



What You Need
to Know about

Religious Freedom

Questions & Answers
Driving the Debate

Read on to Tackle the Big Questions...

- ***What*** is religious freedom?
- ***Who*** benefits from religious freedom?
- ***What*** are the consequences of restricting religious freedom?

...Plus 9 More Frequently Asked Questions

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Our ability to seek the truth about God and live according to our beliefs has been an essential part of American order from the beginning. No other nation has such robust protection of religious freedom. James Madison described it as “an unalienable right.” The Declaration of Independence recognizes these rights as “endowed by [our] Creator.” The Constitution and other legal protections reflect the importance of religious freedom to America.

This freedom to live according to vastly different religious beliefs has allowed men and women of different faiths to live, work, learn, and worship peacefully side by side. Any effort to repress our freedom to worship, teach, and live out our beliefs in the public square is an attack not just on human dignity, but on the very foundation that has made America strong.

In recent years, government actions have encroached on religious freedom. New policies force many Americans to violate their core beliefs on important issues like life, human sexuality, and marriage. It is particularly important now to regain an understanding of why religious freedom matters to all Americans and to be equipped to speak about questions like:

- **What** is religious freedom?
- **Who** benefits from religious freedom?
- **What** are the consequences of restricting religious freedom?

1. What is religious freedom?

Religious freedom protects people's right to live, speak, and act according to their beliefs peacefully and publicly. It protects their ability to be themselves at work, in class, and at social activities. Religious freedom is more than the "freedom to worship" at a synagogue, church, or mosque. It makes sure citizens don't have to go against their core values and beliefs in order to conform to culture or government.

2. Who benefits from religious freedom?

Religious freedom benefits everyone. It covers all people equally—Jews, Christians, Muslims, agnostics, and atheists. Religious freedom preserves America's diversity, where people of different faiths, worldviews, and beliefs can peacefully live together without fear of punishment from the government.

3. What are the benefits of religious freedom?

Religious freedom benefits both individuals and communities. For many Americans, a relationship with God is the most important aspect of their lives, and their faith guides them in values like honesty and responsibility, which impact their families and communities. It encourages them to volunteer at soup kitchens, homeless shelters, schools, and other places that help those in need.

4. What are the consequences of restricting religious freedom?

Restricting religious freedom forces Americans out of jobs and blocks organizations from providing social services desperately needed by their communities. It also endangers other civil liberties, including free speech, free association, and even economic freedom.¹ Faith-based social service providers and educational institutions have core beliefs about marriage, family, and sexuality. Forcing them to compromise their religious commitments would cripple their ability to serve their communities.

DID YOU KNOW:

An estimated **350,000 religious congregations** operate schools, pregnancy resource centers, soup kitchens, drug addiction programs, homeless shelters, and adoption agencies. These **serve 70 million Americans each year** and the value of their services are estimated at over **\$44.3 billion annually.**²



DID YOU KNOW:

The U.S. Supreme Court recently affirmed that the Little Sisters of the Poor (an order of Catholic nuns); Hobby Lobby Stores (a family business); and faith-based colleges and universities could not be compelled by the government to pay for abortion-inducing drugs and devices in violation of their religious beliefs.³



DID YOU KNOW:

The Supreme Court rejected the idea that the U.S. government should compel any citizen to adopt an official belief in *West Virginia State Board of Education v. Barnette*:

*"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."*⁴

5. Do only individuals enjoy religious freedom protections?

Religious freedom applies to both individuals and organizations, including charities and businesses. When human beings with important personal beliefs join together to run businesses or charities, the new organization they form is considered a “legal person.” People do not relinquish their beliefs or their rights when they form an association or go into business.

6. Should people of faith be forced to change a particular religious belief to conform to changing opinions or laws?

No. The government should not be in the business of policing religious ideas. The tenets of many faiths are founded on the belief that truth is eternal and unchanging. Insisting that their beliefs change to embrace new cultural trends goes against the very nature of their beliefs. Mandating specific religious ideas and actions for all citizens also rejects the principle of diversity on which our nation was founded. Every person has the freedom to hold his or her own individual religious views.

7. Religious people can believe whatever they want and worship however they want. Why do they have to bring their beliefs into the public square?

Most people, religious or secular, seek to live their lives with integrity by aligning their actions to their beliefs. They shouldn't have to pretend to be different just because they're at work or volunteering. Jews, Christians, and Muslims all recognize that their faith should be openly lived out at school, at work, and in public.⁵ Freedom of religion not only protects someone's beliefs, it protects their right to act on their beliefs.

8. Isn't this just creating special rights for religious believers?

No. Religious freedom prevents a cultural majority from using the power of the state to impose their beliefs on others. This protects everyone—religious and nonreligious alike—from the government becoming so powerful that it can tell people what to think and how to act. Conscience is the individual's most sacred right. A government that intrudes on conscience will not hesitate to intrude on our other freedoms.

