

# A natural law right to religious freedom

## A reformed perspective

David VanDrunen<sup>1</sup>

### Abstract

This article presents a Protestant defense of a natural law right to religious freedom, properly understood. Though arguing from the classic natural law text, Romans 1:18-32, that human persons have no ultimate natural law right to religious freedom before God, this article finds strong support in the account of God's covenant with Noah in Genesis 8:20-9:17 that human persons do have a penultimate natural law right to religious freedom before fellow human beings, a blessing granted by God.

**Keywords** Religious freedom, natural law, Christianity, Bible, Romans, Genesis, Noah.

The threats to religious freedom are real around the world, though they take a variety of forms. Two events that have transpired in the very week that I write this article provide a good example. In Egypt, the candidate of the Muslim Brotherhood was declared the winner of the presidential election, and though the full ramifications are unclear at this time, it raises legitimate fears that the most important opponent of religious freedom in much of the world today – radical Islam – has taken another significant step forward. Meanwhile, in the United States, the Department of Defense conducted a ceremony at the Pentagon celebrating Gay Pride Month (when only a couple of years ago the American military was discharging personnel for disclosing their homosexual orientation), symbolizing the progress of a movement seeking to transform basic social attitudes toward sex and marriage, a movement that is perhaps the most worrisome threat to religious freedom in contemporary Western democratic societies, according to some commentators.<sup>2</sup> In light of how

<sup>1</sup> David VanDrunen (\*1971) is an ordained minister and an attorney, and serves as the Robert B. Strimple Professor of Systematic Theology and Christian Ethics at Westminster Seminary California. Among his books are *Natural law and the two kingdoms: A study in the development of Reformed social thought* (Eerdmans, 2010) and *Living in God's two kingdoms: A biblical vision for Christianity and culture* (Crossway, 2010). He was the recipient of the 2005 Novak Award, awarded each year by the Acton Institute to a young scholar who has advanced the understanding of theology's connection to human dignity, the importance of the rule of law, limited government, religious liberty, and freedom in economic life. American spelling retained. Article received: 12 July 2012; Accepted: 10 November 2012. Contact: c/o Westminster Seminary California, 1725 Bear Valley Parkway, Escondido, CA 92027, USA, www.wscal.edu, Tel. +1.760.480.8474, Email: dvandrunen@wscal.edu.

<sup>2</sup> On this movement's threat to religious liberty, see, e.g., Stephen Baskerville, The sexual agenda and religious freedom: Challenges in the western world, *JRF* 4:2 (2011): 91-105; and David Novak, *In*

different these two groups – radical Islam and the gay-rights movement – are, proponents of religious freedom should feel all the more motivation to establish sound theoretical foundations that will better enable them to defend this human right in a variety of different circumstances.

For Christians – especially Protestants – the defense of religious freedom will only seem plausible if one can make a case that Scripture itself teaches that human beings have a right to this liberty, or at least that biblical teaching is consistent with such a claim. The fact that Scripture commands Christians to be concerned for the welfare of their fellow believers (John 13:34-35) and to love all their neighbors (Luke 10:25-37) may be sufficient motivation to get Christians interested in issues of religious liberty. But given that religious freedom ordinarily becomes a pressing issue only in religiously pluralistic contexts, in which claims about the authority or meaning of holy books is disputed, Christians should also be interested in whether *unbelievers* should be concerned about religious freedom, why they should be, and how to convince them of this.

This raises the question of whether religious freedom may have foundations in natural law. By “natural law” I refer to the basic idea that there are universal moral obligations binding upon all people in all places, and that all people at some level know these obligations even without biblical revelation, because they are grounded in human nature and human beings’ place in this world. In the pluralistic contexts in which claims to religious freedom are most pertinent, Christians have great incentive to argue that this is not simply a right they claim because of what the Bible says but actually a moral issue pertaining to human nature and the human condition generally. In other words, appeals to natural law (whether implicit or explicit) are ways to communicate that religious freedom is not a uniquely Christian concern but a universal human concern.

This raises two big questions: is there such a thing as natural law and, if so, does it communicate the universal moral obligation to respect the religious liberty of all human beings? With respect to the first question, Roman Catholics to this day continue to place high value on natural law in their conception of ethics, and though many Protestants in the twentieth century came to have a negative view of the idea of natural law (for a variety of reasons I cannot explain here), a growing number of Protestant writers in recent years have rediscovered that natural law was also a standard part of historic Reformation theology and are exploring its contemporary importance.<sup>3</sup> With respect to the second question, prominent advocates of religious

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*defense of religious liberty* (Wilmington, 2009), chapters 1 and 4.

