

CURRENT THREATS TO RELIGIOUS LIBERTY

USCCB Fact Sheet

Summer 2012

Pope Benedict XVI spoke earlier this year about his worry that religious liberty in the United States is being weakened. He called religious liberty the “**most cherished of American freedoms.**” However, unfortunately, our most cherished freedom is under threat. Consider the following:

- *HHS mandate for contraception, sterilization, and abortion-inducing drugs.* The mandate of the Department of Health and Human Services forces religious institutions to facilitate and fund a product contrary to their own moral teaching. Further, the federal government tries to define which religious institutions are “religious enough” to merit protection of their religious liberty.
- *Catholic foster care and adoption services.* Boston, San Francisco, the District of Columbia, and the State of Illinois have driven local Catholic Charities out of the business of providing adoption or foster care services—by revoking their licenses, by ending their government contracts, or both—because those Charities refused to place children with same-sex couples or unmarried opposite-sex couples who cohabit.
- *State immigration laws.* Several states have recently passed laws that forbid what they deem as “harboring” of undocumented immigrants—and what the Church deems Christian charity and pastoral care to these immigrants.
- *Discrimination against small church congregations.* New York City adopted a policy that barred the Bronx Household of Faith and other churches from renting public schools on weekends for worship services, even though non-religious groups could rent the same schools for many other uses.

- *Discrimination against Catholic humanitarian services.* After years of excellent performance by the U.S. Conference of Catholic Bishops’ Migration and Refugee Services (MRS) in administering contract services for victims of human trafficking, the federal government changed its contract specifications to require MRS to provide or refer for contraceptive and abortion services in violation of Catholic teaching.
- *Christian students on campus.* In its over-100-year history, the University of California Hastings College of Law has denied student organization status to only one group, the Christian Legal Society, because it required its leaders to be Christian and to abstain from sexual activity outside of marriage.
- *Forcing religious groups to host same-sex “marriage” or civil union ceremonies.* A New Jersey judge recently found that a Methodist ministry violated state law when the ministry declined to allow two women to hold a “civil union” ceremony on its private property. Further, a civil rights complaint has been filed against the Catholic Church in Hawaii by a person requesting to use a chapel to hold a same-sex “marriage” ceremony.

Is our most cherished freedom truly under threat? Yes, Pope Benedict XVI has recognized that various attempts to limit the freedom of religion in the U.S. are a serious concern. This threat to religious freedom is larger than any single case or issue and has its roots in secularism in our culture. The Holy Father has asked for the laity to have courage to counter secularism that would “delegitimize the Church’s participation in public debate about the issues which are determining the future of American society.”

What can you do to ensure the protection of religious freedom?

The U.S. Bishops have called for a Fortnight for Freedom from June 21 to July 4. Please visit www.fortnight4freedom.org for more information on this important time of prayer, education, and action in support of religious liberty!



DISCRIMINATION AGAINST CATHOLIC ADOPTION SERVICES

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RELIGIOUS LIBERTY UNDER ATTACK A Concrete Example

Local Catholic Charities agencies around the country have long provided adoption and foster care services to the neediest children. Catholic Charities agencies often take on the most difficult placements, including older, abused children and children with disabilities and special needs. When placing children with couples, Catholic Charities makes sure those children enjoy the advantage of having a mom and a dad who are married.

In 2006, Catholic Charities of Boston, which had been one of the nation's oldest adoption agencies, faced a very difficult choice: **violate its conscience, or close its doors.** In order to be licensed by the state, Catholic Charities of Boston would have to obey state laws barring "sexual orientation discrimination." And because marriage had been redefined in Massachusetts, Catholic Charities could not simply limit its placements to married couples. Catholic leaders asked the state legislature for a religious exemption but were refused. **As a result, Catholic Charities of Boston was forced to shut down its adoption services.**

Later that year, Catholic Charities San Francisco faced a similar untenable choice and was forced to end its adoption services as well.

In Washington, DC, Catholic Charities of the Archdiocese of Washington—which has provided support to children and families for over eighty years—had a partnership with the District of Columbia for its foster care and public adoption program. However, in 2010, a law legalizing same-

sex marriage in the District took effect. The District then informed Catholic Charities that it would no longer be an eligible foster care and adoption partner. Why? Because, as a Catholic organization, Catholic Charities was committed to placing children with couples consisting only of a mother and a father who are married. Concerned District residents appealed to bring the issue of marriage before voters so that they could have a voice in the debate, but the D.C. Board of Elections repeatedly denied voters' request to put marriage on the ballot.

