



Preserving Moral Choice Through Fairness For All

American religious liberty arose from conflict, but it endures through restraint, reciprocity, and moral agency.

By Robert T. Smith

RELIGIOUS FREEDOM

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In 2008, my parents lived in the California North Hollywood Stake, an ecclesiastical unit of The Church of Jesus Christ of Latter-day Saints. While attending church services that summer, the bishop read an important letter from the First Presidency of the Church. It noted that Californians would vote on a proposed amendment to the California state constitution in November that, if passed, would specify “Only marriage between a man and a woman is valid or recognized in California.”

The letter explained that the Church would participate in a coalition of other churches and organizations and urged church members to “do all you can to support the proposed constitutional amendment.”

My parents understood the difficulties that the First Presidency's request could impose on Church members. Their stake was in the heart of the U.S. film and entertainment industry. Many within the Hollywood community strongly advocated for same-sex marriage. Yet my parents, along with many other Latter-day Saints, began knocking on doors and making calls at phone banks to urge fellow Californians to vote yes.

Despite challenges, the combined contributions of Church members were [impressive](#). While Roman Catholic archbishops and lay organizations contributed an estimated \$3 million to the cause, Latter-day Saints are estimated to have contributed over \$20 million and provided an estimated 80 to 90 percent of the volunteers who conducted door-to-door canvassing. These efforts made a big difference. Despite polls showing that [Proposition 8 would be defeated handily](#), it passed by [nearly 600,000 votes](#), retaining the traditional definition of marriage, at least temporarily.

For their participation the Church and its members faced immediate backlash. The Church faced [demonstrations](#) outside its [temples and meetinghouses](#), with demonstrators chanting epithets and slurs. The names of donors to Proposition 8 were [published](#), leading to harassment, intimidation, and the [loss of work](#). My parents, like many other Church members, felt this was a defining moment.

Then, fourteen years later, in November 2022, the Church surprised many observers by [announcing](#) its support for the federal [Respect for Marriage Act](#) (RFMA). The Act would codify same-sex marriage under federal law while upholding important religious freedom protections for religious people and organizations.

Same-sex marriage was already considered a constitutional right under the Supreme Court's 2015 decision in [Obergefell v. Hodges](#). But same-sex marriage supporters had become nervous about *Obergefell's* viability after Justice Clarence Thomas indicated [interest in reconsidering](#) it. Meanwhile, religious organizations wanted statutory religious freedom protections to uphold their doctrine about marriage. This new law attempted to meet both needs.

But even with the RFMA's religious freedom protections, how could the Church support a law establishing a statutory right to same-sex marriage when it had so

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Was the Church compromising its doctrinal principles?

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In this third installment of a three-part series, I will explore how the Church continues to vigorously defend traditional marriage as divine doctrine while simultaneously teaching the importance of “fairness for all” as part of its deep commitment to religious freedom.

When Civil and Divine Laws are in Tension

The Church’s approach to religious freedom fosters societal harmony by honoring moral agency, while holding firm to its own doctrine.

President Dallin H. Oaks has [taught](#) an important framework that the Church has followed since its earliest days for instances when civil law and divine law seem to be in conflict. First, religious believers must try to harmonize civil and divine law or seek to change the offending civil law. When change becomes impossible, then, in almost all cases, believers must submit to the law even though they disagree. Believers should do all they can to show respect and civility toward those with whom they disagree and work with them on the best ways to harmonize their fundamental beliefs.

The Church’s support for Proposition 8 was consistent with this approach to religious freedom. The Church encouraged its members to seek changes to California’s laws to conform to its understanding of the divine law of marriage. It [supported](#) that same definition when the question went before the U.S. Supreme Court. When that effort failed at the highest court in the land, the Church supported the Respect for Marriage Act with its religious freedom protections as the best way to harmonize its views with the offending law, all while striving for civility and respect for others.

Religious Freedom Includes Fairness for All

Religious freedom is not just about asserting our rights. It also imposes a responsibility to protect others in theirs. As President Oaks [stated](#), “At a time when most of our public discourse concerns rights, it may seem strange to speak of responsibilities. But a democratic republic needs patriotic citizens who are fulfilling their responsibilities as well as claiming their rights.”

The Church's conduct following Proposition 8 illustrates this principle. In November 2009, after Proposition 8 passed, [the Church supported Salt Lake City ordinances](#) protecting LGBT+ individuals in housing and employment discrimination. At that time Church spokesman Michael Otterson [said](#), "I represent a church that believes in human dignity, in treating others with respect even when we disagree—in fact, *especially* when we disagree."

