

The White House Attack on Religion Continues: Repealing Conscience Protection

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by David Barton

Some of the first acts of the new presidential administration make it clear that there has been a dramatic change in the way that traditional religious faith is going to be handled at the White House. For example, when the new White House website went public immediately following the inauguration, it dropped the previously prominent section on the faith-based office.



A second visible change was related to hiring protections for faith-based activities and organizations. On February 5, President Obama announced that he would no longer extend the same unqualified level of hiring protections observed by the previous administration but instead would extend those traditional religious protections to faith-based organizations only on a "case-by-case" basis. ¹

Significantly, hiring protections allow religious organizations to hire those employees who hold the same religious convictions as the organization. As a result, groups such as Catholic Relief Services can hire just Catholics; and the same is true with Protestant, Jewish, and other religious groups. With hiring protections, religious groups cannot be forced to hire those who disagree with their beliefs and values – for example, Evangelical organizations cannot be required to hire homosexuals, pro-life groups don't have to hire pro-choice advocates, etc.

Hiring protections are inherent within the First Amendment's guarantee for religious liberty and right of association, and were additionally statutorily established in Title VII of the 1964 Civil Rights Act. Congress subsequently strengthened those protections, declaring that any "religious corporation, association, education institution, or society" could consider the applicants' religious faith during the hiring process. ² The Supreme Court upheld hiring protections in 1987, ³ and Congress has included those protections in numerous federal laws. ⁴ But when Democrats regained Congress in 2007, on a party-line vote they began removing hiring protections for faith-based organizations. ⁵



The current concern about the weakening of traditional faith-based hiring protections is heightened by the White House's announcement of President Obama's commitment to "pass the Employment Non-Discrimination Act, to prohibit

discrimination based on sexual orientation.” [6](#) This act would fully repeal faith-based hiring protections related to Biblical standards of morality and behavior, thus directly attacking the theological autonomy of churches, synagogues, and every other type of religious organization by not allowing them to choose whether or not they want to hire homosexuals onto their ministry staffs.

The administration’s third attack on religion occurred in the President’s stimulus bill, which included a provision specifically denying stimulus funds to renovate higher educational facilities “(i) used for sectarian instruction or religious worship; or (ii) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.” [7](#) As Republican Senator Jim DeMint (SC) explained, “any university or college that takes any of the money in this bill to renovate an auditorium, a dorm, or student center could not hold a National Prayer Breakfast.” [8](#) Sen. DeMint therefore introduced an amendment to “allow the free exercise of religion at institutions of higher education that receive funding,” [9](#) but his amendment was defeated along a party-line vote.



The fourth attack on tradition religious faith appeared in President Obama’s 2010 proposed budget, which included a seven-percent cut in the deduction for charitable giving. Experts calculate that this will result in a drop of \$6 billion in contributions to charitable organizations, including to religious groups. [10](#)

The fifth attack is the White House’s announcement that it will seek the repeal of conscience protection for health care workers who refuse to participate in abortions or other health activities that violate their consciences. [11](#)

In order to fully understand the far-reaching ramifications of this announcement, it will be helpful to review the history of conscience protection in the United States.



Today’s liberals and secularists attempt to relegate the effects of America’s Judeo-Christian heritage exclusively to the realm of a personal theological choice, ignoring the fact that Judeo-Christian teachings also encompass a philosophy of living that is directly proportional to the degree of civil liberty enjoyed in a society. Early statesman Dewitt Clinton (1769-1828) correctly recognized that Biblical faith applies not just “to our destiny in the world to come” but also “in reference to its influence on this world,” and therefore must always “be contemplated in [these] two important aspects.” [12](#)

While today’s post-modern critics refuse to acknowledge the dual aspects of Judeo-Christian faith, America’s Framers wisely recognized and heartily endorsed the influence of those teachings on the civil arena – especially on the formation of America’s unique republican (i.e., elective) form of government:

The Bible. . . . [i]s the most republican book in the world. ¹³ **JOHN ADAMS**, SIGNER OF THE DECLARATION, FRAMER OF THE BILL OF RIGHTS, U. S. PRESIDENT

I have always considered Christianity as the strong ground of republicanism. . . . It is only necessary for republicanism to ally itself to the Christian religion to overturn all the corrupted political . . . institutions in the world. ¹⁴ **BENJAMIN RUSH**, SIGNER OF THE DECLARATION, RATIFIER OF THE U. S. CONSTITUTION

