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Address Given by Senator Orrin G. Hatch*
Before the Tenth Annual International Law and
Religion Symposium:
Religious Pluralism, Difference and Social Stability
Brigham Young University
October 5, 2003

Distinguished officials and guests, Vice President Rogers, Dean Hansen, Professor Durham, good evening. To the large number of you who are visiting, welcome to Utah. You will please forgive me for my partiality, but you are visiting the greatest state in the Union and one of the finest places on earth. I hope your visit is fruitful—from what you gain in the days ahead at this Symposium and from how you enjoy yourself among my fellow Utahns. We are very happy to have you here.

It is an honor once again to address this Symposium, which I last addressed three years ago, in October of 2000.¹ Little did we know how the topics discussed then and today—or the relation of religion and society in the modern world—would become central to our thinking, our policies, our concerns and—since that terrible day in September of 2001—our fears. Today, the themes this Symposium will address over the coming week are more central to policymakers than ever before.

I am proud that my alma mater, Brigham Young University, continues to host these international conferences. Over the past decade, these symposiums have brought together more than 400 officials, scholars, and experts to discuss how faith and society

* Senator Hatch has served in the U.S. Senate since 1976 and is Chairman of the Senate Judiciary Committee. He has authored and sponsored major legislation protecting religious liberty, including the Religious Freedom Restoration Act of 1993, 42 U.S.C. §§ 2000bb to bb-4 (1993), and the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. §§ 2000cc to cc-5 (2000). This speech was originally presented at the International Law and Religion Symposium held at Brigham Young University's J. Reuben Clark Law School on October 5, 2003.

1. Orrin G. Hatch, *Religious Liberty at Home and Abroad: Reflections on Protecting This Fundamental Freedom*, 2001 BYU L. REV. 413.

intersect in the law. This year, there are participants from almost fifty countries.

I am aware of much of the work that the people in this room have accomplished in addressing the questions of faith and law in modern society, and I am very impressed by your dedication. I wish to thank the many sponsors of these symposiums.

And I find it fitting that Brigham Young University can serve as host. Here in Utah, where there is the highest concentration of adherents to my faith, the Church of Jesus Christ of Latter-day Saints, in the United States, we have wrestled with questions of faith and society since before the days this state was welcomed into the Union. The history of this state and the history of the Mormon Church—which today has more members living overseas than in Utah or the United States as a whole²—can provide a valuable context for the issues you, who have come so far to be here, will discuss in the coming days.

This is an important point: the United States and Utah provide natural venues for discussions of religious freedom. We also provide a historical context that should remind us all to be humble. We have had religious persecution in this country. The wisdom embodied in our laws (constantly evolving laws made by imperfect men and women) is a wisdom born of experience—an experience that we cannot deny included failures and persecution. President Bush has argued that America should seek to practice humility in our foreign affairs. That is sound advice, drawn from a humility learned from the study of history.

Come and learn with us this week. But see us as a beacon, not a paragon.

Since September 11, 2001, the relationship between religion and society has become a central concern of policymakers around the world. Was it Islam—many asked, many concluded—that attacked this country on that terrible day?

Shortly after the end of the cold war, the eminent scholar Samuel Huntington wrote a book that I know many of you have read. *The Clash of Civilizations* articulated the first paradigm on how conflict would arise in the post-cold war era.³ It argued that conflict would

2. See Key Facts and Figures, Membership Data December 31, 2003, at <http://www.lds.org/newsroom/page/0,15606,4034-1---10-168,00.html> (last visited May 5, 2004).

3. SAMUEL P. HUNTINGTON, *THE CLASH OF CIVILIZATIONS AND THE REMAKING OF WORLD ORDER* (1996).

erupt along civilizational lines. Civilizations were determined, in part, by their religion, and thus conflicts would occur where religions abut. It was a useful model—useful for predicting potential conflicts—but, in my opinion, not useful enough to explain the dynamic of actual conflict.

One of those civilizational lines ran right through Bosnia, between the Christians (divided between Orthodox and Catholic) and the Muslims. We saw a terrible conflict there in the early 1990s, when the world witnessed a genocide in Europe barely fifty years after the Holocaust. But that conflict was not caused by the religious: it was caused by secular nationalists who used modern media to spread lies, rumors, and fears to inflame modern populations.⁴ Religion didn't cause that conflict; modern nationalism and fascism did.

I believe that the nineteen hijackers who killed almost 3,000 civilians on September 11 also hijacked a religion that day, and that al Qaeda and their supporters to this day abuse religion to perpetuate violence and hatred that have no holy goals, only earthly gains. The tactics of terrorism are nihilistic, and nihilism is contrary to every notion of praising and serving God that any great religion has ever taught. Today, bin Laden has issued a call for fighters to come to the aid of Saddam Hussein, a well-known secular Arab whose wars, poisonous weapons, and human rights abuses have earned him the title of modern history's most prolific murderer of Muslims.⁵ Saddam Hussein's desperate terror tactics—of car bombs and assassinations—are not the tactics of an ideologue or a man of faith. They are the tactics of a gangster, and bin Laden has revealed his true colors by joining forces with this gangster.

