

IN-DEPTH

3 RELIGIOUS FREEDOM: 101 Lessons on the debate

DENVER—Most of us have to admit we're not able to recite passages from the U.S. Constitution verbatim or explain to someone else what's at stake in the debate over religious liberty.

We hear public figures disagreeing. We read that leaders in the Catholic Church have filed an unprecedented number of lawsuits to defend the right of Catholic institutions not to violate their religious consciences, while a federal health care mandate requires that they do just that—or pay crushing fines.

Across the country, Catholic universities and hospitals, media outlets like EWTN, Catholic Charities and other social service ministries, and private business owners who in the past have been legally able to have their workplace reflect their religious conscience, now are in court. They are there because that's their only option.

And the plaintiffs are not just Catholics.

Yet, many people of good will sit on the sidelines or even argue against the institutions and individuals fighting for religious liberty.

One reason for this indifference and polarization may be that the issue is complex. Another may be that—intentionally or unintentionally—the debate is being colored by misinformation and slogans that don't illuminate the facts.

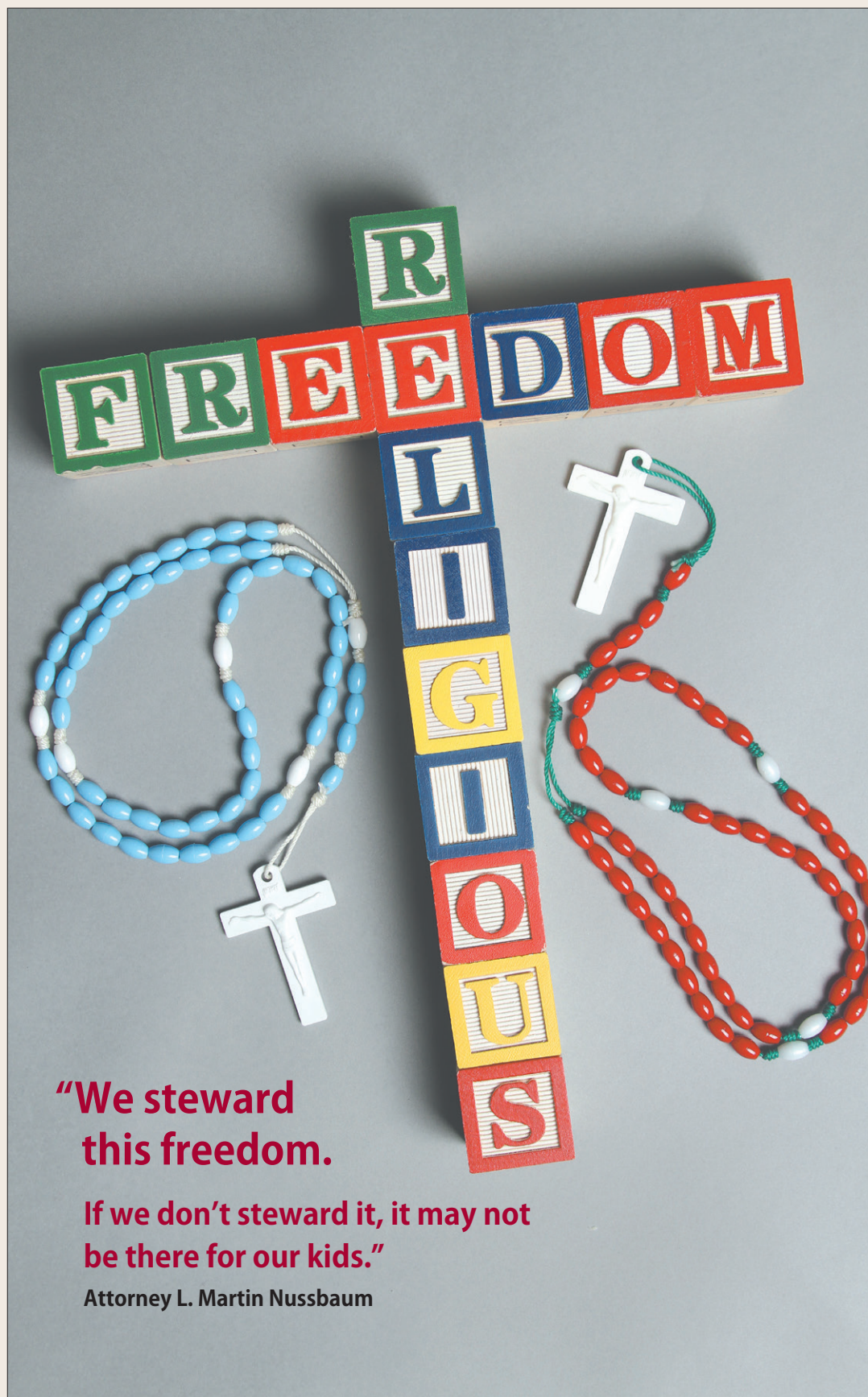
Here are three controversial aspects of the religious liberty debate and the response by proponents of sustaining religious liberty. The information comes from a religious liberty panel comprised of Bishop Thomas Paprocki of Springfield, Ill., and attorney L. Martin Nussbaum, who specializes in representing churches and ministries from many denominations. It was held at the Catholic Media Convocation in Denver on June 20.

