



CURRENT THREATS TO RELIGIOUS LIBERTY

USCCB Fact Sheet

2015

In his speech to the European Parliament in November 2014, Pope Francis asked, “In the end, what kind of dignity is there without the possibility of freely expressing one’s thought or professing one’s religious faith?”

Pope Francis has repeatedly emphasized that it is incomprehensible and alarming that people continue to suffer discrimination, restriction of their rights and even persecution for publicly professing their faith. Undeniably, “Serious violations inflicted on this basic right [religious freedom] are causes of serious concern,” and all people must work to defend “the intangible dignity of the human person against every attack.” Yet, religious liberty continues to be under threat, even in the United States:

- *HHS mandate for sterilization, contraception, and abortion-inducing drugs.* The mandate of the Department of Health and Human Services forces religious institutions to facilitate and/or 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 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.

In his Apostolic Exhortation, *Evangelii Gaudium*, Pope Francis clearly outlined the importance of preserving a robust sense of religious freedom. He argued that a “healthy pluralism...does not entail privatizing religions in an attempt to reduce them to the quiet obscurity of the individual’s conscience or to relegate them to the enclosed precincts of churches, synagogues or mosques.” Therefore, it is essential that a proper sense of religious pluralism be fostered and defended not just in the United States, but throughout the world.

What can you do to ensure the protection of religious freedom at home and abroad?

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THE RIGHT TO PRACTICE FAITH IN DAILY LIFE

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RELIGIOUS LIBERTY PRESERVED

Hobby Lobby Wins!

The Green family began what became **Hobby Lobby Stores**, a retail chain of arts and crafts stores, out of a garage in the family's home in Oklahoma. The Hahn family likewise began **Conestoga Wood Specialties**, a cabinet-making business, out of a garage in the family's home in Pennsylvania.

The Greens are evangelical Christians who strive to operate Hobby Lobby in a manner consistent with biblical principles. Hobby Lobby pays full-time employees at **almost double the minimum wage**, offers generous health benefits, and allows employees ample time off from work. The Hahns, who are Mennonite, similarly strive to operate Conestoga Wood in a way that honors their faith.

Both the Hahns and the Greens believe that **life begins at conception**, and their religious beliefs prohibit them from facilitating abortion.

Unfortunately, a mandate from the U.S. Department of Health and Human Services (HHS) would force the Greens and the Hahns to cover certain drugs and devices that can end life after conception. Coverage of these drugs and devices is required in the companies' health plans under threat of potentially fatal fines by the federal government.

The Greens and the Hahns were forced to sue the federal government to vindicate their rights under the U.S. Constitution and federal law to exercise religion.

They argued that **Americans do not give up their freedom when they open family businesses.**

The U.S. Supreme Court decided on June 30, 2014 that closely held businesses like Hobby Lobby and Conestoga can exercise religion under the Religious Freedom Restoration Act, a law that passed Congress nearly unanimously and was enthusiastically signed into law by Pres. Bill Clinton in 1993. The Court also found that the HHS mandate constitutes an unjustified, substantial burden because of the millions of dollars in annual fines that both companies would face if they did not comply with it.

The U.S. bishops have voiced their strong support for families like the Greens and the Hahns. The bishops filed a friend-of-the-court brief with the U.S. Supreme Court supporting Hobby Lobby and Conestoga in their challenge to the HHS mandate. The bishops explained that they oppose "any rule that would require faithful Catholics and other religiously motivated business owners to choose between providing coverage for products and speech that violate their religious beliefs, and exposing their businesses to devastating penalties."

The bishops have repeatedly voiced their concern for faithful people in business so that they can continue to live out their faith in daily life.

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WHY WE NEED A HEALTH CARE CONSCIENCE RIGHTS ACT

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The right of religious liberty, the First Freedom guaranteed by our Constitution, includes a right to provide and receive health care without being required to violate our most fundamental beliefs. Especially since 1973, when abortion became legal nationwide, federal lawmakers have worked in a bipartisan way to ensure that Americans can fully participate in our health care system without being forced to take part in abortion or other procedures that violate their conscience.

But the need to improve current laws is clear, because the right of conscience is still under attack:

- Dedicated health care professionals, especially nurses, still face pressure to assist in abortions under threat of losing their jobs or their eligibility for training programs.
- The state of California recently started forcing all health insurers in the state to include elective abortions in the health plans they sell.
- A Catholic agency that for years had provided excellent service lost its federal grant to serve the victims of human trafficking, because it could not, in conscience, comply with a new requirement to facilitate abortions and other morally objectionable procedures for its clients.
- Under the new health care reform law, the federal government demands that almost all health plans fully cover female sterilization and drugs and devices that prevent pregnancy, including those that can cause an early abortion. Even individuals and organizations

with a religious objection to abortion, sterilization or other procedures are forced to take part.

- In some states, government officials are seeking to force even Catholic hospitals to allow abortions.

This is why members of Congress of both parties sponsored the Health Care Conscience Rights Act (H.R. 940). The Act would improve federal law in three ways:

1. Correcting loopholes and other deficiencies in the major federal law preventing governmental discrimination against health care providers that do not help provide or pay for abortions.
2. Inserting a conscience clause into the health care reform law, so its mandates for particular “benefits” in private health plans will not be used to force insurers, employers and individuals to violate their consciences or give up their health insurance.
3. Adding a “private right of action” to existing federal conscience laws, so those whose consciences are being violated can go to court to defend their rights. (Current enforcement is chiefly at the discretion of the Department of Health and Human Services, which is itself sponsoring some attacks on conscience rights.)