[T]he genuine source of correct republican principles is the Bible, particularly the New Testament or the Christian religion. . . . and to this we owe our free constitutions of government. ¹⁵ **NOAH WEBSTER**, REVOLUTIONARY SOLDIER, LEGISLATOR, JUDGE

They . . . who are decrying the Christian religion . . . are undermining . . . the best security for the duration of free governments. ¹⁶ **CHARLES CARROLL**, SIGNER OF THE DECLARATION, FRAMER OF THE BILL OF RIGHTS

[T]o the free and universal reading of the Bible . . . men were much indebted for right views of civil liberty. ¹⁷ **DANIEL WEBSTER**, "DEFENDER OF THE CONSTITUTION"

Scores of other Framers, statesmen, and courts made similarly succinct declarations about how the Judeo-Christian Scriptures not only shaped republicanism ¹⁸ but also many other unique aspects of our civil culture.

For example, when Benjamin Franklin founded America's first hospital, he chose the Bible's story of the Good Samaritan for its logo, with the passage from Luke 10:35 beneath: "Take care of him and I will repay thee." Significantly, it was Jesus Who not only taught that it was proper to help the hurt (Luke 10:25-37) but He also taught that it was proper to feed the hungry, befriend the stranger, clothe the needy, visit the bedridden, and support the imprisoned (Matthew 25:34-40) – and to do so for strangers (Luke 10:27-37) as well as for enemies (Matthew 9:35-39). His teachings provide the true standard for charitable relief and civil benevolence.



Scriptural teachings were so important to society at large that America's most famous public school textbooks taught students Biblical teachings such as the Good Samaritan; ¹⁹ and even today, states continue to pass "Good Samaritan" statutes to protect willing volunteers (i.e., Good Samaritans) from legal liability for good-faith assistance efforts.

Incontrovertibly, Biblical teaching such as the Good Samaritan, the Golden Rule (“Do unto others and you would have them do unto you” Matthew 7:12), and many others have elevated the culture; and even though these specific teachings are exclusive to Christianity, their primary application is to civil society.

The Framers thus properly recognized Christian teachings as the basis of America’s great civil benevolence – its unprecedented willingness to help others:

Christian benevolence makes it our indispensable duty to lay ourselves out to serve our fellow-creatures to the utmost of our power. ²⁰ **JOHN ADAMS**

[T]he doctrines promulgated by Jesus and His apostles [include] lessons of peace, of benevolence, of meekness, of brotherly love, [and] of charity. ²¹ **JOHN QUINCY ADAMS, U. S. PRESIDENT**

Let the religious element in man’s nature be neglected . . . and he becomes the creature of selfish passion. . . . [T]he cultivation of the religious sentiment . . . incites to general benevolence. ²² **DANIEL WEBSTER**

Christianity . . . introduce[ed] a better and more enlightened sense of right and justice. . . . It taught the duty of benevolence to strangers. ²³ **JAMES KENT, “FATHER OF AMERICAN JURISPRUDENCE”**

The Christian philosophy, in its tenderness for human infirmities, strongly inculcates principles of . . . benevolence. ²⁴ **RICHARD HENRY LEE, SIGNER OF THE DECLARATION, FRAMER OF THE BILL OF RIGHTS**

Significantly, nations that are primarily secular in their orientation (or those predominated by non-Judeo-Christian religions such as Islam, Hinduism, Zoroastrianism, Buddhism, Shinto, Confucianism, Jainism, Taoism, Sikhism, Bahá’í, Diasporic, Juche, etc.) rarely become involved in benevolent endeavors, and certainly are not aggressive in organizing humanitarian relief. In fact, when the massive tsunami devastated Muslim Indonesia in 2004, other Muslim nations did little to assist a nation of their own faith, yet America – even though considered by Indonesia’s dominant religion to be the “Great Satan” – was quickly on the scene, providing assistance in money, supplies, labor, and technology.

The benevolence that characterizes America – the compassion and humanitarianism that we have inculcated into our culture – is the unique product of the Bible; and non- and even anti-religious Americans have been trained in Biblical benevolence as characteristic of our culture (even if they do not recognize the source of that principle!).