1

The First Amendment protects the free exercise of religion, not simply freedom of worship.

Since 2010, top U.S. officials, including President Barack Obama and then U.S. Secretary of State Hillary Clinton, have used the term “freedom of worship” rather than “freedom of religion” in public statements both in the United States and overseas. In 2010 a bipartisan U.S. Commission on International Religious Freedom (USCIRF) noted the change in terminology in its annual report and expressed concern that it could represent a change

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“We steward this freedom.

If we don't steward it, it may not be there for our kids.”

Attorney L. Martin Nussbaum

Groups take fortnight to heart

Rosaries, Masses and special events raise awareness of challenges to constitutional right.

BY ANDREW NELSON

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ATLANTA—Catholics around the Atlanta Archdiocese gathered in parishes for prayer, retreat houses for reflection, and even a pizzeria to learn about religious liberty during the Fortnight for Freedom.

The U.S. Catholic bishops called for the second Fortnight for Freedom, a time of prayer and fasting to raise awareness of challenges to religious liberty, both nationally and internationally. It ran from June 21 to July 4.

In a Theology on Tap event, some two dozen women and men attended a three-hour session June 19 at Dagwood's Pizza in Norcross. Pizza and salad were served and then Mary Boyert, director of the archdiocesan Respect Life Ministry, took the microphone to talk about religious liberty and the federal mandate requiring employers to provide and pay for employees' contraceptives, abortifacients and voluntary sterilization.

The most pressing concern for the bishops is the infringement of religious liberty, said Boyert. That is most clearly seen in the mandate, she said.

MORE INFO



■ Catholics and supporters of religious freedom from all faiths are encouraged to text **FREEDOM** to **377377**, or **LIBERTAD** to **377377** for Spanish language engagement, to subscribe to receive more information on religious freedom.

Opponents object to paying for contraceptives, including Ella and Plan B medications, and other reproductive medical procedures they find morally wrong, she said. And proposed accommodations by the U.S. Department of Health and Human Services do not ad-



PHOTO BY MICHAEL ALEXANDER

Father Charles Byrd, right, pastor of Our Lady of the Mountains Church, Jasper, is the main celebrant for a June 24 Mass for Religious Freedom at his parish. Joining him on the altar is Deacon Lloyd Sutter.

dress these objections, especially in the case of business owners with moral objections, she said.

The Atlanta Archdiocese filed a lawsuit, as did scores of other dioceses, church ministries, and businesses owners, including non-Catholics, to stop the enforcement of the HHS mandate, she said. The Archdiocese of Atlanta lawsuit is still pending. Some cases around the country have been dismissed until the plaintiffs begin to accrue the large fines that they will be assessed when they don't abide by the mandate. Then the plaintiffs can refile the cases.

Boyert said that the HHS mandate is also a great concern because the government has shown its willingness to override the well-known

religious tenets of denominations and the consciences of individual business owners.

"If they can do one thing, what else can be done? It is something to be concerned about," she said.

