

The Freedom From Religion Foundation

Our First, Most Cherished Freedom

A Statement Exposing the Catholic Church's Attempt to Redefine Religious Liberty

*"Your faith is not compromised by your good works;
your good works are compromised by your faith."*

We are atheists, agnostics, freethinkers, heretics, and nonbelievers — we are the Nones.¹ We are Americans. We are proud to be both. We recognize that liberty is not a gift bestowed by the supernatural, but a right that our founders secured for us with so much "toil and blood and treasure."² It is our duty as citizens to "take alarm at the first experiment on our liberties."³ The Catholic Church and its Conference of Bishops do not seek only to experiment on our liberties, they seek to redefine liberty out of existence.

Leading up to July 4, 2012, the U.S. Catholic Conference of Bishops is calling for a "Fortnight for Freedom" to promote its scheme to redefine liberty. The Bishops are lobbying Congress to pass a bill that they had introduced, the misnamed "Respect for Rights of Conscience Act," that would allow any private employer with a "religious or moral objection" to veto certain healthcare coverage for employees, regardless of their employees' religious beliefs. Numerous Catholic dioceses and institutions have filed at least a dozen lawsuits in federal court and published "A Statement on Religious Liberty."⁴ This essay is a rebuttal of the deceptive claims made by the Bishops in that statement. Although "unlikely even to rate a footnote in the history of piffle,"⁵ the Bishops' insidious claims must be answered. The true enemies of religious freedom are the men who seek "with devotion's visage and pious action,"⁶ to impose their will on America.

¹ The Nones are agnostics, atheists, and those who claim no religious preference. Nones are the fastest growing religious demographic in the United States. See *American Religious Identification Survey*, Kosmin and Keysar (2008).

² Letter from John Adams to Abigail Adams (July 3, 1776).

³ James Madison, *Memorial and Remonstrance Against Religious Assessments* (1785). "It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of Citizens, and one of the noblest characteristics of the late Revolution. The free men of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it."

⁴ United States Conference of Catholic Bishops, *A Statement on Religious Liberty*, 5 (2012) [hereinafter Bishops' Statement], available at <http://www.usccb.org/issues-and-action/religious-liberty/our-first-most-cherished-liberty.cfm>.

⁵ Christopher Hitchens, *god is not Great; How Religion Poisons Everything*, 249 (Random House 2007).

⁶ William Shakespeare, *Hamlet* Act 3, sc. 1: "We are oft to blame in this — 'tis too much proved — that with devotion's visage and pious action we do sugar o'er the devil himself."

Our secular nation was founded in part by refugees seeking freedom of conscience and freedom from religious tyranny. They wanted a land where government could not tell them which church to support, what religious rituals to engage in, or what to believe. They knew that true liberty does not exist where religious doctrine is legislated by government. Whether to pray, whether to believe in a god, whether to subscribe to matters of faith (such as the Catholic Church's unsupported claim that contraception is a "sin") is a paramount matter of conscience that may not be dictated by the state.

THE FARCE FOR FREEDOM: THE CASE AGAINST MORE AND FISHER

The Bishops have decreed, "the fourteen days from June 21—the vigil of the Feasts of St. John Fisher and St. Thomas More—to July 4, Independence Day, be dedicated to this 'fortnight for freedom.'" George Orwell may have had Fisher and More in mind when he wrote, "saints should always be guilty until they are proven innocent."⁷ It is fitting that the first day of the Catholic "Fortnight of Freedom" begins with a celebration of two men who burned to death and tortured people for exercising their true freedom of conscience. Bishop John Fisher, in his *Sermon Against the Pernicious Doctrine of Martin Luther* (1521), preached about Catholic superiority, the dangers of heresy, and was very clear about his loathing of all non-Catholic belief systems:

"The Jews and the tyrants slew the bodies of Christians, yet they sent these Christians' souls to everlasting glory. But the heretics, by misconstruing the Scriptures of God by their false doctrine and erroneous opinions and pestilential heresies, slay the souls of Christian people and send them to everlasting damnation.... Only this church is the spouse of Christ; all other things that resemble it that are not of this church are synagogues of Satan and councils of the devil."

Fisher arrested, had tortured, and ordered Thomas Hitton burned alive as a heretic for, among other things, carrying letters to the "evangelical heretics beyond the sea."⁸ Thomas More, the other "saint" honored on the first day of the Fortnight, was also instrumental in the execution of Hitton, but outstripped Fisher's faith-fueled purges by a wide margin.⁹

More, a self-flagellating sociopath, persecuted Martin Luther, William Tyndale, their followers, and the stirrings of the Protestant Reformation with all his power.¹⁰ More's definition of "heretics" is as revealing as the current Church's choice of More as a symbol of liberty: "all they that obstinately hold any self-minded opinion contrary to the doctrine that the Catholic Church teaches and holds necessary for salvation."¹¹ More's house featured a torture chamber where he may have wielded the instruments of torment himself before ordering those with "self-minded opinion[s]" burned at the stake.¹²

This pair, *by their own admission*, used their power to suppress and execute anybody who did not believe as they did, anybody who thought for him or herself. The Catholic campaign to redefine liberty has the same goal — to bring all Americans in line with Catholic dogma, if not by force then by force of law. In the past the Catholic Church has used its faith to justify the torture of heretics, the conquest of holy lands, the burning and execution of women as "witches," the herding of Jews into ghettos, and the institutionalization of child-rape by its holy men and women.