In January 2015, months before the Supreme Court's decision in *Obergefell* legalized same-sex marriage, the Church held a rare news conference to express public support for [legislation](#) protecting LGBT+ rights. Sister Neill Marriott, a counselor in the Young Women General Presidency, [framed the issue](#) as one of coexistence, "This nation is engaged in a great debate about marriage, family, individual conscience and collective rights and the place of religious freedom in our society. The eventual outcome of this debate will influence to a large extent whether millions of people with diverse backgrounds and different views and values will live together in relative harmony in the foreseeable future."

To foster harmony the Church advocated an approach it called "[fairness for all](#)." Rather than pitting religious freedom rights against LGBT+ rights in a winner-take-all battle, each side needed to agree to a solution that protected the most fundamental rights of the other. President Oaks [articulated these interests](#), calling for legislation that "protects vital religious freedoms ... while also protecting the rights of our LGBT+ citizens in such areas as housing, employment, and public accommodations."

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[National experts](#) were called in to [meet with legislators](#), many of whom were not naturally disposed to support LGBT+ rights. Church representatives and community stakeholders participated in "[intense negotiations](#)" designed to help everyone involved better understand and trust each other. Legislators needed to understand that, in addition to protecting essential LGBT+ rights, [the bill also provided numerous essential religious freedom protections](#) to both religious individuals and organizations.

The Utah bill was signed into law in March 2015 and was [widely hailed](#) as a model of cooperation. While [the law](#) is often called the “Utah Compromise,” it [did not compromise](#) any of the Church’s beliefs or doctrines. It was a win for both sides of a contested debate. Elder Ronald A. Rasband, now a member of the Quorum of the Twelve Apostles, [explained](#), “We believe in creating a space for everyone to live their conscience without infringing on the rights and safety of others. When the rights of one group collide against the rights of another, we must follow the principle of being as fair and sensitive to as many people as possible. The Church believes in and teaches ‘fairness for all.’”

Applying Fairness for All After *Obergefell*

Three months after the “Utah Compromise,” the Supreme Court decided [Obergefell v. Hodges](#), which held that same-sex marriage was a fundamental right guaranteed by the Constitution.

While many conservative Christians [denounced](#) the Court’s decision, the Church of Jesus Christ took a different tack. Even though the Church, with others, filed an [amicus brief](#) arguing against same-sex marriage, it acknowledged the [legal finality](#) of the Court’s decision, while continuing to teach its doctrinal beliefs about the purpose of marriage.

A few months later, President Oaks delivered an important [speech](#) at the Court/Clergy Conference in Sacramento, California. Instead of criticizing the Supreme Court’s holding, President Oaks [praised](#) the majority opinion for not grounding its decision in claims of animus in traditional marriage laws, and for acknowledging the reasonableness of religious and philosophical arguments for marriage between a man and woman. He continued by arguing that there are two systems of law: divine and civil. Jesus taught us to respect both: “[Render therefore unto Caesar the things which are Caesar’s; and unto God the things that are God’s.](#)” President Oaks added, “we must, to the extent possible, obey both systems of law. When there are apparent conflicts, we must seek to harmonize them.”

He counseled believers to not invoke religious freedom to override every law they dislike, and to “acknowledge the validity of constitutional laws.” Ultimately, he argued,

there comes a point when, for the sake of our pluralistic democracy and the rule of law, the political and legal battles must come to an end.

This framework explains how the Church could both **vigorously** advocate for **traditional marriage**, while later supporting legislation that acknowledged the legal reality of same-sex marriage and the need to protect churches and believers' vital interests.

This framework also explains why President Oaks criticized the efforts of a Kentucky county clerk who refused to issue same-sex marriage licenses, just as he criticized California government officials who refused to enforce Proposition 8. In both instances, he asserted that personal convictions, religious or otherwise, cannot be used to avoid the rule of law, and that people with conscientious convictions on either side should instead recuse themselves.

President Oaks has continued to lead by teaching the principle of fairness for all. At the University of Virginia in 2021, President Oaks **delivered** what he called "the most difficult address I have ever undertaken." He acknowledged the continuing conflicts between religious freedom and protections against LGBT+ discrimination but hoped to provide a "feasible path forward." He called on individuals not to seek "total dominance" for their own position, but instead "accept the reality that we are fellow citizens who need each other." We should resolve differences through "mutual respect, shared understanding, and good faith negotiations." Doing so, he added, "does not require any compromise of core principles."