The mandate is just one in a series of steps the government has taken that force Catholics and others to act against their deeply held religious beliefs, she said. The HHS mandate is the biggest concern, Boyert said, but not the only one. The challenges surrounding the same-sex marriage debate will also confront the church, she said.

Many left the talk wanting to dive deeper into the topic.

Candis Hunter, who is the leader of the Young Adult Ministry at St. Anthony of Padua Church in Atlanta, said while she is familiar with the issue, she wants to examine the church's position more closely.

She asked if a program that accepts government money to run programs has an obligation to follow the rules set by the government. Hunter said she works for the federal government at the

Centers for Disease Control.

"I need to do more research and look at the U.S. Conference of Catholic Bishops' topics," she said.

Rosa Huang, who works in IT and attends St. Benedict Church, Johns Creek, said, "Potentially a lot of freedom could be taken away because we didn't voice our opinion."

Janice Givens organized the event.

"I hope they tell 25 more people. I hope they go and pray about it, educate themselves and others about it," she said.

Givens said she follows the HHS mandate issue closely.

"So many people are not aware and I wanted to wake them up," she said.

On Monday, June 24, Jasper's Our Lady of the Mountains Church held a Mass to mark the Fortnight for Freedom. Parishioners had participated a year earlier in the first fortnight, showing "A Man for All Seasons," the film depicting the martyrdom of St. Thomas More, and hosting votive Masses.

This fortnight, a small group gathered to pray during the evening Mass on the feast of the Nativity of St. John the Baptist celebrated by Father Charles Byrd.

In his prepared homily, Father Byrd said, "The simple fact of the matter is America is doomed without the Catholic Church and the Catholic Church is the best part of America" because of the network of charity and service established in the nation by religious and laity, including universities, schools, hospitals, children's shelters and innumerable other charitable works.

He said people will be judged by how well they have proclaimed the Gospel, and a key part of it is "the inherent value of human life and the irreplaceable and irrevocable prestige and value of the family."

Many people did not attend the event, and he thinks many Catholics don't support the efforts of the Fortnight for Freedom. But Father Byrd said the issue of religious freedom is too important to keep quiet.

"We have to speak out," he said. Father Byrd said the parish has an icon of St. John the Baptist, with the words, "Woe to the prophets who are mute for fear that their words will not be heeded!"

"We need the church to say things like marriage is between a man and a woman and abortion is abhorrent," he said.

At Atlanta's Ignatius Jesuit Retreat House, a dozen men and woman explored how the church sees religious liberty as part of



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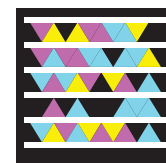
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PHOTO BY MICHAEL ALEXANDER

Dr. Matthew Bagot, center, an assistant professor at Spring Hill College, Mobile, Ala., leads a weekend retreat entitled "Church/World, Church/State: The Social and Political Vision of Vatican II." The retreat, one of the Fortnight For Freedom educational opportunities around the Archdiocese of Atlanta, took place at Ignatius House, Atlanta, June 21-23.



PHOTO BY MICHAEL ALEXANDER

Mary Boyert, Respect Life Ministry Director, speaks to a group of young adults at Dagwood's Pizza, Norcross, on the topic of religious freedom, June 19.

the Spring Hill College Summer Institute of Christian Spirituality June 22.

Matthew Bagot, Ph.D., a theology professor from Spring Hill, a Jesuit college in Alabama, used the Second Vatican Council document "Dignitatis Humanae," the declaration on religious liberty, to examine the intersection between the church and government.

Cathy Clipson, 48, attends St. Jude Church in Atlanta, where she is a lector, involved with Christ Renews His Parish ministry, and is pursuing her master's degree in theological studies.

The American experience of the separation of the church and the government has been instrumental in shaping the church's understanding, she said. The church and governments once were too closely connected, which led to corruption, too often, she said.

American history shows "church and state need to be separate, but church and society can never be separated," she said. Catholics must be involved in the culture and bring Catholic values to the public discussion, she said.

"Our job is to be politically

of my church, which is wise and gives us a lot," she said.

Deacon Sami Jajeh, of St. John Chrysostom Melkite Catholic Church, Atlanta, said the weekend's lesson for him was the importance of continual dialogue, especially with people with a different point of view.