⁷ George Orwell, *Reflections on Gandhi*, PARTISAN REVIEW, January 1949, at 85.

⁸ John Lewis, *The Life of Dr. John Fisher, Bishop of Rochester, in the Reign of King Henry VIII*, 325-329 (1855). See also Michael P. Farris, *From Tyndale to Madison: How the Death of an English Martyr Led to the American Bill of Rights*, 26 (2007).

⁹ *Id.*

¹⁰ Richard Rex, "More and the heretics: statesman or fanatic?" in *The Cambridge Companion to Thomas More*, 96 (George M. Logan, ed., Oxford University Press 2011).

¹¹ Thomas More, *Debellation of Salem and Bizance* (1533)(disambiguation by FFRF).

¹² See e.g., Michael P. Farris, *From Tyndale to Madison: How the Death of an English Martyr Led to the American Bill of Rights*, 10, 23 (2007).

More and Fisher were put to death themselves by King Henry VIII for holding to religious opinions opposed to divorce in the face of Henry's desire to marry Anne Boleyn. Who cannot see the obvious solution to persecution for religious conviction is to keep state and church entirely separate? The Church today, as did Fisher and More in the past, demonstrates untiring hostility to the American ideal that religious doctrine is not part of civil law. The Church is attempting to use the state to enforce its Catholic dogma upon unwilling Catholics and non-Catholics¹³ — the majority of the U.S. population.

A HISTORY OF PERSECUTION

“There was a time when religion ruled the world. It was known as the Dark Ages.”¹⁴ The religion that ruled was the Roman Catholic Church. In its heyday, the Roman Catholic Church, including the Holy Roman Empire, was the grandmaster of persecution in the name of religion, admitting no quarter, no dissent, no competition, no freedom of conscience, no civilized debate of differing views. While it held sway through the Dark Ages, the Middle Ages, the Renaissance, and into the Reformation, the Catholic Church ruthlessly persecuted, purged, and exterminated dissenters, “infidels,” and “heretics.”

As the Crusades wound down in the 12th century the Church established a permanent institution charged with the eradication of heresy, the Inquisition. In just one example: Pope Innocent III ordered a crusade against the Albigenses in France. A church army of 20,000 knights and 100,000 soldiers annihilated whole villages.¹⁵ When the city of Beziers fell, the soldiers asked papal legate Arnaud Amalric how to tell the faithful from the infidel. Amalric famously commanded: “Kill them all. God will know His own.”¹⁶

The Church's use of torture was widespread by the 13th century. The Church created a religious ceremony, the “auto-da-fe” (“act of the faith,”) in which it had people burned people at the stake. In 1478, the pope approved what became known as the Spanish Inquisition, authorizing King Ferdinand and Queen Isabella to hunt down “secret Jews” and Muslims.¹⁷ They appointed Dominican friar Tomas de Torquemada Inquisitor General, a name still synonymous with terror after he tortured thousands and burned alive at least 2,000 in the name of preserving the “religious liberty” of the Catholic Church.¹⁸

Historically, the Roman Catholic Church has singled out women and their sexuality as sources of evil which its male leaders must control. In 1486, after reading the *Malleus Maleficarum* a handbook on destroying “witches” written by Dominican Inquisitors Heinrich Kramer and Jacob Springer, Pope Innocent VII appreciatively wrote his *Bull Summis desiderante*, one of the most influential condemnations of women ever issued by the Church. Tens of thousands of women¹⁹ were individually prosecuted, tortured, and put to death, with Protestant witch-hunters eventually joining the Roman Catholic campaign of terror:

... the Church, after doing its duty in but a lazy and indolent way for 800 years, gathered up its halters, thumbscrews, and firebrands, and set about its holy work in earnest. She worked hard at it

¹³ The first sentence of the Bishops' mission statement admits as much: “Evangelizing is in fact the grace and vocation proper to the Church, her deepest identity. She exists to evangelize.”

¹⁴ Ruth Hurmence Green as quoted in *Women without Superstition*, 469 (Ed. Annie Laurie Gaylor, 1997). Available at <http://ffrf.org/shop/books/The-Born-Again-Skeptics-Guide-To-the-Bible/>

¹⁵ M. D. Costen, *The Cathars and the Albigensian Crusade*, 121 (Manchester University Press, 1997).

¹⁶ Jim Haught, *Holy Horrors*, 56 (Prometheus Books, 1990); see also M. D. Costen, *The Cathars and the Albigensian Crusade*, 123 (Manchester University Press, 1997).

¹⁷ Pope Sixtus IV established the Spanish Inquisition by papal bull: *Exigit Sinceras Devotionis Affectus*

¹⁸ Sources disagree as to the exact number, but 2000 burned alive is a figure given by a contemporary of Torquemada, Queen Isabella's secretary, Hernando del Pulgar. See e.g., Henry Clay Sheldon, *History of the Christian Church*, Vol. 3, 381 (T. Y. Crowell & Co. 1894).

