sense, it is to live a lie. No one should ever have to do that.⁸

6 On the situation generated by C-38, see my *Nation of Bastards: Essays on the End of Marriage* (Toronto: BPS Books, 2007). Cf. my “Thirteen Theses on Marriage,” *First Things*, October 2012, 23–24.

7 How these values, which one takes him to be affirming as morally right and therefore ultimately universal, define us as proud Canadians is not entirely clear; unless of course Canadians are simply people who are proud to be morally right.

8 Grant Mitchell, Senate of Canada, 1st session, 42nd Parliament, November 28, 2016, www.parl.gc.ca/Content/Sen/Chamber/421/Debates/077db_2016-11-28-e.htm.

Note especially the proffered definition of gender identity, which refers to whomever or whatever one “simply knows” oneself to be in one’s very soul, considered without immediate reference to one’s body. Arguably, this normalization of sex or gender dysphoria is a form of gnosticism.⁹ And like the gnosticism of old, it works out its anti-body logic by spinning salvific myths, as you will discover if you read the rest of the remarks on C-16, attending closely to the storytelling that now substitutes for rational debate in both houses. But I continue with my quotation from Senator Mitchell:

To be transgender is not a choice. Trans people do not make this up or fake it. Why would anybody want to inflict upon themselves the stigma, discrimination and suffering that almost always inevitably follow the transitioning? As Oscar Wilde once said, “Be yourself. Everyone else is taken.” This bill will go a long way to helping this vulnerable group of people—trans people—to be who they are and to be themselves without fear.

The gnostics were generally determinists. So, apparently, is Mitchell. While rejecting biological determinism, he substitutes a thoroughgoing *psychological* determinism, as a kind of halfway house, we might say, to a pure autonomy doctrine, which may be gnostic without being determinist.

It is time, however, to ask where the autonomy doctrine came from and how it took its present form.

⁹ See my *Ascension Theology* (London: T&T Clark, 2011), 142–43.



A Crude Genealogy of the Autonomy Doctrine

The roots of the autonomy doctrine lie deep in the nominalist soil of the eleventh century, where we already find St. Anselm digging around, trying to remove them. I have described the emergence and evolution of the doctrine more fully in chapter 6 of a new book, titled *Borderlands*,¹⁰ but I will give you a brief, potted version here, touching lightly on a few key figures and ideas in the transition from the Middle Ages to modernity, and from modernity to postmodernity. We shall have to be content, of course, with a great deal of oversimplification as well as many lacunae.

The first is William of Ockham, in the fourteenth century, who helped make nominalism mainstream. Ockham, like other nominalists, did not think we should talk about forms or natures in trying to grasp reality. In Joshua Hochschild's words, he "did not do away with objective reality [itself], but in doing away with one part of objective reality—forms—he did away with a fundamental principle of explanation for objective reality"; that is, he did away with forms and formal causality. Unfortunately, since formal causality underwrites teleology, guaranteeing that "the ends or purposes of things follow from what they are and what is in accord with or capable of fulfilling their natures," teleology was also discarded. One could no longer understand things in terms of their ends, in terms of what they are for.¹¹ This made a great deal of difference in trying to explain humans to themselves. Above all, it made it difficult to explain that that they are *for God*. And that inability gave birth to the modern autonomy project.

¹⁰ Material in the present section is adapted and abridged from chapter 7 of my forthcoming book, prospectively entitled *Borderlands: Theological Negotiations*.

¹¹ Joshua P. Hochschild, "What's Wrong with Ockham? Reassessing the Role of Nominalism in the Dissolution of the West," *Anamnesis Journal* (December 2014): 5–6.