At his church, parishioners have had programs about the Fortnight for Freedom and the Melkite archbishop signed a letter advocating for religious freedom, said Deacon Jajeh.

The different roles of the church and the state put the responsibility on the faithful, he said. "It's the separation of church and state. We still have to work in society. We, the faithful, live in society. We, the faithful, need to work with our government, work with our leaders to better society."

Dialogue is the only way to move forward, otherwise there is the risk of violence, he said.

"As Americans we take (religious freedom) for granted. So many places it is very difficult or impossible to practice your religion," he said.

active. Our job is not to be the government," she said.

Catholics have the duty to form their conscience before making decisions, she said. That means read the Scriptures, know church Tradition, follow world events, and then "look in our own hearts to see where the Holy Spirit is guiding us," she said.

"I am renewed in the Tradition

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David Green, founder and CEO of Hobby Lobby.

Hobby Lobby owners win one round in court

BY SUZANNE HAUGH

Special to the Bulletin

ATLANTA—The federal government's stand on a controversial Health and Human Services' mandate shows a "dangerous and problematic" disregard for the First Amendment right to exercise one's religious beliefs, according to an attorney associated with litigation challenging the mandate. The impact is not limited to Catholic entities.

One striking example is Hobby Lobby's court case against the mandate, which requires all employers to provide free of charge contraceptives, including abortion-inducing ones like Ella and Plan B, and voluntary sterilizations, even when these practices violate the moral tenets of the employer.

A June 27 ruling in the Hobby Lobby case is considered a major victory for recognizing the company's right to contest the mandate's objectionable requirements and the excessive burden created by fines for defying them. The U.S. Court of Appeals for the 10th Circuit in Denver said the company has "established a likelihood of success that (its) rights ... are substantially burdened by the contraceptive-coverage requirement, and established an irreparable harm."

Since its founding 30 years ago, the Green family, owners of the family-run craft store, have integrated their beliefs as evangelical Christians into their business plan.

Aspects of the HHS mandate threaten to cripple the company. With over 500 stores in 41 states, including Georgia, Hobby Lobby would be required to pay \$100 a day per employee if it refuses to comply with the HHS mandate. This would cost Hobby Lobby as much as \$1.3 million each day it is not in compliance.

The for-profit company objects to offering and paying for abortion-inducing drugs—the day-after pill called Plan B and the week-after pill called Ella. Unlike the Catholic Church, Hobby

Lobby owners have no religious objections to artificial contraceptives, according to Adèle Keim, an attorney with The Becket Fund, the nonprofit law firm representing the family.

"The Green family are evangelical Christians who began a business in their garage 30 years ago that has grown into a multi-million dollar company," Keim said. "They have pledged to run a business that honors God as they understand him."

Family members have signed a "longstanding pledge" to use the personal assets from the for-profit company to share the Christian message and to offer business practices that benefit their employees.

The Becket Fund is "deeply concerned" by the HHS mandate, as it imposes "robust" expectations without exemptions for those whose religious beliefs forbid certain aspects of the HHS mandate. This is an unprecedented move that "flies in the face of the Constitution," and is "dangerous and problematic," Keim said.

"The government has given no help to owners of family businesses whose conscience, whose religion, forbids certain practices. There is no accommodation, no exemption, no religious liberty right. The government says you have no right to object."

The Green family and The Becket Fund praised the court of appeals' ruling, favoring Hobby Lobby. David Green, founder and chief executive officer of Hobby Lobby, said in a statement, "My family and I believe very strongly in our conviction that life begins at conception, and the emergency contraceptives that we would be forced to provide in our employee health plan under this mandate are contrary to that conviction. We believe that business owners should not have to be forced to choose between following their faith and following the law. We will continue to fight for our religious freedom, and we appreciate the prayers of support we have received."

FREEDOM

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in support for religious freedom abroad.

Leonard Leo, chairman of the USCIRF, wrote in April 2010, "Since the initially strong language on religious freedom used in President Obama's Cairo speech, presidential references to religious freedom have become rare, often replaced at most with references to 'freedom of worship.' The same holds true for many of Secretary of State Clinton's speeches. This change in phraseology could well be viewed by human rights defenders and officials in other countries as having concrete policy implications."