¹⁹ Some estimates range as high as nine million, although that number is probably high. See Bengt Ankarloo, Stuart Clark, and William Monter, *Witchcraft and Magic in Eurpouse: Period of Witch Trials*, 12-16 (Athlone Press, 2002).

night and day during nine centuries and imprisoned, tortured, hanged, and burned whole hordes and armies of witches, and washed the Christian world clean with their foul blood.

Then it was discovered that there was no such thing as witches, and never had been. One does not know whether to laugh or to cry. Who discovered that there was no such thing as a witch — the priest, the parson? No, these never discover anything . . . The parson wanted more blood, more shame, more brutalities; it was the unconsecrated laity that stayed his hand.²⁰

Even as late as 1766, Catholic leaders demanded the death of a teenager, Chevalier de la Barre, for failing to remove his hat while a religious procession passed in Abbeville, France. Because the Roman Catholic Church had made it a capital offense to criticize the church, de la Barre was sentenced to have his tongue cut out, his right hand cut off, and to be burned at the stake. Despite having Voltaire as his advocate and despite the case being appealed to Parliament in Paris, the 17 year old could not be saved. Clergy demanded his death so he would serve as an example. Parliament's mercy was to order decapitation rather than mutilating and burning him alive. The boy was first tortured, then his body was burned — along with a copy of Voltaire's *Philosophical Dictionary*.²¹

The Inquisition was never abolished. It was reorganized in 1542 and its name was officially changed to the Supreme Sacred Congregation of the Universal Roman Inquisition;²² today it is known as the Congregation for the Doctrine of the Faith. Cardinal Joseph Ratzinger headed that latter-day Inquisition from 1981 until his reign as pope began. Under his prefecture, the Congregation for the Doctrine of the Faith pronounced the Catholic teaching against the ordination of women a “deposit of the faith,” meaning it is beyond the right even of any pope to rescind. So much for “religious liberty.”

THE CATHOLIC NOTION OF ‘FREEDOM’

As long as there has been religion, especially religion united with government, there has been persecution in its name. The American colonies were no exception. All but one colony practiced religious intolerance. The Anglicans persecuted the Baptists in Virginia, the Quakers were persecuted almost everywhere, and the Puritans of New England persecuted every adherent of other religions, including Catholics. The history of religious persecution in Europe and the colonies was the major reason the founders adopted a godless and entirely secular Constitution that separates state and church. In a salvo against a “three pence” tax to support Christian teachers in Virginia, James Madison wrote:

“During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy, ignorance and servility in the laity, in both, superstition, bigotry and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest luster; those of every sect, point to the ages prior to its incorporation with Civil policy. . . . Torrents of blood have been split in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion.”²³

The Bishops claim “Maryland’s 1649 Act Concerning Religion” as “the first law in our nation’s history to protect an individual’s right to freedom of conscience.”²⁴ This is wrong on two counts: (1) it was not the

²⁰ Mark Twain, *Europe and Elsewhere* (1923).

²¹ See Gordon Stein, *The Encyclopedia of Unbelief*, Vol. 2, 717 (Prometheus Books, 1985).

²² Apostolic Letter of Pope Paul VI, *Integrae Servandae*, (Dec. 7, 1965) available on the Vatican website at http://www.vatican.va/holy_father/paul_vi/motu_proprio/documents/hf_p-vi_motu-proprio_19651207_integrae-servandae_en.html.

²³ James Madison, *Memorial and Remonstrance Against Religious Assessments* (1785).

²⁴ Bishops’ Statement at 5.

first law to protect freedom of conscience, and (2) it was a start, but woefully inadequate to protect the freedom of conscience.

In 1638, Anne Hutchinson and others, fleeing religious persecution by Massachusetts Puritans, settled on Aquidneck Island, and founded the towns of Portsmouth and Newport.²⁵ Their settlement would become the colony of Rhode Island and in March of 1641 its people unanimously agreed to form a “Democracy, or Popular Government.”²⁶ Seven years before Maryland adopted its Toleration Act, this new democracy, the Government of Rhode Island, declared, “that none be accounted a Delinquent for Doctrine: Provided, it be not directly repugnant to ye Government or Laws established.”²⁷ This sentiment was written into the 1663 charter of Rhode Island: “no person within the said colony... shall be in any wise molested, punished, disquieted or called in question, for any differences in opinion in matters of religion, and do not actually disturb the civil peace of our said colony.”²⁸ This was the first law to protect the freedom of conscience in the colonies and to posit that religious belief cannot trump secular law.