<sup>3</sup> E.g., see Thomas K. Johnson, *Natural Law Ethics: An Evangelical Proposal* (Bonn, 2005); Stephen J. Grabill, *Rediscovering the natural law in Reformed theological ethics* (Grand Rapids, 2006); J. Daryl Charles, *Retrieving the natural law: A return to moral first things* (Grand Rapids, 2008); David Van-

freedom in the present day, such as Roman Catholic philosopher Robert George and Jewish theologian David Novak, have defended this human right in terms of natural law.<sup>4</sup> In this article I examine two important biblical texts, Romans 1:18-32 and Genesis 8:20-9:17, and argue that they not only affirm the existence of a natural law morally obliging all people but also provide crucial insight into what this natural law has to do with religious liberty. First I reflect upon Romans 1, which indicates that certain conceptions of religious freedom are untenable, though it points to an inherent human dignity that others ought to respect. Then I turn to Genesis 9, where I find the most promising ground for developing a positive account of the natural law foundation for religious freedom. Genesis 9, I claim, establishes that God has called the whole human race to engage in productive cultural activity and that no people should be disqualified from this endeavor based upon their religious profession and practice, and furthermore that God has granted judicial authority to human beings only to enforce matters of intra-human justice, but no jurisdiction over matters of religious worship that lack a true human victim.

### **1. Natural law and universal religious accountability before God (Romans 1)**

Romans 1:18-32, along with Romans 2:14-15, is probably the part of Scripture most readily associated with natural law. It is not difficult to see why. Near the beginning of this passage Paul states: “what can be known about God is plain to them [unrighteous and ungodly people who suppress the truth – 1:18], because God has shown it to them” (1:19).<sup>5</sup> The question immediately arises: how can Paul say that God’s wrath is revealed against “*all* ungodliness and unrighteousness of men” (1:18) when so many people have never been exposed to the Scriptures and seemingly do not know God’s law? Paul explains it in terms of *natural revelation*, that is, God’s revealing himself in nature itself (in distinction from his revelation in the Bible): “For his invisible attributes, namely, his eternal power and divine nature, have been clearly perceived ever since the creation of the world, *in the things that have been made*” (1:19). This prompts another question: is it justified to speak of natural *law* as part of this natural revelation of God? The way Paul ends 1:19 – “so they are without excuse” – shows that the answer is yes. Natural revelation holds

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Drunen, *Natural law and the two kingdoms: A study in the development of Reformed social thought* (Grand Rapids, 2010); *Natural law: A Lutheran reappraisal*, Robert C. Baker and Roland Cap Ehlke (eds.) (Saint Louis, 2011); and *Natural law and Evangelical political theory*, Jesse Covington, Bryan McGraw, and Micah Watson (eds.) (Lanham, MD: Lexington, forthcoming).

<sup>4</sup> See Robert P. George, Religious liberty and the human good, in *IJRF* 5:1 (2012): 35-44; and Novak, *In defense of religious liberty*, chapter 2.

<sup>5</sup> Quotations of Scripture are from The Holy Bible, English Standard Version (ESV), copyright © 2001 by Crossway Bibles, a publishing ministry of Good News Publishers.

all people accountable before God, and this implies that God requires a proper response to it. In other words, natural revelation puts people under moral obligation before their creator, and thus we are justified in speaking of a “natural law” (which is God’s own law).

Several things in the following verses confirm this conclusion. For example, in 1:26-27 Paul writes of people exchanging “natural relations for those that are contrary to nature.” Certain patterns of sexual behavior are in accord with the world God has made, he is claiming, and certain patterns are not. In 1:32, still writing about the whole human race (most of which had never read the Scriptures), Paul states: “Though they know God’s decree that those who practice such things [the sins described in 1:29-31] deserve to die, they not only do them but give approval to those who practice them.” To put it another way, all people by nature *know* that sin deserves just punishment, but sinful people praise each other’s sins instead. This teaching in Romans 1 clarifies what Paul says about natural law in 2:14-15: “For when Gentiles, who do not have the law, by nature do what the law requires, they are a law to themselves, even though they do not have the law. They show that the work of the law is written on their hearts, while their conscience also bears witness, and their conflicting thoughts accuse or even excuse them. . . .”<sup>6</sup>