Most recently, Catholic Charities affiliates in Illinois closed down instead of complying with a new requirement that they can no longer receive state money if they refuse to place children with same-sex couples as foster or adoptive parents. **"In the name of tolerance, we're not being tolerated,"** said Bishop Thomas J. Paprocki of the Diocese of Springfield, Illinois, a civil and canon lawyer who fought for Catholic Charities to retain its religious freedom in Illinois.

Is our most cherished freedom truly under threat?

Among many current challenges, several state governments have sought to trample on the conscience rights of Catholic charitable service providers. Religious liberty is more than freedom of worship; it includes our ability to make our contribution to the common good of all Americans without having to compromise our faith. Without religious liberty properly understood, all Americans suffer, including the neediest children seeking adoptive and foster families.

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DISCRIMINATION AGAINST CATHOLIC HUMANITARIAN SERVICES

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RELIGIOUS LIBERTY UNDER ATTACK A Concrete Example

For decades, the U.S. Conference of Catholic Bishops' Migration and Refugee Services (MRS) has carried out the commitment of the U.S. Bishops to serve and advocate for refugees, asylees, and other forced migrants, immigrants, and other people on the move. **Special concern is given to the most vulnerable among these populations, such as the victims of human trafficking.** This commitment is rooted in the Gospel mandate that every person is to be welcomed by the disciple as if he or she were Christ Himself and in the right of every human being to pursue, without constraint, the call to holiness.

MRS developed years of expertise in actively working to end human trafficking and protect those adults and children who have been exploited through trafficking. In 2006, MRS's Anti-Trafficking Services Program (ATSP) specifically began administering a federal program to provide intensive case management to foreign national victims of human trafficking identified in the U.S. and its territories. In 2010, through its network of subcontracting agencies, ATSP helped survivors of human trafficking from 64 countries, with the largest number of survivors from India, Mexico, Thailand, the Philippines, and Haiti. Survivors had been trafficked on farms, in hotels and casinos, in private homes, in spas, and in other industries for the purposes of forced labor and/or sex trafficking.

However, despite many years of excellent performance by MRS in administering contract services for victims of human trafficking, in 2011, the federal government changed its

contract specifications to require MRS to provide or refer for contraceptive and abortion services in violation of Catholic teaching. The federal government refused to award a grant to MRS despite MRS's earning a higher objective score from the government's independent grant evaluators than two others that were awarded grants. And those two scored so low that they were deemed unqualified.

Religious institutions should not be disqualified from a government contract based on religious belief, and they do not somehow lose their religious identity or liberty upon entering such contracts. And yet a federal court in Massachusetts, turning religious liberty on its head, has since declared that the First Amendment *requires* such a disqualification—that the government somehow *violates* religious liberty by allowing Catholic organizations to participate in contracts in a manner consistent with their beliefs on contraception and abortion.

Is our most cherished freedom truly under threat? Among many current challenges, the federal government has discriminated against Catholic humanitarian services based on their religious beliefs, even when those beliefs had no impact on performance. Religious liberty is more than freedom of worship; it includes our ability to make our contribution to the common good of all Americans without having to compromise our faith. Without religious liberty properly understood, all of us suffer, especially victims of human trafficking.

What can you do to ensure the protection of religious freedom?

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DISCRIMINATION AGAINST CHRISTIAN STUDENTS ON CAMPUS

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RELIGIOUS LIBERTY UNDER ATTACK A Concrete Example

In its over-100-year history, the University of California Hastings College of Law (UC Hastings) had never denied student organization status to any group. That is, until the law school decided in 2004 to strip the campus chapter of the Christian Legal Society (CLS) of recognition.

The UC Hastings student CLS chapter welcomed all members of the university community to participate in its activities but required its officers and voting members—who spoke on its behalf, voted on its policies and programs, and led its Bible studies—to share and abide by the group’s core beliefs. These beliefs included being Christian and abstaining from sexual activity outside of marriage. UC Hastings decided at the beginning of the 2004 school year that CLS’s voting membership and office-holder requirements violated the religion and “sexual orientation” provisions of its Policy on Nondiscrimination. UC Hastings then denied CLS “Registered Student Organization” (RSO) status.

That same year, approximately sixty RSOs—organized around diverse interests in politics, religion, culture, race, ethnicity, and human sexuality—existed on campus. One group, La Raza, whose by-laws in 2004 explicitly mandated race and/or national origin discrimination, had RSO status. Regardless, **the CLS student chapter became the only group ever denied RSO status at UC Hastings.**

CLS then sued, claiming that UC Hastings violated its constitutionally protected rights of free speech, expressive association, free exercise of religion, and equal protection of

the laws. However, CLS was denied relief by the federal courts, including the U.S. Supreme Court, because of the specific nature of the policy at UC Hastings, which allegedly required student groups to accept all students, regardless of their status or beliefs. The Court concluded that public universities may override a religious student group’s right to determine its leadership only if it denies that right to all student groups.