The Ten Commandments provide another example of Biblical teachings that are also primarily societal. As our early leaders noted:



If “Thou shalt not covet,” and “Thou shalt not steal,” were not commandments of Heaven, they must be made inviolable precepts in every society before it can be civilized or made free. [25](#) **JOHN ADAMS**

The law given from Sinai was a civil and municipal as well as a moral and religious code . . . laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws. [26](#) **JOHN QUINCY ADAMS**

The fact that Biblical teachings provided so many positive effects on society has been understood by American leaders for over two centuries. For example, President Harry S. Truman acknowledged:

The fundamental basis of this Nation’s law was given to Moses on the Mount. The fundamental basis of our Bill of Rights comes from the teachings which we get from Exodus and St. Matthew, from Isaiah and St. Paul. I don’t think we emphasize that enough these days. [27](#)



President Teddy Roosevelt agreed:

The Decalogue and the Golden Rule must stand as the foundation of every successful effort to better either our social or our political life. [28](#)

In short, the Judeo-Christian system is the basis of many of our cherished civil traits – including our current affection for and commitment to protecting the RIGHTS OF CONSCIENCE.

According to America’s first dictionary, “CONSCIENCE” is:

Internal judgment of right and wrong; the principle within us that decides on the lawfulness or unlawfulness of our own actions and instantly approves or condemns them. Conscience is first occupied in ascertaining our duty before we proceed to action, then in judging of our actions when performed. Conscience is called by some writers the moral sense. [29](#)

That dictionary then gave a Biblical example to illustrate the meaning of the word:

Being convicted by their own conscience, they went out one by one. John 8. [30](#)

Significantly, Christ and His Apostles made the rights of conscience a repeated subject of emphasis, with thirty references to that topic in the New Testament alone. The warning is even issued that if an individual “wounds a weak conscience of

another, you have sinned" (1 Corinthians 8:12). Christians were therefore instructed to respect the differing rights of conscience (v. 13). (See also I Corinthians 10:27-29.) Christianity set forth clear protection for the rights of conscience.

However, in the twelve centuries that comprised the Dark Ages, the church sadly abandoned those doctrines; but beginning in the fifteenth century, Biblical leaders began to re-embrace those original teachings. As a result, Menno Simons in Friesland (central Europe), ³¹ Jacobus Arminius in Netherlands, ³² John Calvin in France, ³³ and others, advocated a return to protection for the rights of conscience. Subsequent writers, including Christian philosophers such as John Locke and Charles Montesquieu, also encouraged protection for the rights of conscience that had been reintroduced by Christian leaders. ³⁴

Those renewed Biblical teachings on protecting the rights of conscience were eventually carried to America, where they took root and grew to maturity at a rapid rate, having been planted in virgin soil completely uncontaminated by the apostasy of the previous twelve centuries. Hence, Christianity – especially as imported to America – became the world's single greatest historical force in securing non-coercion and the rights of conscience.

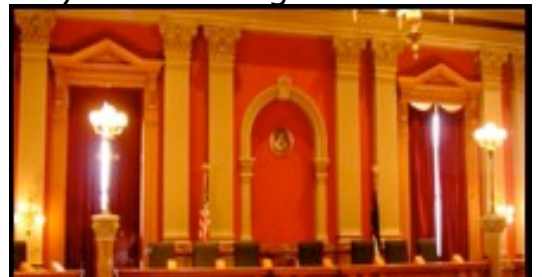
For example, in 1640 when the Rev. Roger Williams established Providence, he penned its governing document declaring:

We agree, as formerly hath been the liberties of the town, so still, to hold forth liberty of conscience. ³⁵

Similar protections also became part of subsequent early American documents, including the 1649 Maryland "Toleration Act," ³⁶ the 1663 charter for Rhode Island, ³⁷ the 1664 Charter for Jersey, ³⁸ the 1665 Charter for Carolina, ³⁹ and the 1669 Constitutions of Carolina. ⁴⁰ Christian minister William Penn incorporated the same protections into the governing documents he authored, including in 1676 for West Jersey, ⁴¹ in 1682 for Pennsylvania, ⁴² and in 1701 for Delaware. ⁴³ There are many additional examples.