Romans 1, therefore, demonstrates the existence of the natural law. But does it shed any light on the question of religious freedom? It does, particularly in verses 21-23, which immediately follow Paul’s statement about natural revelation holding all people inexcusable: “For although they knew God, they did not honor him as God or give thanks to him, but they became futile in their thinking, and their foolish hearts were darkened. Claiming to be wise, they became fools, and exchanged the glory of the immortal God for images resembling mortal man and birds and animals and creeping things.” These verses compel the following conclusion, I believe: human beings have *no ultimate* natural law right to religious freedom *before God*. Below I will identify and defend a different kind of natural law right to religious freedom that human beings do have, but Romans 1 helps us to see what this right is not. No human being can stand before God and claim the right to be religious or commune with the divine in whatever way he chooses. Rather, natural law requires each person to worship *the one true God* – the creator of heaven and earth – and

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<sup>6</sup> Though some interpreters have argued that 2:14-15 should be translated differently and does not teach a doctrine of natural law, a natural law interpretation has been the predominant view through the history of Christianity and continues to be widely affirmed today. Among older theologians, see e.g. Thomas Aquinas, *Summa Theologiae* 1a2ae 91.2; and John Calvin, *Commentaries on the Epistle of Paul the Apostle to the Romans*, trans. John Owen (reprinted Grand Rapids, 2003), 96-99. Among recent commentators, see e.g. James D.G. Dunn, *Romans 1-8* (Dallas, 1988), 98; Douglas J. Moo, *The Epistle to the Romans* (Grand Rapids, 1996), 148-151.

to worship him properly. While natural law may not provide a great deal of information on what that proper worship consists of, natural law at least demonstrates the foolishness of idolatry. What is more, Paul's larger point, both in 1:18-32 and especially as he brings this larger section of Romans to a conclusion in 3:9-20, is that natural law (as well as the law of Moses) exposes the dire sinfulness of every person, such that no one by his own efforts can meet the standard of God's judgment. According to Paul, only through the redemptive work of Jesus Christ and faith in him can anybody be justified before God (3:21-5:21), and such faith comes through the hearing of God's word preached (10:9-17). As an ultimate matter, natural law does not leave people claiming rights of religious freedom before God, but brings them face-to-face with their responsibilities to serve the one true God aright and with their failure in this regard (apart from Christ).

These considerations encourage us to think critically about the way natural law is sometimes invoked in defense of religious freedom. Though George, in a recent article in this journal, advocates certain notions of human dignity that I also affirm, my analysis of Romans 1 calls other aspects of his natural law conception of religious freedom into question. After making a case for religious freedom in terms of "practical reason," George, now speaking specifically as a Roman Catholic, appeals to the idea "that there is much that is good and worthy... in non-Christian religions" and that religion generally "enriches, ennobles, and fulfils the human person in the spiritual dimension of his being." This leads to "a rational affirmation of the value of religion as embodied and made available to people in and through many traditions of faith." Similarly, he states later that the right to religious freedom permits people of many faiths to "engage in the sincere religious quest and live lives of authenticity reflecting their best judgments as to the truth of spiritual matters."

George's conclusions are consistent with the documents of the Second Vatican Council he cites in support, as these reflect the evolving teaching of Rome on matters of religious freedom and the spiritual status of non-Christians.<sup>7</sup> But these conclusions sit awkwardly next to Paul's discussion of natural law and the human condition in Romans 1 and the rest of that epistle. According to Paul, all people's natural condition is not one of seeking religious and spiritual truth with sincerity, honesty, and integrity, but of suppressing the truth about God manifest in natural revelation. Rather than non-Christian religion enriching and ennobling people, Paul describes it as degrading people made to know and serve the one true God. Natural law, in

<sup>7</sup> The Vatican II documents he cites are *Dignitatis Humanae* and *Nostra Aetate*. For the background of these documents, see John O'Malley, *What happened at Vatican II?* (Cambridge, MA, 2010). For a brief discussion of how Roman Catholic doctrine on the spiritual status of non-Christians has changed over the centuries, see David VanDrunen, *Inclusive salvation in contemporary Roman Catholicism*, *New Horizons* (October 2011): 6-8.