On the other hand, the Maryland Toleration Act of 1649, while an improvement on the status quo in most of the other colonies, mandated the death penalty for any person who denied the trinity or Jesus.²⁹ This act tolerated any religion so long as it included a belief in the Christian trinity. Had this act been enforced instead of our secular Constitution, Thomas Jefferson could have been executed for writing:

“Ridicule is the only weapon which can be used against unintelligible propositions. Ideas must be distinct before reason can act upon them; and no man ever had a distinct idea of the trinity. It is mere Abracadabra of the mountebanks calling themselves the priests of Jesus.”³⁰

In addition to imposing the death penalty on all non-Trinitarian Christians, the Toleration Act made it a crime to “utter any reproachful words or Speeches concerning the blessed Virgin Mary the Mother” or call anyone a “heretic, Schismatic, Idolater, Puritan, Independent, Presbyterian popish priest, Jesuit, Jesuited papist, Lutheran, Calvinist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, Separatist, or any other name or term in a reproachful manner relating to matter of Religion.” Offenders were fined, publicly whipped, jailed, or banished.

Jefferson’s Virginia Statute on Religious Freedom (1786) established genuine religious liberty and was the model for James Madison’s First Amendment. Jefferson warned of:

“the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time.”

²⁵ Thomas Williams Bicknell, *The History of the State of Rhode Island and Providence Plantations*, Vol. 1, 306 (American Historical Society, 1920).

²⁶ *Id.* at 314.

²⁷ Franz Newton Thorpe, ed., *The Federal and state constitutions, colonial charters, and other organic laws of the state, territories, and colonies now or heretofore forming the United States of America*, Vol. 6, 3207-3208 (Government Printing Office 1909), available at <http://books.google.com/books?id=7qMYAAAIAAJ&pg=PA3207#v=onepage&q&f=false>

²⁸ Leo Pfeffer, *Church State, and Freedom*, 85 (Beacon Press, 1953).

²⁹ Whoever “shall from henceforth blaspheme God, that is Curse him, or deny our Savior Jesus Christ to be the son of God, or shall deny the holy Trinity the father son and holy Ghost, or the Godhead of any of the said Three persons of the Trinity or the Unity of the Godhead, or shall use or utter any reproachful Speeches, words or language concerning the said Holy Trinity, or any of the said three persons thereof shall be punished with death and confiscation or forfeiture of all his or her lands and goods...”

³⁰ Letter from Thomas Jefferson to Francois Van der Kemp (1816).

Jefferson simply, yet brilliantly summed up the rights of conscience: “our civil rights have no dependence on our religious opinions any more than our opinions in physics or geometry.”

The Bishops’ choice of legal precedent is telling. They cite a law that mandated death for anyone who does not believe in their trinity that offered “liberty” only to those who believe as they believe.

THE REAL BURR IN THE BISHOPS’ SADDLE: The HHS Contraception Mandate

On August 1, 2011, the Internal Revenue Service, Department of Labor, and Department of Health and Human Services jointly announced new guidelines for employee access to preventative health care. The new regulations greatly expand access to preventative care under the new healthcare act, particularly for women. One of the most significant changes is the provision that all FDA-approved contraceptives as well as contraceptive counseling and education, shall be provided without a co-pay. The proposal also requires that group and individual health insurance providers offer services such as wellness visits, screening for gestational diabetes, HPV, and other STD testing without a co-pay.

Under the new guidelines, group health plan sponsors whose primary purpose is religious indoctrination and who primarily employ and serve people who share their religious tenets (including the Roman Catholic Bishops, Roman Catholic Churches, and any other churches or religious denominations) are automatically exempt from providing these services (28 states already provide for contraceptive coverage while providing almost the same exemption³¹). The Bishops are lobbying to expand this exemption to non-church religious or quasi-religious institutions such as hospitals or schools, which employ numerous non-Catholics and often receive vast amounts of public money. President Obama, in deference to the Bishops’ concerns, has already exempted religiously-associated hospitals and schools from *personally* providing the contraceptive mandate. His compromise, seeking to protect workers’ healthcare rights and to honor concerns of these religious institutions, orders *private* insurance companies to provide and pay for contraception coverage so that, for instance, a Jewish professor at Notre Dame is not denied the benefit, but the school is not providing or paying for it.³²

Bishops and clergy should not be dictating healthcare policy. Their battle — fought in a presidential election year — to expand this exemption deliberately obscures the true meaning of religious liberty by:

1. Claiming that their every action is an exercise of religious freedom; and
2. Claiming they must impose their beliefs on others if they are to contribute to the “common good.”

1. Not Every Act is an Exercise of Religious Freedom.

There are many acts which, although motivated by religion, are not religious acts and therefore not protected by the right to freely exercise one’s religion. Let’s use the example of driving a car. Driving is a secular act; it does not implicate the right to the free exercise of religion. The driver may be on her way to the store or to church, i.e., her motivation may be secular or religious, but *regardless of her motivation*, driving a car is not a religious act. If the driver does not wish to comply with traffic laws she does not get to drive; she loses her license. Suppose she was not driving, but running a hospital or a university. Providing medical care or education are not intrinsically religious acts. The founders of a hospital or university may be motivated by religion and religious beliefs, but so is our hypothetical church-going driver. If the Bishops do not wish Catholic-oriented institutions to comply with the new HHS laws then

³¹ Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 77 Fed. Reg., Number 31, 8725, 8728 (Feb. 15, 2012) (codified at 45 CFR Part 147.).

³² Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 77 Fed. Reg., Number 31, 8725 (Feb. 15, 2012) (codified at 45 CFR Part 147.) *available at* http://www.regulations.gov/#!documentDetail:D=HHS_FRDOC_0001-0443.

they are free to exit the secular businesses of education and medicine. They must obey the law and honor the civil liberties of their diverse employees.

2. The Catholic faith compromises “good works”

The Bishops write, “Religious liberty is not only about our ability to go to Mass on Sunday or pray the Rosary at home. It is about whether we can make our contribution to the common good of all Americans.” We welcome your contributions to the common good, but not at the price of being forced to comply with your sect’s particular beliefs.

The Bishops ask, “Can we do the good works our faith calls us to do, without having to compromise that very same faith?” Your faith is not compromised by your good works; your good works are compromised by your faith. Providing safe, happy homes for children is admirable. Preventing orphaned children from having a safe, happy home because the adopting parents are the same sex is reprehensible. Providing a roof and bed for the poor is praiseworthy. Denying the same to an admittedly gay couple³³ or requiring an expression of faith from the unfortunate beforehand is despicable. Providing medical coverage to secular employees is laudable and now legally mandated. Withholding coverage to secular employees because of religious teachings is tyranny. Irrationality, bigotry, and discrimination will never contribute to the common good.

LITANY OF EXAGGERATED AFFRONTS

In an obvious attempt to scare its flock into action, the Bishops list a number of other “concrete,” but actually exaggerated, examples of violations of religious freedom.

- The Bishops challenge the draconian immigration laws of some states, singling out Alabama as the worst. The 11th Circuit enjoined the enforcement of that law because it is likely unconstitutional (and did so before the Bishops drafted their statement.)³⁴ Even so, the Bishops’ well-intentioned lawsuit against Alabama has gone astray. In their complaint, the Bishops argue that *their* rights are being violated, not those of immigrants whom the law seeks to deport. The Bishops do not base their challenge on the fact that immigration regulation is solely a federal power, or on the civil rights of the immigrants as the ACLU has, or on the unenforceability of the law as some Alabama sheriffs have done. No, the Bishops claim that “the Law will prohibit the members of these mainstream congregations [Episcopal, Methodist and Roman Catholic] from being able to freely practice their faith to minister to all of God’s children without regard to immigration status” and will “brand Christians as criminals.”³⁵ The complaint alleges that the law violates their First Amendment rights to “freely exercise their requisite duty to practice the Gospel.”³⁶ The complaint makes the Catholic Bishops the victims of the law, not the immigrants. The complaint quotes liberally from the bible, the Episcopal Book of Common Prayer, and even the Catholic catechism. The Bishops argue that the law is “a direct affront to the recognized and accepted Word of God.”³⁷ (Recognized and accepted by whom, 50 million non-believing Americans may wonder?) The court dismissed the Bishops’ suit for lack of standing — Galatians 6:7 comes to mind, men reaping what they sow. The court found that the Bishops and their congregants would not suffer any injury to their religious freedom from the enforcement of the law.

³³ Mark Oppenheimer, *Sounding Quiet Dissent About a Holiday Perennial*, N.Y. Times, December 24, 2011, at A15, available at <http://www.nytimes.com/2011/12/24/us/beliefs-salvation-army-hears-dissent-over-gay-views.html>

³⁴ The Bishops published their statement on April 12, 2012. The 11th Circuit enjoined major portions of the Alabama law on October 14, 2011, and expanded the injunction to include other portions on March 8, 2012.

³⁵ Complaint for Declaratory and Injunctive Relief at 2, *Parsley v. Bentley*, No. CV-11-S-2736-NE (N.D. Ala. 2011) available at <http://www2.oanow.com/mgmedia/file/653/pdf-immigration-lawsuit/>.

³⁶ *Id.* at 3.