The decision in *CLS v. Martinez*, 561 U.S. ___ (2010) could have a damaging effect on the religious liberty of all students attending public colleges and universities. The decision puts many other student groups across the country at risk and leaves room for absurd scenarios, such as **requiring CLS to allow atheists to lead its Bible studies.** Many Americans justly believe that every college student, including those who practice a religious faith, should have the right to form groups around shared beliefs without such groups being banned from campus recognition.

Is our most cherished freedom truly under threat?

Among many current challenges, UC Hastings’ policy deprives its law students of the right to exercise freely and fully their religious beliefs. Religious liberty is not only about our ability to go to Mass on Sunday or pray the Rosary at home. It includes our ability to gather with other members of our faith outside of church and reinforce our beliefs within a group setting. Without religious liberty properly understood, all Americans, including students on campus, suffer.

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DISCRIMINATION AGAINST SMALL CHURCH CONGREGATIONS

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RELIGIOUS LIBERTY UNDER ATTACK *A Concrete Example*

In 1994, New York City's Department of Education denied the request of the Bronx Household of Faith and several other churches to rent space from public schools on weekends for worship services, even though non-religious groups could rent the same schools for scores of other uses. Litigation began soon afterward, and now, nearly 18 years later, about 60-80 small church and synagogue congregations continue to fight for their rights guaranteed by the U.S. Constitution. The church groups have been serving their communities for years and simply wish to be able to rent vacant school space as the City allows other groups to do.

In June 2011, a federal appellate court upheld New York City's ban on private worship services meeting in vacant public schools on weekends. The court stated that a church could conduct a meeting in the NYC public schools that contained singing, praying, preaching, and fellowship, but that they could not conduct a "worship service." But some denominations' worship services consist *only* of singing, praying, preaching, and fellowship.

New York City claims that it only goes on the word of the religious group—that is, if the group says that it is not conducting a worship service, then it can meet. However, the churches claim that the City and school employees have been investigating what the churches do in the public schools and that the City has made its own assessments of whether the meetings constitute a "worship service" or not.

Many New York City churchgoers have been protesting the City's plans to evict them ever since the U.S. Supreme Court

declined to take up the case on free speech grounds last December.

Earlier this year, the federal courts issued and upheld an order temporarily blocking the City's policy, ruling that the policy violated the Free Exercise Clause and the Establishment Clause of the U.S. Constitution. However, the City has fought against the churches' constitutional rights every step of the way, so litigation and appeals are expected to continue. The appellate court that upheld the ban on worship services last year expects to issue another decision before school starts this fall.

On the legislative front, the New York Senate passed a bill in January essentially repealing New York City's ban on private worship services, but the bill has stalled in the New York Assembly.

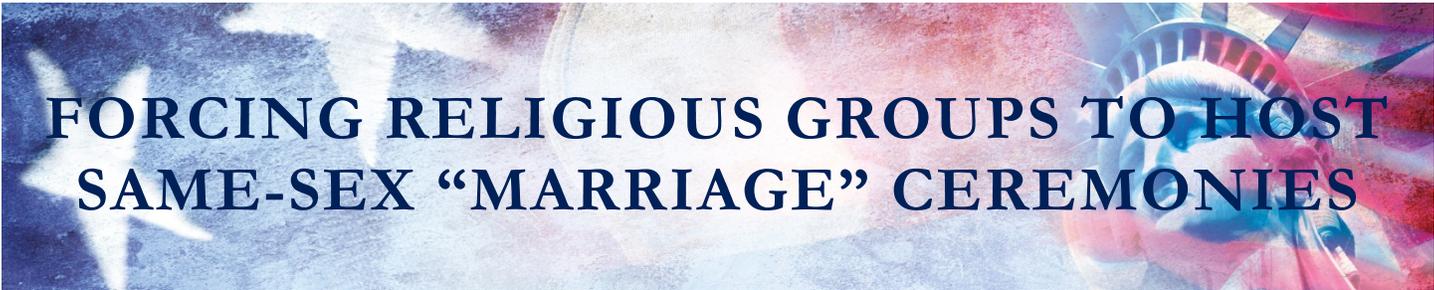
While New York City's discrimination would not frequently affect Catholic parishes, which generally own their own buildings, this kind of discrimination can be devastating to many smaller congregations, who merely seek to rent vacant space in schools on weekends, as civic clubs and other organizations do. The City's policy is a simple case of discrimination against religious believers.

Is our most cherished freedom truly under threat?

Among many current challenges, New York City's policy severely diminishes many churchgoers' right to exercise freely and fully their religious beliefs. Without religious liberty properly understood, all Americans suffer.