Romans, does not lead humanity down the road to spiritual enlightenment and nobility, but makes its condemnation before God more plain. The only solution to the human plight Paul offers is one not known through the light of nature: the death and resurrection of Jesus and faith in him through the preaching of the gospel.

To summarize my basic initial conclusion: in accord with Romans 1, human beings do not have an *ultimate* natural law right to religious freedom *before God*. God holds all people accountable for serving him properly, and by the light of nature alone all people know who God is but respond to him sinfully, a condition rectified only through Christian faith. This conclusion makes problematic natural law arguments for religious freedom (such as George's) based upon the spiritual profit that humanity generally gains through sincerely seeking God by the light of nature in a host of different religions.

Nevertheless, in Romans 1 it is also evident that one of the chief sins of people under natural law is a failure to treat their fellow human beings with proper respect. Paul mentions murder, for example, as evidence of how people violate God's natural law (Rom 1:29). In other words, one of the things required by natural law is treating fellow human beings with the dignity they deserve. This raises the question whether this mutual respect human beings owe to one another includes respect for freedom of religion. I believe the answer is yes, and this points the way to a different, but better, argument for a natural law right to religious liberty.

## **2. A better basis for a natural law right to religious freedom (Genesis 9)**

In this section I present this better biblical case for a natural law right to religious freedom. I turn here especially to the covenant God made with Noah after the flood, as recorded in Genesis 8:20-9:17. My conclusion from this text is that there is a *penultimate* natural law right to religious freedom *before fellow human beings* (a right granted by God). To support this conclusion I first offer some general comments on the nature of the Noachic covenant and its relation to natural law. Then I point to two aspects of this covenant that indicate why all people have a natural obligation to protect the right of religious freedom for all fellow human beings.

### **2.1 God's covenant with Noah and natural law**

To understand the character of the Noachic covenant and its relation to natural law, we must reflect briefly on God's original work of creation. The account in Genesis 1 provides a crucial foundation for a sound theory of natural law: God made this world to be orderly, meaningful, and purposeful. Genesis 1 repeatedly describes God giving things their proper place and proper role as part of a larger cosmos. Even more significantly, Genesis 1:26-28 reports humanity's creation in the image

and likeness of God. These human beings not only have a certain nature – they are bodies and souls, having reason and will – but they are also called to a great moral task, that of ruling the rest of creation under God’s ultimate and benevolent rule. The opening of Scripture, therefore, confronts readers with the reality not only of an orderly and meaningful universe but also of a profound human dignity and vocation.<sup>8</sup>

The fall into sin (Genesis 3) threatened to call all of that into question, but God preserved this world and humanity’s place within it, even while he put them both under a curse (3:14-19). After temporarily suspending his ordinary preservation of the world in the great flood (6:11-8:19), God resumed it by means of a covenant (8:20-9:17). This covenant is of great significance, since it sets the terms for God’s providential rule of the universe for as long as “the earth remains” (8:22) – which means it is still in force today. Two initial considerations indicate why this covenant is important for developing a biblical view of natural law and lays the groundwork for further reflection about religious freedom.

First, the terms of this covenant extend far beyond a narrow relationship between God and human beings, for they reach the cosmic order broadly: “seedtime and harvest, cold and heat, summer and winter, day and night, shall not cease” (8:22). Though this cosmic order lies under the curse of God (Gen 3:17-18; Rom 8:20-22), these words indicate that the world still has order, purpose, and meaning – the very things observed in the original creation account of Genesis 1.

Second, this covenant also deals with human beings specifically, and treats them as image-bearers of God. Here we see another point of significant continuity with the original creation account. Not only does God repeat twice the original command to be fruitful and multiply (9:1, 7; cf. 1:28) but he also explicitly uses the language of image-bearing: “Whoever sheds the blood of man, by man shall his blood be shed, for God made man in his own image” (9:6). It is evident that human beings retain a profound dignity and that this dignity has great implications for intra-human relations.

Thus, those crucial foundations for a sound natural law theory – the orderly meaningfulness of the cosmos and natural human dignity – remain in place in the fallen world as maintained by God under his covenant with Noah after the flood. I now dig a little deeper into the terms of this covenant in order to explain and support my claim that people have a penultimate natural law right to religious freedom before their fellow human beings.

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<sup>8</sup> A recent statement by the “Evangelicals and Catholics Together” movement also appeals to this account of human creation in Genesis 1 to lay the foundation for its promotion of the right to religious liberty; see In defense of religious freedom, in *First Things* (March 2012): 30.