All House and Senate members should be urged to support and co-sponsor the Health Care Conscience Rights Act, so our First Freedom can regain its proper place as a fundamental right protected in our health care system. For more details, see: www.usccb.org/conscience.

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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 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 “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) would substantially burden their churches in their mission to serve undocumented immigrants 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. In March 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 discussed how the Arizona law and many state immigration laws like it threaten the Catholic mission to provide food, shelter, and other care to all. In June 2012, the U.S. Supreme Court issued its decision and found that several of the provisions of the Arizona law were pre-empted by federal immigration law, so these provisions were struck down.

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.

What can you do to ensure the protection of religious freedom at home and abroad?

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MARRIAGE AND RELIGIOUS FREEDOM

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Redefining Marriage and the Threat to Religious Liberty

The Catholic Church teaches: “Marriage and the family are institutions that must be promoted and defended from every possible misrepresentation of their true nature, since whatever is injurious to them is injurious to society itself” (*Sacramentum Caritatis*, 29). The following examples illustrate that efforts to redefine marriage are harming the religious freedom of believers in the true definition of marriage.

Idaho – In 2014, two Protestant ministers (a husband and a wife) who operate a wedding chapel in Coeur d’Alene said they would not officiate at a same-sex “wedding.” City officials informed the ministers that their refusal to officiate violated the city’s ordinance outlawing discrimination in public accommodations on the basis of “sexual orientation.” The city eventually declined to prosecute the ministers.

New Mexico – The owners of a photography studio would not take the pictures of a same-sex “commitment ceremony” because they did not want to participate in behavior contrary to their religious beliefs. In 2013, the New Mexico Supreme Court ruled against the owners of the studio. The U.S. Supreme Court declined to hear the case.

Washington – A florist who declined to provide flowers for a same-sex “wedding” was sued by the state Attorney General. In February 2015, a state judge ruled against the florist and found that she “cannot comply with both the law and her faith if she continues to provide flowers for weddings as part of her duly-licensed business, Arlene’s Flowers.”

Colorado – Two men “married” in Massachusetts requested a Denver bakery make a “wedding” cake for their wedding

reception in Denver. For religious reasons, the owners of the bakery declined to make the cake. The two men filed a complaint with the Colorado Division of Civil Rights, which found that the bakery violated the law. Then the Attorney General’s office filed a complaint against the bakery, resulting in further court rulings against the bakery.

Vermont – For allegedly not hosting a “wedding” reception for a same-sex “couple,” Catholic owners of a bed and breakfast settled a discrimination lawsuit, requiring them to (1) pay a \$10,000 civil penalty, (2) pay \$20,000 to a charitable trust, and (3) not host wedding receptions of any kind. Upon settling the lawsuit, the owners of the bed and breakfast said, “But no one can force us to abandon our deeply held beliefs about marriage.”

New Jersey – The New Jersey Division on Civil Rights found that a Methodist organization violated a public accommodations law by not allowing a same-sex civil union ceremony at its boardwalk pavilion.

Catholic Charities – Catholic Charities of Boston (2006), Catholic Charities San Francisco (2006), Catholic Charities of the Archdiocese of Washington, D.C. (2010), and Catholic Charities affiliates in Illinois (2011) had to cease adoption services or face civil liability for not placing children in the homes of same-sex couples.

Legislation called the Marriage and Religious Freedom Act has recently been introduced in the U.S. Congress to try to remedy some of these problems and ensure that people can live out their beliefs on marriage.

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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) 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 far higher objective score from the government's independent grant evaluators than two other organizations 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. Yet, a federal court in Massachusetts, turning religious liberty on its head, 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. Fortunately, in 2013, an appeals court vacated this terrible decision. But the possibility of similar suits in the future remains.

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 in need of important humanitarian services.

What can you do to ensure the protection of religious freedom at home and abroad?

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DISCRIMINATION AGAINST CATHOLIC ADOPTION SERVICES

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RELIGIOUS LIBERTY UNDER ATTACK Concrete Examples

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 in 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 redefining legal marriage to include two people of the same sex took effect

in the District. 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 married couples so that each child would have the experience of a mother and a father.

In 2011, Catholic Charities affiliates in Illinois closed down instead of complying with a new requirement that they could no longer receive state money if they refused to place children with persons in same-sex relationships 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.

Legislation called the Child Welfare Provider Inclusion Act of 2015 (S. 667 / H.R. 1299) has recently been introduced in both Houses of Congress to try to remedy this problem and ensure that no adoption agencies are excluded from serving the most vulnerable children in our society.

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.

What can you do to ensure the protection of religious freedom at home and abroad?

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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. However, **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. Unfortunately, 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. 661 (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.** Recently, a similar policy at private Vanderbilt University forced the school’s Catholic student group off campus because Vanderbilt Catholic requires that its leaders be Catholic (although it allows anyone to be a member of the group).

Is our most cherished freedom truly under threat?

Among many current challenges, such extreme “nondiscrimination” policies deprive 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, twenty 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 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 in 2011.

In 2012, a federal district court issued a permanent injunction against 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 won its case on appeal, and in March 2015, the U.S. Supreme Court again declined to take the case.

Now it is up to the Mayor of New York City to decide whether to reverse the policy or to render these small church congregations homeless for their worship services.

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: people may assemble in vacant school space for any peaceful purpose—except worship.

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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