Historically speaking, it was the followers of Biblical Christianity who vigorously pursued and first achieved the protection for the rights of conscience that subsequently became an central characteristic of the American civil fabric. Even Roscoe Pound (1870-1964; a professor at four different law schools and the Dean of the law schools at Harvard and the University of Nebraska) acknowledged that it was the Biblical-minded Puritans who first brought these rights to the forefront of civil protection; ⁴⁴ and in the words of an 1824 court:

[B]efore [the American colonial] period, the principle of liberty of conscience appeared in the laws of no people, the axiom of no government,



the institutes of no society, and scarcely in the temper of any man. [45](#)



So thoroughly was American thinking inculcated with protecting conscience that when America separated from Great Britain in 1776, the original state constitutions immediately secured the rights of conscience so long expounded by Christian leaders. (See, for example, the constitutions of Virginia, 1776; [46](#) Delaware, 1776; [47](#) North Carolina, 1776; [48](#) Pennsylvania, 1776; [49](#) New Jersey, 1776; [50](#) Vermont, 1777; [51](#) New York, 1777; [52](#) South Carolina, 1778; [53](#) Massachusetts, 1780; [54](#) New Hampshire, 1784; [55](#) etc.)

America's Framers openly praised those protections. For example, Governor William Livingston (a devout Christian and a signer of the U. S. Constitution) declared:

Consciences of men are not the objects of human legislation. [56](#)

John Jay (an author of the Federalist Papers, original Chief Justice of the U. S. Supreme Court, and President of the American Bible Society) likewise rejoiced that:

Security under our constitution is given to the rights of conscience. [57](#)

Thomas Jefferson (a signer of the Declaration and a U. S. President) repeatedly praised America's protections for the rights of conscience:

No provision in our Constitution ought to be dearer to man than that which protects the rights of conscience. [58](#)

[O]ur rulers can have no authority over such natural rights only as we have submitted to them. The rights of conscience we never submitted. [59](#)

A right to take the side which every man's conscience approves . . . is too precious a right – and too favorable to the preservation of liberty – not to be protected. [60](#)

It is inconsistent with the spirit of our laws and Constitution to force tender consciences. [61](#)

James Madison (a signer of the Constitution, a framer of the Bill of Rights, and a U. S. President) similarly affirmed:

Government is instituted to protect property of every sort. . . . [and] conscience is the most sacred of all property. [62](#)

Clearly, the right of conscience was a precious right under our Constitution. Today, the safeguards for the rights of conscience originally pioneered by Christian leaders



now appear in forty-seven state constitutions and have been extended to cover many diverse areas of life. Consequently:

- pacifists and conscientious objectors are not forced to fight in wars; [63](#)
- Jehovah's Witnesses are not required to say the Pledge of Allegiance in public schools; [64](#)
- the Amish are not required to complete the standard compulsory twelve years of education; [65](#)
- Christian Scientists are not forced to have their children vaccinated or undergo medical procedures often required by state laws; [66](#)
- Muslim and Jewish men are not required to shave their beards in jobs that otherwise require employees to be clean-shaven; [67](#)
- Seventh-Day Adventists cannot be penalized for refusing to work at their jobs on Saturday; [686](#)

and there are many additional examples.

America has a centuries-long and cherished tradition of protection for the rights of conscience, but President Obama has announced that he will rescind regulations protecting those rights for medical workers.

Significantly, immediately after the Supreme Court's *Roe v. Wade* abortion-on-demand decision, Congress promptly passed medical conscience protection to prohibit discrimination against doctors and nurses who for conscience sake declined to participate in abortions; the law even ordered that federal funds be withheld from medical institutions not providing conscience protection. [69](#) (Those federal requirements were included in a series of acts from the 1970s through 2008. [70](#))



While medical conscience protections originally centered on abortion, [71](#) they were soon expanded to include other controversial medical areas, including sterilization, [72](#) contraception, [73](#) and executions. [74](#) More recent areas of medical conscience concern include issues related to artificial insemination of lesbian couples, "surrogate" motherhood, cloning, embryonic stem-cell procedures, and euthanasia.



In fact, many doctors and pharmacists are completely unwilling to prescribe abortifacient drugs or to dispense the life-ending drugs associated with Washington State's new law authorizing euthanasia.

Even though conscience protections for medial personnel are deeply-rooted in federal law, a recent review found that federal funds were improperly being given to medical facilities and programs that did not provide conscience protection for workers – a violation of federal law. Therefore, Mike Leavitt, the former Secretary of the Department of Health and Human Services, instituted new regulations to "cut off federal funding for any state or local government, hospital, health plan, clinic or other entity that does not accommodate doctors, nurses, pharmacists and other

employees who refuse to participate in care they find ethically, morally, or religiously objectionable.” [75](#)



As the Department of Health and Human Services explained: “Over the past three decades, Congress enacted several statutes to safeguard the freedom of health care providers to practice according to their conscience. The new regulation will increase awareness of and compliance with these laws.” [76](#) Under those regulations, some 584,000 health-care organizations must provide written certification that they are in compliance with current federal laws on conscience protection or else lose federal funding (or even return funding they have already received).