## 2.2 A universal covenant with the whole human race

First, further examination of the Noachic covenant shows that God entered this relationship with the entire human race. After defending this conclusion, I will suggest its significance for the question of religious freedom.

The universal nature of this covenant is evident several times in the biblical text. God says to Noah that he establishes this covenant “with you and your offspring after you” (9:9). In fact, it is “between me and you and every living creature that is with you, for all future generations” (9:12) – with “every living creature of all flesh that is on the earth” (9:16; cf. 9:17). This universal feature of the Noachic covenant distinguishes it from later biblical covenants – such as the one with Abraham and the one at Sinai, or the new covenant – in which God separates a part of the human race from the rest and enters a unique relationship with them. This difference corresponds to the distinct purposes of these covenants. Whereas these later biblical covenants promise benefits of salvation from sin, the Noachic covenant promises only preservation from the worst effects of sin. This is demonstrated even in the signs of the covenants: the signs of the later covenants (such as circumcision, Passover, baptism, and the Lord’s Supper) symbolize forgiveness of sins through the shedding of blood, while the sign of the Noachic covenant, the rainbow (Gen 9:13-16), does not symbolize bloodshed but God’s promise not to destroy the earth again with a flood. It is evident, therefore, that the divine commands in this covenant are moral tasks for the human race as a whole, not for only a part of it. Being fruitful and multiplying, eating plants and (cooked) meat, and administering justice (9:1-7) are vocations for humanity in general. No religious qualification is necessary for participation; God calls all human beings to such tasks regardless of religious profession or membership in a particular community of faith.<sup>9</sup> The Noachic covenant thereby creates common space for the cultural interaction of all people, which is nevertheless not morally neutral space.<sup>10</sup>

<sup>9</sup> Here and throughout the remainder of this article I am assuming that during Old Testament Israel’s life in the land of Canaan the situation, under God’s appointment, was different and unique. The right to religious freedom under the Noachic covenant, which I am defending, did not exist in the same form under the Mosaic covenant within the bounds of the Promised Land. My position on this point seems to be somewhat different from that of Glenn Penner in, *A biblical theology of persecution and discipleship: Part 1. The Pentateuch*, *JRF* 1:1 (2008): 51-52.

<sup>10</sup> I believe, therefore, that the Noachic covenant provides an excellent foundation for explaining the possibility of having “neither a naked nor a sacred public square, but a civil public square open to the full range of convictions” (Evangelicals and Catholic Together, *In defense of religious freedom*, 32), and for avoiding “the extremes of imperialism on the one hand and obsequiousness on the other” (Novak, *In defense of religious liberty*, x; cf. 106). (By “obsequiousness” Novak refers to the temptation for religious believers to accept passively whatever social arrangements their societies impose upon them, without interest in contributing constructively to the good of their societies.) For a similar perspective see also Thomas K. Johnson, *That which is noteworthy and that which is astonishing in The Global*



The implication of this for the question of religious freedom is rather simple, but deeply significant. The simple implication is this: if God has called the entire human race (regardless of religious identification) to participate in the cultural life of society while he preserves this present world, then no human being has the authority to exclude other human beings from full participation because of their religious profession or practice. It is important to remember that the covenant with Noah is a *blessing of God* (9:1). The commands about procreation, eating, and justice that follow are not simple imperatives but involve a privilege that God grants to all people to be active members of civil society – and this despite the ongoing blight of human sin (8:21) and the specter of a final judgment in the distant future. Since God blesses people with these privileges without respect to religious profession, then if a human being strips another human being of these privileges because of religious profession, he is defying the natural order established by God. (Whether one can strip another of these privileges because of some other reason is a different question, which I address below.)

Here, then, is one reason from Genesis 9 to recognize a natural law right to religious freedom. As part of the natural order sustained in the covenant with Noah, God has granted to each human being in the present age the great blessing of participating in the life of human society, without religious qualification, and thus each person may claim, against any fellow human beings who would seek to add such a qualification, the unhindered right to this participation.