The second is René Descartes, in the seventeenth century. As J. B. Schneewind points out, Descartes (after France’s religious conflicts) proposed “a thoroughgoing ethic of self-governance” in which no appeal would be made either to the revealed mind and purpose of God or to supposed formal and final causes.¹² Descartes represents the transition from late-medieval to modern nominalism, which aimed at “a powerfully free human will” beholden to no religious dogma, and at complete mastery over nature. He sought a universal science that would be an entirely human product. It is also Descartes who began, as Michael Gillespie observes, to collapse thinking into willing, through his performative assertion, *cogito ergo sum*—who thus made the principle of his new science the “individual autonomy that arises out of the self-assertion and self-positing of the human will.”¹³

The third is Immanuel Kant, in the eighteenth century. In the absence of teleology, it was not at all obvious any more how man, who belongs to the general nexus of efficient cause and effect that he aspires to understand scientifically, can also rise above it, so that he may exercise control over it and over himself. That question was all the more pressing politically after the trauma of the Thirty Years’ War, and with the appearance of Newtonian science it gained in philosophical urgency as well.¹⁴ Kant was among those who made a concerted effort to address it, by removing what was left of the old metaphysics and reinvesting all its grandeur in the thinking and willing individual, who himself is the very font of scientific and moral order. Kant’s attempt got bogged down, however, in what my colleague Garth Green aptly calls the aporia of inner sense, that is, in his failure to explain how the thinking self retains the capacity to cognize natural phenomena given his account of its *incapacity* when it comes to cognizing itself.¹⁵ Kant thought it necessary to restrict the soul’s self-knowledge in order to insulate rational thought from theology and thus from the perils of religious strife. The modern cultural edifice required such insulation, while requiring also non-theological principles of government that would accord men their proper digni-

12 J. B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge: Cambridge University Press, 1998), 185.

13 See Michael Allen Gillespie, *The Theological Origins of Modernity* (Chicago: University of Chicago Press, 2008), 40–41, 200ff. “The claim to a powerfully free human will was something new in Descartes’s time,” as Timothy Reiss observes in “Descartes, the Palatinate, and the Thirty Years War: Political Theory and Political Practice,” *Yale French Studies* 80 (1991): 128.

14 Jonathan Sacks, in his Templeton Prize Plenary Lecture in San Antonio (November 20, 2016), spoke of the secularization of knowledge in the seventeenth century, of power in the eighteenth, of culture in the nineteenth, and of morality in the twentieth—all in a kind of chain reaction to the Wars of Religion. But this otherwise handy outline seems to me to put too much stock in that myth. There were many other factors in play besides religion.

15 Or conversely, as Green points out to me, how the soul is incapable of cognizing itself given Kant’s account of its cognition of natural phenomena. See Garth W. Green, *The Aporia of Inner Sense: The Self-Knowledge of Reason and the Critique of Metaphysics in Kant* (Leiden: Brill, 2010), 5–10, 223ff. (especially n234).

ty as something more than machines.¹⁶ Just how to achieve the latter, however, was a puzzle he bequeathed to modernity without the requisite picture on the box.

The fourth, a contemporary of Kant's, is Jean-Jacques Rousseau, whose project was intensely focused on cognition of the self, especially on the self's volitional and affective dimensions. "I am devoting my last days to studying myself," said Rousseau in the first walk of his *Reveries*, and to considering "the successive variations of my soul."¹⁷ Rousseau did not like the readings of his soul volunteered by those who once were close to him. He had long been suspicious of society's power to include and forcibly reshape people. So now at the end of the road he would render an account of himself to himself, a kind of last judgment, as it were, carried out *coram se* and in defiance of society. Who, after all, God aside—and Rousseau, like Kant, was happy to leave God aside—could match his uniquely privileged reading of himself? If Descartes elevated the human will to something in principle divine, while Kant allowed man a Godlike capacity to order the phenomenal world in his own mind, Rousseau granted him a Godlike capacity to measure himself. Rousseau turned the older Renaissance quest for self-understanding in the direction of what we think of today as personal authenticity, though it may be more accurate to call it self-absorption.¹⁸ He and Kant thus produced quite distinct, even contradictory, notions of autonomy. For Kant, autonomy still consisted in self-rule according to the dictates of reason. Not so for Rousseau, or for the Romantics, whose quest for autonomy was more aesthetic than rational.