The modern world has successfully defeated gangsters, time and again. Our success lies in the rule of law, in the advancement of a social code that clearly draws the lines around criminality while

4. *Id.* at 354–55 (identifying nationalism as a key cause of the Bosnian war); see also Nathan A. Adams, IV, *A Human Rights Imperative: Extending Religious Liberty Beyond the Border*, 33 CORNELL INT'L L.J. 1, 6–7 (2000) (“Most distinctively, religiously-inspired genocide is usually the instrument of political leaders who are themselves secular and nationalistic, but view religion and theology as powerful tools for achieving geo-political ends.”); Charles J. Russo, *Religion and Education in Bosnia: Integration Not Segregation?*, 2000 BYU L. REV. 945, 949 (“[T]he war in Bosnia was not religious per se . . .”).

5. Mark R. Levin, *Islam's Worst Enemy*, NAT'L REV. ONLINE (Oct. 17, 2001), at <http://www.nationalreview.com/contributors/levin101701.shtml>; see also Don Van Natta Jr. & Desmond Butler, *The Struggle for Iraq: Terror Recruits: Calls to Jihad Are Said to Lure Hundreds of Militants into Iraq*, N.Y. TIMES, Nov. 1, 2003, at A1.

leaving all fundamental human freedoms unfettered by the state. Where there is a rule of law protecting human rights and meting out justice, you will find peace.

Legal regimes are where society and faith intersect to address religious freedom. Many have said that in the post-September 11 world there is developing a clash, not of civilizations, but of legal models between which we must choose to emphasize either security or human rights. We faced this in the United States Congress with the passage and implementation of the Patriot Act.⁶

Like Huntington's *Clash of Civilizations*, these legal models emphasizing either security or human rights give analytic insight.⁷ Similar to Huntington's analysis, we should be aware that these models have limits, beyond which we as jurists must develop the proper balance. A modern society *can* defend its security and preserve human rights.

The nearly fifty nations represented by the officials, scholars, and jurists attending this Symposium are all seeking to find these proper legal balances. By your presence here, you recognize the central human right—and it is a human right, not a state-given right—of religious freedom. Nations have sought their own proper legal balance in preserving this fundamental right since the birth of the modern state.

When I spoke here three years ago, I closed with a quote that was used by James Madison, an author of the United States Constitution.⁸ Madison said that one religion results in theocracy, two in civil war, and many in civil peace.⁹ Yet it appears that Madison took it from the French philosopher, Voltaire, who was speaking of the English, when he said: "If there were only one religion in England, there would be a danger of despotism; if there were two, they would cut each other's throats; but there are thirty, and they live happily in peace."¹⁰ The point is that all nations, throughout history, have struggled to find the balance between faith and society.

6. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (codified as amended at 18 U.S.C. § 1 and in various other sections of the U.S.C.).

7. See *supra* note 3 and accompanying text.

8. See Hatch, *supra* note 1, at 428.

9. *Id.*

10. Letter from François Marie Arouet de Voltaire (1732), in *LETTRES PHILOSOPHIQUES* 29 (Raymond Naves ed., 1939) ("S'il n'y avait en Angleterre qu'une

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And lest you suspect that I am aware only of so-called Western examples, please allow me to cite a worthwhile case from one of the nations that will be represented at this Symposium.

Indonesia is the fourth most populous nation in the world.¹¹ Since its independence in 1945, that country has served as a leader of the developing world, and as a bridge between the developing world and the developed world. Indonesian foreign policy has a history of seeking positive relations with all of the countries represented here today, and Indonesia has had decades of friendship with the United States.

Indonesia is the country with the largest Muslim population in the world,¹² yet it has always been a secular state. It has been a country, up until recently, known for interreligious peace. Part of this peace originally derived from the secular concept its first President, Sukarno, the father of the current president, articulated in the early years of its independence. It was a philosophy known as *Pancasila*,¹³ which was based on five principles, one of which was a specific recognition of a monotheistic God, while choosing no specific state religion.¹⁴

Unfortunately, Indonesia has also been attacked by terrorists recently—terrorists linked to al Qaeda and terrorists who claim religious motivation. Last year, over 200 tourists and Indonesians died in the horrible Bali bombing.¹⁵ Earlier this summer, fifteen were killed by a bomb placed in front of the Jakarta Marriott Hotel.¹⁶ In the Jakarta bombing, except for a Dutch banker who had spent most

Religion, le despotisme serait à craindre; s'il y en avait deux, elles se couperaient la gorge; mais il y en a trente, et elles vivent en paix et heureuses.”)