9. Doesn't religious freedom allow people to do whatever they want under the cover of religion?

No. The federal government may limit religious freedom if it is absolutely necessary to promote justice and protect the common good. In order to do this, the government must prove that it has a “compelling interest” and that its methods are narrowly tailored. This test limits government’s ability to restrict religious freedom beyond what is necessary to protect people, and limits people’s ability to harm others under the cover of religion. For example, freedom of religion doesn’t protect a man from punishment if he abuses his family, even if he claims his religious beliefs made him do it.



10. Aren't there a lot of cases out there involving businesses using religious freedom arguments to refuse service to LGBT people?

No. The business owners in these cases gladly serve and employ everyone, including people who identify as LGBT. But, they should not be forced to create custom art that celebrates events or expresses messages that betray their religious beliefs. No citizen should be personally and professionally destroyed for declining to embrace a current cultural trend. A government that can force a creative professional to endorse same-sex marriage can force anyone to affirm ideas and messages that violate his or her beliefs.

DID YOU KNOW:

The Supreme Court has said, “esthetic and moral judgments about art and literature are for the individual to make, not for the Government to decree, even with the mandate or approval of a majority.”⁶

11. Is religious freedom a “license to discriminate” that will lead back to Jim Crow laws?

No. Jim Crow was a regime of legally mandated segregation based on the idea of racial supremacy. These laws shut down economic markets and prohibited businesses that supported desegregation from opening their doors to African Americans. The government needed to pass public accommodation laws to shield African Americans from widespread discrimination that systematically denied them basic necessities. Same-sex couples, on the other hand, have many opportunities to access the goods and services they want, including custom art for their weddings. Moreover, they are not being denied service because of who they are, but because of the specific ideas and messages they are requesting creative professionals to endorse and express.



12. Is opposition to same-sex marriage rooted in the same type of prejudice as opposition to interracial marriage?

No. The Supreme Court stated unequivocally in *Obergefell v. Hodges* that many people who disagree with same-sex marriage do so based on “decent” and “honorable” premises, while in *Loving v. Virginia*, the Court described anti-miscegenation laws as an odious attempt to preserve white supremacy.⁷ The belief that marriage is the union of one man and one woman is founded on the understanding that we are created male and female, that male and female are created for each other in marriage, and that children deserve both a mother and a father. By contrast, the belief that marriage should not happen between people of different races is rooted in the indecent, dishonorable, and immoral concept of racism. It is both intellectually dishonest and historically inaccurate to equate the two.

Jack Phillips

Custom Cake Designer (CO)

Masterpiece Cakeshop owner Jack Phillips welcomes all people to his store, including those who identify as LGBT. And like millions of other Americans, Jack believes marriage is only between one man and one woman.

When a same-sex couple sought to commission a custom cake for their wedding, Jack offered to sell them anything in his shop or to design a cake for them for a different occasion, but he declined their request for a custom-made wedding cake because he could not participate in celebrating an event that contradicts his religious beliefs about marriage. Instead of respecting Jack's beliefs, protestors picketed his store and some called with death threats, even though the couple received a free rainbow wedding cake from another cake designer.

The state of Colorado found Jack to be in violation of its sexual-orientation nondiscrimination law and ordered him to create cakes for same-sex weddings if he continued to design wedding cakes. One Colorado commissioner even compared Jack's belief about marriage to arguments made by slave owners and Nazis, even though the Court in *Obergefell*

v. Hodges said it is based on “decent and honorable” premises and held “in good faith by reasonable and sincere people”. Just as the lesbian graphic designer shouldn’t be forced to create a flyer for a religious group’s event opposing same-sex marriage, Jack shouldn’t be forced to create custom wedding cakes celebrating same-sex marriage. We should all be free to peacefully live and work consistent with our beliefs.

To avoid violating his conscience, Jack was forced to stop designing wedding cakes altogether, costing him 40 percent of his business. The Supreme Court’s 7-2 decision in *Masterpiece Cakeshop v. Colorado Civil Rights Commission* ruled in favor of cake artist and owner of Masterpiece Cakeshop Jack Phillips, finding that the government was wrong to punish Jack for peacefully living out his beliefs in the marketplace.



Barronelle Stutzman

Florist (WA)

Washington grandmother Barronelle Stutzman served her friend and customer, Rob Ingersoll, for over nine years, providing him custom-made flower arrangements for a variety of occasions. Barronelle knew that Rob was gay, but that didn't matter to her because she serves everyone. However, Barronelle cannot in good conscience create custom arrangements for events that conflict with her religious beliefs. So when Rob asked Barronelle to design the flowers for his same-sex wedding, Barronelle politely referred him to three nearby florists.

The state of Washington found her to be in violation of its nondiscrimination law, potentially subjecting her to fees that would cost Barronelle her business, life savings, and home. In declining the state attorney general's offer that she accept defeat and give up her right to appeal, she wrote:

"Your offer reveals that you don't really understand me or what this conflict is all about. It's about

freedom, not money. I certainly don't relish the idea of losing my business, my home, and everything else that your lawsuit threatens to take from my family, but my freedom to honor God in doing what I do best is more important. Washington's constitution guarantees us 'freedom of conscience in all matters of religious sentiment.' I cannot sell that precious freedom."