"Freedom of worship is only one aspect of religious freedom," Leo said.

To attorney Nussbaum, this distinction reappears in the U.S. Health and Human Services' mandate. The mandate requires all employers to provide and pay for their employees' contraception and abortion-inducing medications and voluntary sterilization. The only tiny exemption that was granted was for religious institutions that were "worship-oriented," Nussbaum said. Religious institutions like universities, hospitals, social

service agencies, etc., were not treated as religious employers, even though these church institutions are guided by religious faith and the mission of these institutions is to live out the essence of the Christian faith.

The First Amendment to the U.S. Constitution guarantees the free exercise of religion, not simply freedom of worship, he said. "It is very clear that the laws (of the United States) protect more than worship," Nussbaum said.

2

Discrimination is permitted under religious freedom. It's not bigotry.

The practice of religious freedom in the United States permits discrimination against people who fall within "protected classifications" in other areas of the law, attorney Nussbaum said. As some examples, Nussbaum said, an African Methodist Episcopal Church can choose an African-American as pastor instead of an Irishman and the Metropolitan Community Church can favor a gay person in leadership over a straight person. The Catholic Church can choose to ordain only men to the clergy.

Yet religious conscience protections are being eroded in

many arenas, and the claim is made that the religious beliefs being practiced amount to discrimination.

For example, in November 2011 several Catholic bishops in Illinois, including Bishop Paprocki, had to end their diocesan adoption and foster care programs, which had been in place for 50 years. They were forced to because of the way Illinois state law was interpreted after the state recognized civil unions of same-sex couples.

The state then required Catholic Charities agencies to provide their adoption and foster care services to same-sex couples as well as married heterosexual couples. Peter Breen, an attorney for the Thomas More Society, who represented Catholic Charities agencies, said the state officials refused to abide by protections for religious social service agencies written into the Civil Union Act.

The agencies had a long-standing practice of referring prospective adoptive and foster parents who were cohabiting—regardless of sexual orientation—to other agencies or the Department of Children and Family Services.

Now the state interpreted that policy as discriminatory to same-sex couples, and a local judge ruled that the state could begin canceling its foster care and adoption contracts with Catholic Charities.

Since the courts refused to

grant a stay allowing the adoptions and foster care programs to continue while appeals were pending, the dioceses were forced to close the programs.

Bishop Paprocki, who is both a civil and a canon lawyer, said the Diocese of Springfield had long practiced a policy, consistent with its faith, of not placing children with unmarried couples, regardless of sexual orientation.

While there were "50 other agencies" that had state contracts and could have counseled same-sex couples, "the state was saying very clearly, 'You have to do it.'" "We were being accused of bigotry," Bishop Paprocki said.

Nearly 2,000 children, some in the process of being adopted, were being cared for under foster care programs of these four Illinois Catholic dioceses. The five decades of service provided by these Catholic agencies was abruptly terminated, simply because of the way the Illinois civil union law was interpreted and the decision of a local judge.

Nussbaum called this "a breathtaking event ... to say to Catholic Charities ... you are unfit to place children" for adoption and foster care.

3

Religious freedom does not lead to chaos.

James Madison in 1773 heard Baptist preachers preaching through the bars of a jail in Culpepper County, Virginia. They had been thrown in jail for not

"It is very clear that the laws (of the United States) protect more than worship."

Attorney L. Martin Nussbaum

having a license to preach under the English Act of Toleration. Madison recognized that religious toleration was insufficient as a right if it permitted some to preach and led to others being jailed because their expression of faith was not the dominant one. In subsequent years, this Founding Father of the country further developed this understanding of the free exercise of religion that is enshrined in the First Amendment. In its twofold significance, the First Amendment states that government shall "make no law" establishing a religion or prohibiting the free exercise of religion.

That is the most distinctive thing about our country, and over the passage of more than 200 years of American history, it hasn't led to chaos, attorney Nussbaum said.

Madison called religious freedom "the luster of our country." That description is cherished by those who point out that the free exercise of religion is the first right guaranteed in the First Amendment to the U.S. Constitution.

"We steward this freedom," Nussbaum said. "If we don't steward it, it may not be there for our kids."

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