11. David R. Schmahmann et al., *Off the Precipice: Massachusetts Expands its Foreign Policy Expedition from Burma to Indonesia*, 30 VAND. J. TRANSNAT'L L. 1021, 1023 (1997).

12. CENTRAL INTELLIGENCE AGENCY, THE WORLD FACTBOOK 2000, at 41, 233, 378 (2000).

13. *Pancasila* is pronounced (PAHN cha SEAL ya).

14. Eleanor M. Fox, *Equality, Discrimination, and Competition Law: Lessons from and for South Africa and Indonesia*, 41 HARV. INT'L L.J. 579, 588 (2000) (“[Sukarno] brought a measure of harmony to the many political factions in the geographically disperse nation by instilling the philosophy of Pancasila—a philosophy of national unity based on five pillars: belief in one God, nationalism, humanity, sovereignty of the people, and social justice.”).

15. Raymond Bonner, *Bombing at Resort in Indonesia Kills 150 and Hurts Scores More*, N.Y. TIMES, Oct. 13, 2002, at 1:1.

16. Keith Bradsher, *Threats and Responses: The Attack: Indonesian Bombing Kills at Least 10 in Midday Attack*, N.Y. TIMES, Aug. 6, 2003, at A1.

of his life dedicated to improving conditions in Indonesia, all the victims were Indonesian.¹⁷

Indonesian society, as I have said, has always been known for its religious tolerance, and it is heartbreaking to see the shock of my Indonesian friends. Polls throughout Indonesia indicate that the general public views these attacks as criminal.¹⁸ Indonesians accept no religious justification for such barbarous acts. And we should not be surprised: Indonesia is the home of two of the largest moderate organizations of Muslims in the world—N.U.,¹⁹ which has 40 million members, and Muhammadiyah, which has another 30 million members.²⁰ In fact, N.U. is the single largest civil society organization (or nongovernmental organization) in the world.²¹ It is in recognition of these social realities in Indonesia that American officials—seeking to understand other ways that religion, in this case Islam, exists in a secular, modern society, as well as seeking to find better ways in which America can have a dialogue with the Islamic world—go to talk to our Indonesian friends.

I have referred to the Indonesian example simply to highlight the fact that all nations struggle in their own way to define the balance between security and human rights, preserving and advancing traditions of religious freedom. Indonesia has preserved religious freedom while prosecuting criminality, and I commend the Indonesian law enforcement and legal authorities for the way they have handled the apprehension and trial of the criminals behind these bombings.

As Americans, I think it is important to recognize, in an era of problems that cross over and under borders, that there is much we can learn from others. At this wonderful university, with the technological access to so much scholarly material written on law, religion, society, and other subjects, you will also have the opportunity to do what is absolutely essential to creating the

17. Amy Chew, *Malaysian Held in Connection with Marriott Hotel Bombing*, BUS. TIMES (Malay.), Mar. 2, 2004, 2004 WL 56661931.

18. See Alan Sipress, *Indonesians Begin to See Conspiracy as Homegrown*, WASH. POST, Jan. 14, 2003, at A14, available at 2003 WL 2368206.

19. N.U. stands for Nahdlatul Ulama, but it is widely recognized as N.U.

20. Devi Asmarani, *Religious Bodies 'Neutral in Polls'*, STRAITS TIMES, Feb. 27, 2004, 2004 WL 55599366.

21. Jared Levinson, "Living Dangerously": *Indonesia and the Reality of the Global Economic System*, 7 J. INT'L L. & PRAC. 425, 460 (1998) (estimating membership in Muhammadiyah at 28 million).

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societies that will protect our rights and allow us to live in peace: you will meet with each other—in every meaning of the expression “in good faith”—and you will be able to compare your experiences from around the world.

An eighteenth century Englishman once said: “Learning is acquired by reading books; but the much more necessary learning, the knowledge of the world, is only to be acquired by reading men, and studying all the various editions of them.”²²

My dear friends, the work you do here is essential to the advancement of civilization. Not the civilization that can be divided along Huntingtonian principles, but the civilization that can accept modernity and reach across ethnic, national and—yes—religious differences to build an integument on which the only real foundation for lasting human rights can be built.

Thank you for allowing me to speak at the opening of this important Symposium. I look forward to reading the results of your many discussions, and I thank you in advance for the wisdom I will gain from them. I trust it will be the wisdom on which our peaceful planet will develop, and for that I very much thank you.

22. Letter from Philip Dormer Stanhope to His Son, Philip Stanhope, Mar. 16, 1752, in 5 THE LETTERS OF PHILIP DORMER STANHOPE, FOURTH EARL OF CHESTERFIELD 1848, 1850 (Bonamy Dobrée ed., 1st Am. ed. 1968) (1932).

