



Department of Justice, Peace and Human Development Office of Domestic Social Development

Religious Liberty and the Freedom to Minister to All February 2015

“Come, you who are blessed by my Father. Inherit the kingdom prepared for you from the foundation of the world. For I was hungry and you gave me food, I was thirsty and you gave me drink, a stranger and you welcomed me, naked and you clothed me, ill and you cared for me, in prison and you visited me. . . . Amen, I say to you, whatever you did for one of these least brothers of mine, you did for me.” – Matt 25:34-40

BACKGROUND

People of faith, acting individually and through churches and organizations, are called to be active in witnessing to their beliefs. The vocation of the Christian cannot be adequately lived within the four walls of a church. The First Amendment of the United States Constitution and federal and state laws have traditionally provided a safe haven against encroachment by the state on the right to live out the demands of one’s faith. In recent years, however, serious attempts to erode these protections have taken place at both the federal and state levels.

Beginning in 2012, the Obama administration, through a Health and Human Services rule on covering preventive services, mandated that free contraception, sterilization and abortion-inducing drugs be covered by almost every health plan in the nation. An exemption for “religious employers” was very narrow, and employers without the exemption face punishing financial penalties for failure to comply. Legal challenges to the so-called “HHS mandate” have continued to this day, with cases concerning family-owned businesses being decided in favor of those challenging the mandate in *Burwell v. Hobby Lobby Stores* in 2014. Cases involving nonprofit religiously-affiliated employers like charities, hospitals, and schools continue to wind through the courts.

In the wake of the *Hobby Lobby* case, some members of Congress introduced the misleadingly named “Protect Women’s Health from Corporate Interference Act of 2014” in the Senate, which was narrowly defeated. This measure was designed to weaken the vital protections of the Religious Freedom Restoration Act of 1993 (RFRA), the basis on which the *Hobby Lobby* case was decided and an important federal legal protection for Americans. State-level efforts to enact or challenge RFRA-like laws have brought intense fights, with RFRA opponents resorting to misinformation about the intent and operation of such laws.

Recently, California’s Department of Managed Health Care began demanding that all health plans under its jurisdiction include elective abortions, including late-term abortions. This mandate has no exemption for religious or moral objections and is being enforced against religious universities, schools and even churches. Similar proposals have emerged in Washington and other states. Such coercion violates the federal Weldon amendment, approved by Congress every year since 2004 as part of the Labor/HHS appropriations bill. Weldon forbids governmental bodies receiving federal funds to discriminate against those who decline to take part in abortion or abortion coverage. But the amendment is legally vulnerable, and efforts to fix this problem have met with resistance.

These are only a few examples of the many challenges now facing people of faith. The variety and intensity of these attacks on the religious liberty of Americans has increased, making it difficult for individuals and institutions to live by the tenets that animate them to serve and minister.

USCCB POSITION

The Second Vatican Council’s Declaration on Religious Freedom, *Dignitatis Humane* (“DH”), states: “[T]he human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits” (DH,2). The Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes* (GS), sets forth complementary teaching on cooperation with public authority: “The

Church and the political community in their own fields are autonomous and independent from each other. Yet both, under different titles, are devoted to the personal and social vocation of the same men. The more that both foster sounder cooperation between themselves with due consideration for the circumstances of time and place, the more effective will their service be exercised for the good of all” (GS, 76).

It is an extraordinary benefit to society and the common good that people of faith are inspired by their beliefs to provide assistance without seeking profit (Mt 25:31-46). The Catholic Church in particular considers her charitable work as “one of her essential activities, along with the administration of the sacraments and the proclamation of the word: love for widows and orphans, prisoners, and the sick and needy of every kind, is as essential to her as the ministry of the sacraments and preaching of the Gospel. The Church cannot neglect the service of charity any more than she can neglect the Sacraments and the Word” (*Deus Caritas Est*, 22).

Christians have consistently cared for those who are unable to care for themselves since the beginning of the Church (*see* Acts 6:1-7), becoming the source of the modern notion of charity in the West. This expertise and experience, rooted in faith, has served the common good well in both private and public contexts for many years in the United States, and decisions that restrict or negatively impact the ability of millions of people to live out their faith in service to others should be resisted.

In *Our First, Most Cherished Liberty: A Statement on Religious Liberty*, the USCCB’s Ad Hoc Committee for Religious Liberty presented the issue plainly, affirming that:

[w]hat is at stake is whether America will continue to have a free, creative, and robust civil society—or whether the state alone will determine who gets to contribute to the common good, and how they get to do it. Religious believers are part of American civil society, which includes neighbors helping each other, community associations, fraternal service clubs, sports leagues, and youth groups. All these Americans make their contribution to our common life, and they do not need the permission of the government to do so. Restrictions on religious liberty are an attack on civil society and the American genius for voluntary associations.

Efforts to encroach on the religious liberty of Americans in these ways should be strongly opposed.

ACTION

Contact your member of Congress urging support for the Health Care Conscience Rights Act (HR 940), so Americans are not forced to violate their moral and religious convictions on human life in order to participate fully in our health care system.

Contact your state Catholic conference for more information about ways you can monitor and advocate on issues of concern to the Church - <http://www.nasccd.org/directory/index.html>

For more information

Mark Rohlena, Director, USCCB Office of Domestic Social Development, Phone: 202-541-3134,
E-mail: mrohlena@usccb.org

Richard Doerflinger, Associate Director, USCCB Secretariat of Pro-life Activities, Phone: 202-541-3171,
E-mail: rdoerflinger@usccb.org

Hillary Byrnes, Assistant General Counsel, USCCB Office of General Counsel, Phone: 202-541-3454, E-mail: hbyrnes@usccb.org

For more detailed analysis and updates, please visit:
www.usccb.org/freedom and www.usccb.org/conscience

Faith Community Letter on RFRA: <http://www.usccb.org/issues-and-action/religious-liberty/upload/Faith-Communities-RFRA-Letter-to-Congress.pdf>