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FORCING RELIGIOUS GROUPS TO HOST SAME-SEX “MARRIAGE” CEREMONIES

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RELIGIOUS LIBERTY UNDER ATTACK A Concrete Example

The Ocean Grove Camp Meeting Association of the United Methodist Church is a ministry organization that owns a facility known as the Boardwalk Pavilion in Ocean Grove, New Jersey. This building and others on the same site have hosted church and worship services for over a century. The pavilion is currently used for Sunday and weekday worship services, Bible programs, youth programs, and charitable fundraisers.

However, in 2007, the New Jersey Division on Civil Rights **threatened to prosecute the Camp Meeting Association for adhering to its deeply held religious beliefs.** State officials began an investigation because the Christian organization had refused to allow a same-sex civil union ceremony at the pavilion. The state based its investigation on the complaint of the two women who sought the ceremony.

In January 2012, a New Jersey administrative law judge recommended that the state’s Division on Civil Rights find that the Camp Meeting Association violated a state nondiscrimination law. The Association believes that it is merely exercising its constitutionally protected right to use its private property in accordance with its religious beliefs, without government interference.

A similar situation arose in Hawaii in 2010 when **an individual demanded to be able to hold a same-sex “marriage” ceremony in a Catholic chapel,** a consecrated religious sanctuary on the grounds of a diocesan retreat center. After Church employees declined this demand, the

individual filed a civil rights complaint against the Catholic Church in Hawaii. The individual alleges that he was discriminated against on the basis of his religion (because he is not Catholic) and sexual orientation.

The Church has responded that forcing the Church to allow same-sex marriages in its chapel would violate the Free Exercise and Establishment Clauses of the First Amendment to the U.S. Constitution, as well as the Hawaii Constitution. The Church has argued that the government does not have a right to force a church to allow use of its facilities by individuals or groups who do not share the religious beliefs of the Church, or who may be actively antagonistic to the teachings and beliefs of the Church.

Although supporters of laws redefining marriage often claim that they contain ample religious freedom protections, these examples from New Jersey and Hawaii show that the possibility of forcing a church to violate its deeply held religious beliefs is very real. Such a possibility would run afoul of the religious freedom protections in the U.S. Constitution, as well as federal and state statutes.

Is our most cherished freedom truly under threat?

Among many current challenges, forcing religious groups or churches to host same-sex “marriage” or civil union ceremonies denies these institutions the right to exercise freely and fully their religious beliefs. The state should not be able to dictate the use of sacred spaces in ways that violate deeply held religious beliefs. Without religious liberty properly understood, all Americans suffer.

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PROVIDING PASTORAL CARE TO IMMIGRANTS

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RELIGIOUS LIBERTY UNDER ATTACK A Concrete Example

National and local Catholic charitable agencies around the country have long provided services to people in need, regardless of immigration status. However, several states have recently passed laws that forbid **what state legislatures consider “harboring”** of undocumented immigrants—and **what the Church considers Christian charity and pastoral care** to those immigrants.

In Alabama, for example, the Catholic bishops, in cooperation with the Episcopal and Methodist bishops of Alabama, filed suit against a law prohibiting “harboring” of undocumented immigrants. Together, they explained that the new “law makes illegal the exercise of our Christian religion which we, as citizens of Alabama, have a right to follow.” They expressed concern that legally prohibited “harboring” (when there is knowledge or reckless disregard of the fact that persons are undocumented immigrants) could include “almost everything which would assist an undocumented immigrant or encourage an undocumented immigrant to live in Alabama.” The law would have a chilling effect on their ministries—among other things, these church leaders feared that the prohibition on “harboring” would extend to activities like “encourag[ing immigrants] to attend Mass or giv[ing] them a ride to Mass;” “counsel[ing] them in times of difficulty or in preparation for marriage;” and

inviting “them to come to Alcoholic Anonymous meetings or other recovery groups at our churches.”

Other states have adopted similar laws that threaten the Church’s ministry to undocumented immigrants. On March 27, 2012, the U.S. Conference of Catholic Bishops and several other Christian denominations filed an *amicus* brief with the U.S. Supreme Court in the case of *Arizona v. United States*. The brief discusses how the Arizona law and many state immigration laws like it threaten the Catholic mission to provide food, shelter, and other care to all.

Aside from **Alabama** and **Arizona**, **Georgia**, **Oklahoma**, **South Carolina**, and **Utah** have enacted laws that generally make criminal the “harboring” of undocumented immigrants.

Is our most cherished freedom truly under threat?

Among many current challenges, these state immigration laws affect the religious liberty of the Church because they have criminalized certain acts of Christian charity and pastoral care. Religious liberty is more than freedom of worship; it includes our ability to make our contribution to the common good of all Americans without having to compromise our faith. Without religious liberty properly understood, all of us suffer, including those who seek a better life here in the United States.

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