Cathy DeCarlo

Nurse (NY)

Cathy DeCarlo became a nurse to save lives, not to take them. When she was hired as an operating room nurse at Mount Sinai Hospital in New York City, the hospital promised that she would not have to assist with abortions in violation of her Catholic faith.

Her employer broke that promise in 2009. Cathy was instructed to prepare for a common procedure following a miscarriage but soon discovered that the procedure involved the abortion of a live, preborn 22-week-old infant.

Cathy made calls up the chain of command, but found no support. Her superiors told her she would be charged with insubordination and abandoning her patient if she refused to assist in the abortion.

Ultimately, Cathy was forced to assist the physician in dismembering the live baby. She then had to account for all of the body parts.

Cathy immediately filed a lawsuit against the hospital—and a subsequent complaint with the U.S. Department of Health and Human Services (HHS)—for forcing her to violate her conscience. As a result of the lawsuit and HHS’s investigation, the hospital changed its policies to respect the rights of Cathy and all her colleagues to decline to participate in abortions.⁸



Impact on Faith-Based Organizations

Faith-based organizations involved in education increasingly face the possibility of losing state or federal funding unless they assent to the new cultural trends on sexuality.

In 2016, California legislators introduced SB 1146, a bill that, if passed in its original form, would have disqualified students for state aid if they attended a college with faith-based codes of conduct and profession-of-faith requirements. This bill would have affected thousands of low-income students attending evangelical and Catholic schools throughout the state.

In adoption and foster care, some state laws require all child welfare agencies to place children in same-sex-headed households. In Illinois, the law did not provide an exemption for faith-based agencies. This forced Catholic Charities to choose between violating its religious beliefs or withdrawing from the system. As a result of Illinois' refusal to protect religious liberty, Catholic Charities had to stop caring for 2,500 children.

Endnotes

- ¹ John Corvino, Ryan T. Anderson, and Sherif Girgis, *Debating Religious Liberty and Discrimination* (New York: Oxford University Press, 2017), p. 109.
- ² Brian J. Grim and Melissa E. Grim, “The Socio-economic Contribution of Religion to American Society: An Empirical Analysis,” *Interdisciplinary Journal of Research on Religion*, Vol. 12, Art. 3 (2016), <http://faithcounts.com/report/> (accessed March 19, 2018).
- ³ See *Zubik v. Burwell*, 136 S. Ct. 1557 (2016); *Burwell v. Hobby Lobby*, 134 S. Ct. 2751 (2014).
- ⁴ *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).
- ⁵ Brief of Amici Curiae Ethics & Religious Liberty Commission of the Southern Baptist Convention; Christian Life Commission of the Missouri Baptist Convention; John Paul the Great Catholic University; Oklahoma Wesleyan University; Spring Arbor University; William Jessup University; American Association of Christian Schools; Jews for Religious Liberty; and Imam Omar Ahmed Shahin in Support of Petitioners, *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, Supreme Court of the United States, No. 16-111, September 7, 2017, https://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/briefs-2017-2018/16-111-amicus-pet-ethics-religious-liberty-commission-of-the-southern-baptist-convention-et-al.authcheckdam.pdf (accessed March 19, 2018).
- ⁶ *United States v. Playboy Entertainment Group, Inc.*, 592 U.S. 803, 818 (2000).

⁷ Compare *Obergefell v. Hodges*, 135 S. Ct. 2584, 2602 (2015) (“Many who deem same-sex marriage to be wrong reach that conclusion based on decent and honorable religious or philosophical premises, and neither they nor their beliefs are disparaged here.”) and *id.* at 2594 (“This view long has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world.”) with *Loving v. Virginia*, 388 U.S. 1, 11 (1967) (denouncing anti-miscegenation laws as “measures designed to maintain White Supremacy”).

⁸ Alliance Defending Freedom, “*Cenzon-DeCarlo v. The Mount Sinai Hospital*,” <https://www.adflegal.org/detailspages/case-details/cenzon-decarlo-v.-the-mount-sinai-hospital> (accessed March 19, 2018).

Is freedom of religion important?

It's an issue that should matter to us all. In the past decade, attacks on religious freedom have intensified, and religious Americans are feeling the effects, with less space for them to live, work, and speak authentically. These attacks against freedom of religion are attacks on us all. The more government tells us what to think, say, or do contrary to our beliefs and values, the less free we all are.

We all benefit when our friends and neighbors are able to live out their deeply held convictions and beliefs. It makes for a more diverse, civil, and sustainable society. Religious people and organizations are often responsible for supporting our families, schools, hospitals, soup kitchens, homeless shelters, and other places that help people and communities thrive.

Backed by solid research and constitutional principles, this short booklet will help you navigate one of the most pressing issues in American culture today.



THE ETHICS & RELIGIOUS
LIBERTY COMMISSION
OF THE SOUTHERN BAPTIST CONVENTION