The fifth is John Stuart Mill. For Mill and the nominalists of the nineteenth century, autonomy specified the power of self-discovery, or indeed of self-authorship, through the spontaneous exercise of the will.¹⁹ The enemy was still society, or the disapproving other; but that other was theologically construed as a product of the "Calvinistic" theory according to which "the one great offence of man is self-will." The right response to such despotism was the doctrine that "it is only the cultivation of individuality which produces, or can produce, well-developed human beings."²⁰ And here a certain Comtean element comes in as well. Not merely in the transition

16 Cf. Gillespie, *Theological Origins*, 258ff.

17 J.-J. Rousseau, *Reveries of the Solitary Walker*, trans. Peter France (London: Penguin, 2004), 32ff.

18 Where "authenticity conditions" are understood to "include the capacity to reflect upon and endorse (or identify with) one's desires, values, and so on" (John Christman, "Autonomy in Moral and Political Philosophy," *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, spring 2015 ed., <https://plato.stanford.edu/archives/spr2015/entries/autonomy-moral/>), are not self-absorption and dysphoria predictable outcomes?

19 With his wife, Harriet Taylor, Mill can be located in the Romantic stream, though he was much influenced by the myth of progress and by the utilitarian ethic inherited from his father and Jeremy Bentham. The main currents of modernity meet and merge in Mill.

20 J. S. Mill, *On Liberty* (London: Dent and Dutton, 1972), chap. 3 (pp. 119ff.). We leave aside the question of what "well-developed" can mean in a nominalist milieu, observing only that the idea that humans can and should be

from universal to individual rights, but also in the ideal of self-direction and self-rule, on the one hand, and of the ideal state, on the other. For it is the state, with its universal education system, that must cultivate this individuality, both for the sake of the individual and for the sake of the state itself, which desires no competition from religion for the citizen's loyalty. It is also the state that must restrain excessive individuality, whether of persons or of communities.²¹

Notwithstanding the enormous upheavals and calculated, systemic violence of the twentieth century, a century far bloodier, in its wars and enterprises of irreligion, than the sixteenth or seventeenth—a century that lends little support to Millian optimism and much to Calvinistic pessimism—this project and this way of thinking (mediated by the likes of Joseph Raz) permeates our political and legal discourse today. A cure is still being sought, with almost quixotic determination, for our excessive Calvinism, that is, for the frustration of spontaneous self-development by social and religious norms. Salvation from that frustration is to come from autonomy, and autonomy alone. The only real question is how far autonomy can or should be imposed on individuals and on the communities to which they belong.

Here we must mention, last, a quartet of nineteenth- and twentieth-century influences: Nietzsche, Marx, Gramsci, and Foucault. (Don't worry: I'm only going to mention them, but we can't very well leave them out, since all were important in the radicalization of the autonomy doctrine or of its effects.) Nietzsche showed us the über-autonomous individual, who acknowledges only the will to power, the pursuit of power, and "all that enhances the feeling of power."²² Marx and Gramsci weren't interested in the individual as such, but rather in the transformation of economic and institutional structures, that is, in the *means* of power and in the manner by which power can be shifted. It is where these streams converge—that is where Foucault is situated—that the conditions are created for the radicalization of the autonomy doctrine that is taking place today. And we ought not to be surprised that, partly through Foucault's influence,²³ sexuality has become the main theatre of operations.

In this theatre, especially, doubts are openly expressed as to whether there really is any such thing as objective reality or truth, and whether social institutions are ever anything but arbitrary instruments of oppression manufactured by the powerful. There is a dirty war of conflicting ideologies, all of which seek to shift what is left of the common culture ever further from

well-developed was not abandoned in the nominalist revolution, as one might expect.

21 See further my remarks on Mill and Comte in "The Audacity of the State," *Touchstone*, January/February 2010, 28–35; and Linda C. Raeder, *John Stuart Mill and the Religion of Humanity* (Columbia: University of Missouri Press, 2002).