The response of pro-abortion advocates to enforcing the existing conscience protection regulations was immediate:

- In the U. S. Senate, Senators Patty Murray (D-Wash) and Hillary Rodham Clinton (D-N.Y) filed S. 20 [77](#) to invalidate the conscience protection regulations.
- The ACLU and pro-abortion groups filed a lawsuit against the regulations. [78](#)
- President Obama announced that he would rescind the conscience protections. [79](#)



It is regrettable not only that the President should actively encourage non-enforcement of existing federal laws but that he should also seek to coerce healthcare workers to participate in performing abortions or other medical practices that violate their moral, ethical, or religious convictions.

The response of many physicians to the President’s announcement was clear and unambiguous. For example, U. S. Senator Tom Coburn (a practicing ob/gyn physician who is strongly pro-life) announced:



“I think a lot of us will go to jail.” . . . Coburn meant that doctors, himself included, are willing to defy the law before agreeing to perform medical procedures that violate their conscience. [80](#)

Regrettably, with the repeal of medical conscience protection regulations, many healthcare professionals may be forced to choose between their conscience and their career. Yet, why stop here? Why not force Jehovah’s Witnesses to say the Pledge of Allegiance or forfeit access to public education? Or why not require pacifists to go to war or lose government benefits such as Social Security or Medicaid? Every one of these coercive scenarios should be reprehensible to citizens – and so, too, should be the repeal of conscience protection for healthcare workers.

Protection for the rights of conscience and non-coercion is just one more reason that Biblical Judeo-Christianity is so beneficial to a culture, and why that religious influence must be preserved in America today and secularism must be resisted.

History – both ancient and modern –demonstrates that neither secular, Islamic, Hindu, Buddhist, nor any other non-Judeo-Christian nation offers the societal benefits enjoyed in Judeo-Christian America.

Picture Credit:

p. 7- Surgeons, reprinted by permission from Macmillan Publishers Ltd: British Dental Journal (Nature Publishing Group), copyright 2006.

Endnotes

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5. See, for example, "Conference Report on H.R. 1429 – Improving Head Start Act of 2007," which notes "Representative Fortuno [Republican] sought to add hiring protections to the Head Start Reauthorization by offering an amendment in Committee, but the amendment failed along a party line vote. Rep. Fortuno also submitted his amendment to Rules when H.R. 1429 was brought to the House floor for a vote, but the [Democrat] Rules Committee did not allow his amendment. During debate on H.R. 1429, the Republican Motion to Recommit offered would have allowed faith-based organizations that receive Head Start funding to be able to hire individuals based upon religious affiliation or belief. The MTR explicitly prohibited federal funds from being used for worship, instruction or proselytization. The MTR would have also prohibited the federal government from requiring a faith-based organization to alter its form of internal governance or remove religious art, icons, scripture, or other symbols. While the House debated the issue of faith-based hiring protections, the Senate bill did not include language to allow faith-based organizations to be providers. This conference report codifies the provision which

allows faith-based organizations to be providers, however, it does not contain language that would provide hiring protections to such organizations. Simply, this conference report would mean that faith-based organizations that run Head Start programs would have to hire any person who has the appropriate credentials, even if he or she does not agree with the faith or adhere to the mission of the employing organization." See this at *Republican Study Committee*, November 14, 2007 (at: www.house.gov/hensarling/rsc/doc/lb_111407_headstartconfrept.doc). ([Return](#))

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70. See, *Federal Register: December 19, 2008* (Volume 73, Number 245), Rules and Regulations, Pages 78071-78101, from the *Federal Register Online* via GPO Access ([wais.access.gpo.gov](http://www.wais.access.gpo.gov)), DOCID:fr19de08-20, Page 78071, Part VI, *Department of Health and Human Services* (at: <http://edocket.access.gpo.gov/2008/E8-30134.htm>). A series of acts from 1970-2004 were passed on this issue, including the Public Health Service Act of 1996, and the Weldon Act of 2004. See also "Testimony Re: Abortion Non-Discrimination Act: The Committee on Energy and

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