³⁷ *Id.*

- The Bishops also attack an obscure 2009 Connecticut bill, Senate Bill 1098, which, although voted down by the judiciary committee, is cited as evidence of “religious discrimination.” The Bishops fail to mention that one of the bill’s two authors, Michael Lawlor, is himself a Catholic who wrote the bill “in response to requests from a Catholic constituent who wanted more transparency in church financial management in the wake of cases of questionable uses of money at St. John Church in Darien and St. Michael the Archangel in Greenwich, both in the Diocese of Bridgeport.”³⁸ (Bishop Lori, Chairman of the Ad-Hoc Committee on Religious Liberty that drafted the Bishops’ “Statement on Religious Liberty,” is bishop of that same diocese.) In fact, the Bishops leave out quite a bit of information in their attack on Senate Bill 1098. For instance, Connecticut law already regulates the Catholic Church and other denominations in Chapter 598 of Title 33, “Religious Corporations and Societies.” Regulation of the Church, which is a corporation organized under the laws of Connecticut, was not new. The proposed bill specifically stated that it could not be used to construe or limit any “matters pertaining exclusively to religious tenets and practices.”³⁹ The bill would only have required a board of directors to be responsible for financial dealings and opening the financial books to inspection of any corporation member — a typical requirement of all corporations organized in any state. The Bishops neglect to mention the purpose of the bill, to “provide for the investigation of the misappropriation of funds by religious corporations.”
- The Bishops also attack the Supreme Court’s decision in *Christian Legal Society v. Martinez*.⁴⁰ The University of California, Hastings, refused to officially recognize (and thereby support financially) the Christian Legal Society (CLS) because the CLS discriminates against all non-Christians and GLBTs. The CLS required its members to hold to a “Statement of Faith” including a ban on anyone who engages in “unrepentant homosexual conduct” and a refusal to allow Jews, Muslims, atheists, or other non-Christians to join the group.⁴¹ University policy prohibits discrimination on the basis of sexual orientation and religion. The CLS wanted to discriminate and wanted the state’s help. The CLS and the Bishops are perfectly free to discriminate against any body, but not to demand or receive official sanction, government funds, or government help to do so. This is not an attack on religious freedom, it is a refusal to sanction religious discrimination. Bishops, discriminate all you want, but don’t look for government or humanity’s approval.
- The Bishops also attack the denial of government funded contracts and licenses to Catholic adoption agencies and foster care services because they discriminate against gays, refusing to place children with gay couples on religious grounds. Private agencies can discriminate, but they do not get the privilege — and it is a privilege, not a right — of official recognition and licensure. Adoption agencies should jump at the chance to give an orphaned child to a loving family, but the Bishops prefer to keep children in foster-care limbo if that loving family has two parents of the same sex. If religious ideals will not let you complete the job you were contracted for — finding families for children — than you should not be given the contract in the first place. Your religious freedom is not in danger. You are free to believe that two consenting adults in love is an abomination, but you are not free to keep children from a loving home because of that belief when contracting with the government to provide adoption services.

³⁸ Mark Pazniokas, *Judiciary Committee Finds Itself Under Heat*, N.Y. Times, March 27, 2009, at CT1, available at http://www.nytimes.com/2009/03/29/nyregion/connecticut/29polct.html?_r=1.

³⁹ S. 1098(h), (Conn. 2009) available at <http://www.cga.ct.gov/2009/TOB/S/2009SB-01098-R00-SB.htm>.

⁴⁰ *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the Law v. Martinez*, 130 S. Ct. 2971 (2010).

⁴¹ *Id.* at 2980.

- The Bishops attack the prohibition of church services in public school buildings in New York City, declaring it discrimination.⁴² By one 2006-2007 estimate,⁴³ the Catholic Church owned \$2.5 billion worth of property in New York City. St Patrick’s Cathedral (631 5th Ave.) alone is worth \$182 million.⁴⁴ Churches have ample tax-free places in which to conduct worship services. It is not discrimination to ask them to respect the Establishment Clause by not worshipping in the taxpayer-funded institutions where students go to learn. The Second Circuit rightly thought it was reasonable to “worry that the regular, long-term conversion of schools into state-subsidized churches on Sundays would violate the Establishment Clause by reason of public perception of endorsement. . . . The possibility of perceived endorsement is made particularly acute by the fact that [public] schools used by churches are attended by young and impressionable students, who might easily mistake the consequences of a neutral policy for endorsement.”⁴⁵
- Finally, the Bishops cry “discrimination” because a federal court held that the government “violated the Establishment Clause of the First Amendment to the United States Constitution, insofar as they delegated authority to a religious organization to impose religiously based restrictions on the expenditure of taxpayer funds, and thereby impliedly endorsed the religious beliefs of the USCCB and the Catholic Church.”⁴⁶ The Trafficking Victims Protection Act (TVPA) was passed “to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.”⁴⁷ Thousands of these victims “are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.”⁴⁸ To provide care for these victims, the HHS Secretary is authorized to disperse \$10 million annually to “expand benefits and services to victims of severe forms of trafficking in the United States.”⁴⁹

HHS awarded the Conference of Bishops \$15.9 million over the past six years, \$5.3 million of which the Bishops used to pay administrative costs.⁵⁰ The Bishops imposed a condition on its acceptance of the money: it would not, nor would it allow its subcontractors to, “provide or refer for abortion services or contraceptive materials for our clients pursuant to this contract.”⁵¹ This limitation was imposed despite the fact that many of the victims were repeatedly raped and at constant risk of unwanted pregnancies and contraction of sexually transmitted diseases, including AIDS. The Bishops were not seeking religious freedom, but the freedom and public funds to impose their religious beliefs on some of society’s most needy and vulnerable. The fact that 33% of the taxpayers’ money went to “administrative costs” and not services may offer clue as to why the Bishops are really upset with this obviously correct holding.

In ruling that the Catholic Church cannot impose its religious strictures on the rape victims whom it is supposed to be serving, the court wrote, “To insist that the government respect the separation of church and state is not to discriminate against religion; indeed, it promotes a respect for religion by refusing to

⁴² *Bronx Household of Faith v. Board of Educ. of City of New York*, 650 F.3d 30 (2nd Cir. 2011).