22 Friedrich Nietzsche, *The Anti-Christ* (1988), second aphorism; cf. *The Genealogy of Morals* 3.7.

23 Not to speak of that shaman Sigmund Freud, or the fraudulent (and unspeakable) Alfred Kinsey.

its alleged Calvinism. These ideologies habitually appeal to autonomy-and-dignity to justify themselves. Those who invent them have quite deliberately abandoned nature, just as their forebears deliberately abandoned nature's God. Taking their departure from Descartes's *cogito ergo sum*, they have arrived at the claim: I am the sole author, owner, and disposer of my own existence. Or even at what we may call the Pejič principle: *I am who or what I say I am, and I have the right to be perceived and treated as such*. It is to the service of just such claims, claims that cannot be falsified because their only point of reference is the will itself, that autonomy is now pledged in the public sphere, as C-16 in particular demonstrates.²⁴

²⁴ As Louis Dupré points out in *The Enlightenment and the Intellectual Foundations of Modern Culture* (New Haven: Yale University Press, 200), 66: "If feelings constitute the core of selfhood, as Rousseau thinks, the self never is, but continuously becomes and redefines itself." How then can the self be recognized, except on the Pejič principle? In Andrej[a] Pejič's own words, "to be perceived as what you say you are is a basic human right" (quoted in Noah Michelson, "Super Model Andreja Pejic Comes Out As Transgender," *Huffington Post*, February 2, 2016, www.huffingtonpost.com/2014/07/24/andreja-pejic-transgender_n_5619259.html).



The Bearing of This Doctrine on Freedom of Conscience and Religion

Otherwise put: The problem with the Pejič principle, politically speaking, is that it references nothing public. Autonomy, detached altogether from the heteronomy of nature and nature's God, is incapable of uniting a people or of maintaining a stable basis for law and public policy. It is not constructive, but deconstructive. It is privative, not perfective. And one of the things it deprives us of is freedom of conscience and religion. Why? Because it cannot abide conscience or religion. Conscience references natural law and religion references cosmology—both are resolutely intellectual and theological, at least in the Abrahamic and Hellenistic spheres—whereas autonomy, as we now understand it, references only personal volition. Natural law is heteronomous. It concerns our innate grasp of the difference between good and evil and our responsibility to pursue the former and avoid the latter. Religion also is heteronomous. It concerns our duty of piety to the Creator. To acknowledge either conscience or religion in any serious fashion is to reject the very idea of radical autonomy.

Now, those who pioneered the turn to autonomy did not have in mind anything quite so radical. They certainly did not mean to imply that people could live in a kind of private universe. But they made mistakes that led to the current misapprehension of autonomy, and to a neurotic generation fascinated, on the one hand, by supposedly safe spaces where no one can impinge, even by “micro-aggressions,” on their cherished personal constructs, and governed, on the other hand, by a herd mentality that stampedes them first in this direction, then in that. Nor did those who pioneered the turn to autonomy have in mind the use of civil or positive law to deprive people of freedom of conscience and religion; just the reverse. But that is another consequence of those same mistakes, for positive law is now perceived as the main engine for entrenching the autonomy doctrine and for coercing participation in the life-and-death

choices made by putatively autonomous individuals. Since freedom of conscience and religion amounts to a repudiation of that doctrine and provides an exemption from that participation, it must be abandoned. We will indeed force people to be free, in Rousseau's words. It bears keeping in mind that there was already a powerful inclusivist streak in Rousseau, in direct contradiction of the solitary walker.²⁵

Here, as far as I can tell, is the way it will be abandoned: Obviously it will not be repudiated outright. Rather, conscience and religion rights will be regarded as subsets of the more fundamental right to autonomy. Their effects will be weighed and balanced by reference to their impact on autonomy. This means that majorities will be at a disadvantage to minorities. It also means that religious minorities will be at a disadvantage to "sexual minorities," say, both because the latter will make their case in terms of autonomy, while the former generally won't, and because the negative effects on the latter will be deemed disproportionate, in view of the fact that sexuality is considered by the intelligentsia more important than religiosity. Moreover, much that religion has to say about matters such as sex and death will be treated as intolerable or barely tolerable affronts to human dignity, and penalized accordingly. Above all, the education system will do its best to eradicate what religion says about these things from the minds of our youth. And the state will require submission to that system, which serves the state's own purposes, if it is the kind of *state* that purports to be autonomous—not with respect to other states, but with respect to nature and nature's God.²⁶