### 2.3 The responsibility for intra-human justice

In considering my argument in the previous subsection, a reader might lodge the following objection: Yes, the Noahic covenant indicates that all human beings, whatever their religion, have the right not to be obstructed in their participation in activities such as procreation, eating, and administration of justice, but this does not necessarily mean that no one may obstruct them from performing certain acts of religious devotion. In other words, even if the Noahic covenant grants universal rights to engage in general human endeavors whatever one's religious profession, does it leave open the possibility that society might justly suppress the worship and teaching of certain religions? In this subsection I address this sort of question and argue that the answer is negative. In the Noahic covenant God grants one kind of religious freedom as well as the other.

To defend this claim I turn attention back to Genesis 9:6: "Whoever sheds the blood of man, by man shall his blood be shed, for God made man in his image." Of the many interesting and significant things in this verse, perhaps none is as pro-

found as the fact that God, the supreme governor and judge of the world, has delegated aspects of the administration of justice to human beings. In the previous verse (9:5), God states that *he himself* will “require a reckoning for the life of man,” but then in 9:6 states that he who sheds the blood of a man will receive retribution “by man.” This delegation of justice really should not surprise us, given the fact that God identifies human beings here as those made “in his image.” As noted above regarding Genesis 1:26-28, to be the image of God means to have a commission to rule the world under God’s supreme authority. Though dispensing retributive justice against fellow humans would have been unnecessary in an unfallen world, in a fallen world imposing just punishment upon wrongdoers becomes a necessary aspect of human rule. To rule a sinful world entails, in part, ensuring that those who injure another human person receive appropriate and proportionate retribution: eye for an eye (or in the spirit of Genesis 9:6, blood for blood). The punishment must fit the crime.

This observation returns us to the question of religious liberty. What God delegates to human beings here is the administration of *intra-human* justice. To put it another way, God ordains that human beings should impose punishments for injuries inflicted *upon each other*. What God does not do is delegate authority to impose just punishment upon wrongs that a human being commits *against God himself*. From one perspective, of course, any injury inflicted upon a human being is a wrong against the God whose image that person bears, so I will modify my claim in this way: God delegates to human beings the authority to impose punishments for wrongs insofar as they are injuries inflicted upon each other, but not for wrongs insofar as they are inflicted upon God.

And thus we return to the question with which this subsection began: does the Noahic covenant shed any light on whether human society might prohibit or penalize the worship or instruction of a particular religion? It does indeed shed light, and it indicates that human beings do not have such authority. According to the Noahic covenant, human beings have the authority to use force against one another in order to impose proportionate penalties for intra-human wrongs. For intra-human crimes such as murder or theft, there are concrete and definable injuries, and just judges can design penalties that match their severity. But acts of (improper) religious worship are offenses against God. In such cases human beings are inherently incapable of imposing a proportionate penalty: what sort of human punishment is proportionate to a wrong done against an infinite and eternal God? Even if one were to claim that a teacher of a (false) religion was corrupting the religious sensibilities of the youth, for example, and thus be guilty of an intra-human injury, it is difficult to perceive how any human court could objectively determine the character and extent of this injury so as to impose a proportionate penalty.

### 3. Conclusion

In this article, I have attempted, as a Reformed Christian, to provide a sound biblical footing for the claim that all human beings have a natural law right to religious freedom. Having explored both Romans 1:18-32 and Genesis 8:20-9:17, I hope it is now evident what I meant by making the nuanced claim that though human beings do not have an ultimate natural law right to religious freedom before God, they do have a penultimate natural law right to religious freedom before their fellow human beings (as granted by God himself). The right to religious freedom, I have argued, has nothing to do with any alleged sincerity or integrity of human persons as seekers of God, or with the alleged spiritual profit that people derive from devotion to any of the world's major religions. According to Paul, natural law requires worship of the one true God only, and because of sin no one properly follows the dictates of natural law in a way that brings spiritual profit before this God. As an ultimate matter, God accords human beings no natural law right to religious freedom but a natural law obligation to serve him properly.

But in penultimate terms – that is, in terms of God's temporal governance of intra-human affairs in civil society – there is more to the story. By his covenant with Noah, God sustains the cosmic order and the dignity and vocation of human beings as his image-bearers – and hence he also sustains the reality of the natural law. This covenant divinely grants to all image-bearing human beings, without religious qualification, the blessing of participation in the common affairs of human life, but grants authority to no one either to deprive others of this blessing because of their religious profession or to punish people for their practice of a particular religion. In short, because of God's re-establishment of the natural order and humanity's place within it, under the covenant with Noah, each human being may claim a right to religious freedom against fellow human beings who threaten to take it away.

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