That sentiment, in short, explains how the Church could support the federal **Respect for Marriage Act**, while still holding to its doctrinal belief in traditional marriage.

Support for The Respect for Marriage Act

The Respect for Marriage Act did not arise in the same legal world as Proposition 8. In 2008, the legal definition of marriage remained unsettled. By 2022, *Obergefell* was the law of the land. And while **President Oaks acknowledged** that the Act "did restate" same-sex marriage as the law, this restatement "added little," he said, beyond the rights granted in *Obergefell*. The Church's focus was on religious freedom protections.



While this position is entirely consistent with the Church's longstanding approach to divine and civil laws in tension, it nevertheless received significant [backlash](#) both from the right and, for different reasons, from the [left](#).

But others, perhaps initially skeptical of the Church's position, have come to defend its approach. After studying President Oaks's teachings, Joshua Topham dismissed as uninformed the argument that the Church's "[civic theology](#)" toward the LGBT+ community compromises Christian moral values. He wrote:

I suspect that some readers will view the LDS Church's emphasis on civic charity and mutual accommodation as a sort of betrayal. But to dismiss Oaks's civic theology as a surrender to secularism is to misunderstand it. He is not urging the dilution of Christian teaching on matters of moral importance but the application of Christian charity to political life. His civic theology is rooted in the conviction that building a harmonious pluralistic society will entail the hard work—and the Christian virtues—of persuasion, compassion, and love unfeigned. Perhaps rather than revealing a weakness of resolve, this civic theology of peacemaking offers precisely what is needed to restore our rupturing social fabric.

Similarly, Jonathan Rauch, an openly gay, married Jew, lauded the Church's efforts to emphasize the responsibilities of religious freedom in his article "[How Latter-day Saints Can Save American Democracy](#)." Rauch concluded:

Why might the church support the Utah compromise and the Respect for Marriage Act? Because those measures protect the church's ability to teach and practice its doctrines about marriage and sexuality within its own institutions, while also protecting, in the larger society, people's ability to make their own choices about marriage and sexuality. Thus can 'patience, negotiation, and mutual accommodation' advance religious freedom and personal freedom in tandem.

Promoting Religious Freedom and Fairness for All

What can we do as individuals to promote an understanding of religious freedom that includes fairness for all?

President D. Todd Christofferson and Elder Quentin L. Cook both attempted to answer this question in their [Fifth Sunday broadcast](#) on May 31, 2026. Not everyone will have the disposition to run for public office, they said, but we can all do simple things that cumulatively make a big difference. These include applying the principles

President Oaks set forth in his 2021 general conference talk “[Defending Our Divinely Inspired Constitution](#).”

Strengthening religious liberty begins with us.

Recently, Amy Andrus, an associate director at the International Center for Law and Religion Studies at BYU, [provided numerous additional suggestions](#) of ways we can promote and protect religious freedom.

To these excellent suggestions, I would emphasize three principles.

Be examples of disciples of Jesus Christ. The Lord [taught](#), “Let your light so shine before men, that they may see your good works, and glorify your Father which is in heaven.” If others do not see religious people as happy, kind contributors to their communities, why would they value the religion they espouse? As President Oaks once [noted](#), “If one does not value religion, one usually does not put a high value on religious freedom.”

Teach your children (or grandchildren) the principles of religious freedom and fairness for all. Each semester I ask my religious freedom students at BYU to share what they learned in their elementary and high schools about the Constitution, the Bill of Rights, and the founding of our country. Their responses suggest that schools teach less about these subjects than in prior generations. As Camille Smith recently [noted](#), it is up to parents, rather than schools, to teach the rising generation about constitutional principles.

Get involved. Whether it is participating in the PTA, volunteering at your local school, or attending political caucus meetings, your involvement makes a difference. As you get involved, remember that religious freedom allows you to advocate your opinions freely,

even if grounded in religious belief. While dropping off our children, my wife began to notice the lack of adherence to the school dress code. Motivated in part by religious beliefs, she reached out to the high school principal and made presentations to the school board. In the end, they reaffirmed the dress policy to the students and parents. Religious voices do make a difference.

Strengthening religious liberty begins with us. As discussed in this three-part series, we should understand the rights and blessings of religious freedom, its history and laws, and our responsibility to protect the moral choices of others while we advocate for our own. Then we should teach these principles to the rising generation so they, too, may continue to enjoy the blessings of religious liberty.

Read the first article in this series, “The Doctrine of Religious Freedom,” [here](#).

Read the second article in this series, “The Legal Framework of Religious Liberty,” [here](#).

About the author



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