All these things we already see happening. And here is something else we see happening: The law is abandoning the body, because the body is the locus of the given, the place where heteronomy first—and last—imposes itself. The law is abandoning the body because the body puts in doubt our autonomy, and autonomy is that to which we are now wholly committed. The law, in other words, is becoming gnostic. It does not recognize contraception as a contradiction, or rather it embraces that contradiction. It does not recognize as a human being the baby before its birth. It does not recognize the chromosomes as determining sex; or rather it no longer rec-

25 See further my "Of Secularity and Civil Religion," in *Recognizing Religion in a Secular Society: Essays in Pluralism, Religion, and Public Policy*, ed. Douglas Farrow (Montreal: McGill-Queen's University Press, 2004).

26 As David Novak says in "What Is Religious Freedom?" (address to the Fourth Conference of the International Consortium of Law and Religion Studies, St. Hugh's College, Oxford, September 8, 2016), 7, religious freedom, whatever else it is, is "*the freedom of traditional religions and their adherents to be ultimately committed to an absolute authority beyond the relative authority of the state. As such, freedom of religion is, in fact, freedom from the totalizing authority of the state.*" The radical autonomy doctrine, however, lends itself to precisely that—totalizing authority—because it strips from society, in principle and as far as possible by active colonization, all mediating institutions that buffer the individual from the state. See again *Desiring a Better Country*, and the forthcoming *Borderlands*.

ognizes sex as an identifying feature, but substitutes for sex “gender and gender identity.”²⁷ It does not recognize natural kinship, blood kinship, but only legal kinship.²⁸ It does not recognize the body as the bearer of death. It is now the autonomous will that bears or determines death. The law does not recognize even *death* as a contradiction, as a dissolution of body and soul in which neither, properly speaking, are at peace. It sees death itself as peace.

As the law abandons the body, it also abandons all grounding for the governance of the body politic. It sets right against right, and dignity against dignity, as if there were no actual order to the world and no form or substance to the human being. We have returned full circle from Pope to Donne. “Nature and Nature’s Laws lie hid” again in Night.²⁹ Once more, and this time still more emphatically,

’Tis all in pieces, all coherence gone,
All just Supply, and all Relation;
Prince, subject, father, son, are things forgot,
For every man alone thinks he hath got
To be a Phoenix, and that then can be
None of that kind, of which he is, but he.³⁰

Who now will be our Newton, no one knows, but in the absence of God, in the secularist state that is autonomy’s twin and autonomy’s Nemesis, that Newton will likely be a tyrant. For “inclusion” has its price.³¹

That being the case, the political and legal defence of freedom of conscience and religion is a matter of paramount importance. This defence cannot hope to be successful, however—here—with the moral of my story—unless it is also conducted philosophically and theologically, unless indeed it is conducted evangelistically. For without a conversion back to God and nature, there

27 At the moment, it is trying to have both, but it cannot; see Daniel Moody, *The Flesh Made Word: A New Reason to Be Against Abortion* (n.p., 2016).

28 Mothers and fathers are becoming simply “parents”—adults of unspecified sex and undetermined number who serve as a child’s legal guardians. Thus Ontario’s Bill 28, the All Families Are Equal Act, which sets out along the path I predicted on April 9, 2005, at the March for Marriage on Parliament Hill: “In order to make homosexual unions more nearly equivalent to heterosexual unions, it is necessary either to find a way for the former to produce babies by technological means, or to deprive the latter of any special relationship to their babies. It is necessary, in other words, for the state to take control over human reproduction.”

29 “Nature and Nature’s Laws lay hid in Night. / God said, Let Newton be! and all was Light” (Alexander Pope).

30 John Donne, “An Anatomy of the World” (1611).

31 I have developed this line of thought further in chapter 6 of *Ascension Theology*.

is no remedy for the sickness introduced by the abandonment of God and nature. (Anselm was already arguing that when he confronted those who were beginning to embrace nominalism and to pine, like the devil, for their own “proper” will, meaning one that is like God’s in being subject to no other.³²) Without a repudiation of our inflated claims to autonomy and a renewed attention to heteronomy, there is no cure for moral anarchy but political tyranny.