⁴³ The Holy Trinity Contemporary Roman Catholics, Estimated Financial Report for the Archdiocese of New York, <http://www.crcnyc.net/archny/report.html>.

⁴⁴ City-Data.com property valuation of the 600 block of 5th Ave., Manhattan, New York, <http://www.city-data.com/ny-properties/assessments/Manhattan/5/5th-Avenue-53.html>

⁴⁵ *Bronx Household of Faith v. Board of Educ. of City of New York*, 650 F.3d 30, 42 (2nd Cir. 2011).

⁴⁶ *Am. Civil Liberties Union of Massachusetts v. Sebelius*, 821 F. Supp. 2d 474, 488 (D. Mass. 2012).

⁴⁷ 22 U.S.C. § 7101(a).

⁴⁸ 22 U.S.C. § 7101(b)(6).

⁴⁹ *Am. Civil Liberties Union of Massachusetts v. Sebelius*, 821 F. Supp. 2d 474, 476 (D. Mass. 2012).

⁵⁰ *Id.* at n. 7.

⁵¹ *Id.* at 476-77.

single out any creed for official favor at the expense of all others.”⁵² The Bishops want to have their cake and eat it too. They want to oppress people in the name of their religion while claiming a government sanction to do so.

CIVIL DISOBEDIENCE AND CIVIL RIGHTS

The Bishops allege that “[t]he civil rights movement was an essentially religious movement.”⁵³ They liken themselves to the heroes of that movement by asking “Catholics in America, in solidarity with our fellow citizens” to “have the courage not to obey” unjust laws.⁵⁴ Both claims are disingenuous.

The Catholic Church is engaged in “a crude rewriting of history that obliterates the great black and white secularists — Bayard Rustin, A. Philip Randolph, Walter Reuther — who actually organized the March on Washington.”⁵⁵ This historical revisionism suits the purposes of the Catholic Church because it contributes to the end they are seeking: “a free pass to any demagogue who can manage to get the word *reverend* in front of his name.”⁵⁶

Of course, the Bishops are ignoring the fact that the motivations and justifications for “slavery, segregation, and racial bigotry,”⁵⁷ were largely religious and that the many segregated churches and pious religionists fought against the civil rights movement. St. Paul wrote, “slaves, obey your earthly masters in everything”⁵⁸ and “slaves, obey your earthly masters with respect and fear, and with sincerity of heart, just as you would obey Christ.”⁵⁹ The Bishops quote Martin Luther King’s *Letter from Birmingham Jail*, but not its lines expressing his “disappoint[ment] with the white church and its leadership,” and King’s feeling that he “must honestly reiterate that [he was] disappointed with the church.” He went on to say, “I felt that the white ministers, priests, and rabbis of the South would be some of our strongest allies. Instead, some few have been outright opponents, refusing to understand the freedom movement and misrepresenting its leaders...” Time and again he expressed his disappointment that the “white churches stand on the sidelines and merely mouth pious irrelevancies and sanctimonious trivialities.” King often spoke out against religious acceptance of segregation declaring, “I am ashamed[d] and appalled that Eleven o’clock on Sunday morning is the most segregated hour in Christian America.”⁶⁰

Throughout history churches have been a millstone around the neck of social progress, whereas nonbelievers have almost always been early agitators on the side of civil rights. Even now, 90% of nonbelievers support the right of two consenting adults to get married,⁶¹ whereas the Catholic Church is adamantly against such equality. The Church’s attempt to co-opt the civil rights movement and portray itself as a champion of minorities is all the more galling given that their teachings against condom use are killing *millions* of Africans.

⁵² *Id.* at 488.

⁵³ Bishops’ Statement at 7.

⁵⁴ *Id.*

⁵⁵ Christopher Hitchens, *Identity Crisis: There’s something pathetic and embarrassing about our obsession with Barack Obama’s race*, Slate.com (Jan. 7, 2008) available at http://www.slate.com/articles/news_and_politics/fighting_words/2008/01/identity_crisis.html.

⁵⁶ *Id.*

⁵⁷ Bishops’ Statement at 7.

⁵⁸ Colossians 3:22

⁵⁹ Ephesians 6:5

⁶⁰ Martin Luther King, Jr. to Women’s Society of Riverside Church New York, August 9, 1953, in *The Papers of Martin Luther King, Jr. Volume VI: Advocate of the social gospel, September 1948-March 1963*, 149 (Eds. Susan England, Susan Carson, Gerald Smith, and Troy Jackson; University of California Press, 2007).

⁶¹ Frank Newport, *Half of Americans Support Legal Gay Marriage*, (May 8, 2012) (citing Gallup Values and Beliefs Poll 2012) available at www.gallup.com/poll/154529/Half-Americans-Support-Legal-Gay-Marriage.aspx.

In his recent essay “Our Father’s Not in Heaven, the New Black Atheism,”⁶² Cord Jefferson writes about how “the last line of Martin Luther King, Jr.’s ‘I Have a Dream’ address began to bother” him. He recalls asking the simple yet powerful question: “if everyone does get free at last why would we thank God Almighty? Why not thank ourselves for working hard?” It was not a god or a religion that carried the civil rights movement; it was people’s refusal to accept unjust laws, and they took their cue from the freethinker Henry David Thoreau.

In his autobiography Martin Luther King wrote:

“I became convinced that noncooperation with evil is as much a moral obligation as is cooperation with good. No other person has been more eloquent and passionate in getting this idea across than Henry David Thoreau. As a result of his writings and personal witness, we are the heirs of a legacy of creative protest. The teachings of Thoreau came alive in our civil rights movement; indeed, they are more alive than ever before. Whether expressed in a sit-in at lunch counters, a freedom ride into Mississippi, a peaceful protest in Albany, Georgia, a bus boycott in Montgomery, Alabama, these are outgrowths of Thoreau’s insistence that evil must be resisted and that no moral man can patiently adjust to injustice.”

Unlike King, the Bishops are seeking to disobey a *just* law. They seek to violate the freedom of conscience of others, especially non-Catholics. Thoreau, the author of the treatise *On the Duty of Civil Disobedience*, would be appalled. The Bishops are not following in the footsteps of the Selma Marchers or the Freedom Riders, they are latter-day Governor Wallaces — bigots seeking a legal sanction to discriminate and use the force of civil law to inflict their religious doctrines on non-Catholics. The church does not seek civil rights, it seeks to deny civil rights.

THE MOST ESSENTIAL FREEDOM

The most important religious freedom we have as Americans is the freedom *from* religion. James Madison, the author of the First Amendment, wrote, “An *advisory* Government is a contradiction in terms. The members of a Government as such can in no sense, be regarded as possessing an advisory trust from their Constituents in their religious capacities.”⁶³ Unless our government is free from religion, the people over whom that government exercises its power will not possess a true freedom of religion. The “Constitution of the U. S. forbids everything like an establishment of a national religion” and if it did not, Catholics would not have the freedom to be Catholics.⁶⁴

When Catholics were a small minority who suffered discrimination in this country, they understood the need for absolute separation of state and church. In a 19th century lawsuit, Catholic families sued Wisconsin for reading the King James Version of the Bible in public schools. The Wisconsin Supreme Court held that the bible-reading and Protestant devotionals violated the Wisconsin Constitution. The court wrote:

“There is no such source and cause of strife, quarrel, fights, malignant opposition, persecution, and war, and all evil in the state, as religion. Let it once enter our civil affairs, our government would soon be destroyed. Let it once enter our common schools, they would be destroyed.”⁶⁵

⁶² Available at <http://gawker.com/5911224/our-fathers-not-in-heaven-the-new-black-atheism>.

⁶³ James Madison, *Detached Memoranda* (ca. 1823) (emphasis added).

⁶⁴ *Id.*

⁶⁵ *Weiss v. District Board*, 44 N.W. 967, 981 (1890).

Even as late as 1960, Catholic presidential candidate John F. Kennedy proclaimed: “I believe in an America where the separation of church and state is absolute.”⁶⁶ If the Catholic Church truly values religious freedom, it should reaffirm the importance of the Establishment Clause of the First Amendment, not distort its meaning by a self-serving redefinition of religious liberty.

THE RISE OF THE NONES

If ever there was a time for the Nones to flex our collective muscle it is now. The pope sees a need for “an engaged, articulate and well-formed Catholic laity endowed with a strong critical sense vis-à-vis the dominant culture and with the courage to counter a reductive secularism which would delegitimize the Church’s participation in public debate about the issues which are determining the future of American society.” We Nones are a force to be reckoned with — engaged, articulate, well-informed, and endowed with strong critical minds. The pope and his bishops fear those who use reason to evaluate religious claims. It is time for secularists to rise up and bring our voice to bear against the Bishops’ attempt to subvert liberty of conscience.

Internet action is not enough. It is time to step from the online shadows and into the light of action. It is time to declare yourself openly, to seek out meetings with elected officials, to stand in protest outside your seat of government, to write public letters to the editor, and to help FFRF combat the Church’s multi-million dollar campaign to redefine religious liberty. [Join us!](#)⁶⁷

We gathered 20,000 strong in our nation’s Capital this March. We Nones are the fastest growing religious identification in this country. It is time to resist the Catholic Church and act to protect true religious liberty. Stand down the Bishops!

The Catholic Church’s campaign should sound an alarm. The Bishops do not seek freedom of religion, but the freedom to impose their religion on you. Voltaire fought the Church’s tyranny with a rallying cry we must revive today: *Écrasez l’Infâme!*⁶⁸

This document, *Our First, Most Cherished Freedom: A Statement Exposing the Catholic Church’s attempt to Redefine Religious Liberty*, was developed by the Freedom From Religion Foundation. Please visit our website, www.ffrf.org, to learn more about us. If you would like to join us in the fight against religious tyranny, please visit <http://ffrf.org/get-involved/membership/> or donate here: <http://ffrf.org/donate/>

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⁶⁶ John F. Kennedy, Address to the Greater Houston Ministerial Association (Sept. 12, 1960).

⁶⁷ <http://ffrf.org/donate/>

⁶⁸ “Let us crush the infamous!”