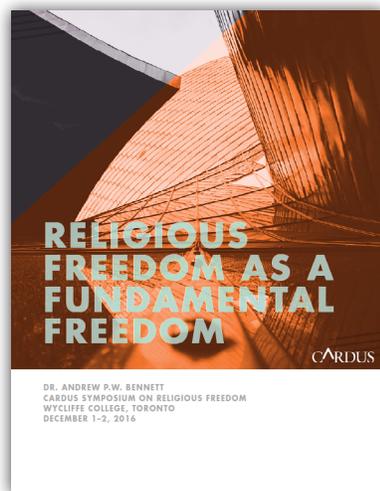
Those who fancy that the challenge can be met with the falsely calibrated instruments of secularist law and “inclusivist” politics are mistaken. They have not understood that the sickness is a sickness unto death, that without acknowledgment of the supremacy of God there can be no true rule of law. Those who hope that the decline of the patient, that is, of the free society, can be arrested without wielding, as Martin Luther King Jr. did, the dual weapons of religiously serious moral rhetoric and of civil disobedience, are deceiving themselves. This is not a time for “sneaking,” to use Castro’s word. It is time for keenest combat. We must challenge some of the most basic and cherished assumptions of our day.³³ We must offer an alternative vision of what makes a person a person and a people a people. We must do the work, not only of St. Anselm, but also of St. Augustine.³⁴ Which is to say, we must hold out to our contemporaries the vision of a people who know how to love justice properly because they have learned something about loving and fearing God, who is the ground of justice and the measure of what is fitting and right.

32 “Both of these, namely, the devil and man, by robbery willed to make themselves like God, willing as if their will were strictly their own. . . . Now the will of an angel or a man is strictly his own when contrary to the will of God; for when someone wills what God forbids him to will, he has no author of his will except himself. . . . But it belongs only to God to have a will strictly his own; that is, a will subject to no one. Whoever therefore uses his will autonomously strives by robbery to be like God and is guilty of attempting, as far as he is able, to deprive God of the dignity that is proper to him alone, and of his unique excellence” (*De incarnatione* 10, trans. mine).

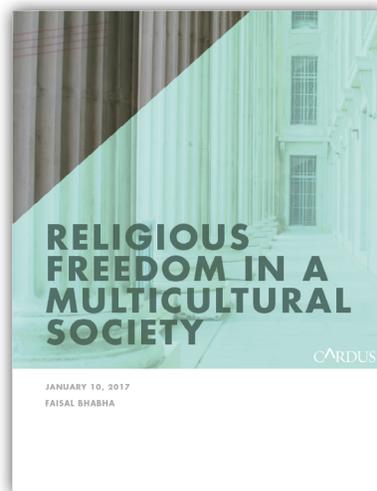
33 That may be a risky strategy, but, as Joan O’Donovan (“Concept of Rights”) puts it, “There are enough signs about of social anomie, moral confusion and ideological fatigue to suggest that the risk is worth taking. We may, after all, be witnessing the bitter historical irony that the revitalised striving in contemporary society for the substance of community, reciprocity, equity and public trust is being undermined by its most trusted theoretical support”—viz., a rights discourse that, propelled by an exaggerated autonomy doctrine, has gone off the rails.

34 See Augustine, *De civitate Dei* 19.5ff. (esp. 21–25).

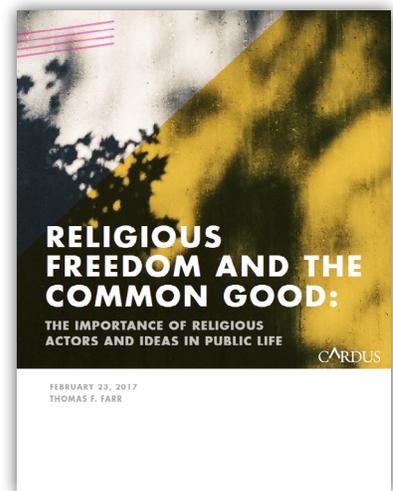
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