

# Our First Right: Religious Liberty

The following remarks by Archbishop Charles Chaput were submitted to the United States Commission on Civil Rights and published March 25, 2013 on [Public Discourse](#).

**My remarks today are purely my own.** But they're shaped by twenty-five years as a Catholic bishop and the social and religious ministries that such work involves; ministries that serve not just Catholics, but the much larger public and common good.

I also served for three years as a commissioner with the United States Commission on International Religious Freedom. That experience confirmed for me the unique role that religious faith, religious believers, and religious communities play in genuine human development. It also taught me the importance of religious liberty both abroad and in our own country.

Simply put, religious freedom is a fundamental natural right and first among our civil liberties. And I believe this fact is borne out by the priority protection it specifically enjoys, along with freedom of expression, in the Constitution's First Amendment.

I'd like to make four brief points.

Here's my first point: *Religious faith and practice are cornerstones of the American experience.* It's worth recalling that James Madison, John Adams, John Carroll, John Jay, George Washington, Alexander Hamilton, Benjamin Franklin, Thomas Jefferson—in fact, nearly all the American Founders—saw religious faith as vital to the life of a free people. They believed that liberty and happiness grow organically out of virtue. And virtue needs grounding in religious faith.

To put it another way: At the heart of the American model of public life is an essentially

religious vision of man, government, and God. This model has given us a free, open, and non-sectarian society marked by an astonishing variety of cultural and religious expressions. But our system's success does not result from the procedural mechanisms our Founders put in place. Our system works *precisely* because of the moral assumptions that undergird it. And those moral assumptions have a *religious* grounding.

When the Founders talked about religion, they meant something much more demanding than a vague "spirituality." The distinguished legal scholar [Harold Berman showed](#) that the Founders—though they had differing views about religious faith among themselves—understood religion positively as "both belief in God and belief in an after-life of reward for virtue, and punishment for sin." In other words, religion *mattered*—personally and socially. It was more than a private preference. It made people live differently and live better. And therefore people's faith was assumed to have broad implications, including the social, economic, and political kind.

That leads to my second point: *Freedom of religion is more than freedom of worship.* The right to worship is a necessary but not a sufficient part of religious liberty. For most religious believers, and certainly for Christians, faith requires community. It begins in worship, but it also demands preaching, teaching, and service; in other words, active engagement with society. Faith is always personal but never private. And it involves more than prayer at home and Mass on Sunday—although these things are vitally important. Real faith always bears fruit in public witness and public action. Otherwise it's just empty words.

The Founders saw the value of publicly engaged religious faith because they inherited

its legacy and experienced its formative influence themselves. They created a nation designed in advance to depend on the moral convictions of religious believers, and to welcome their active role in public life.

Here's my third point: *Threats against religious freedom in our country are not imaginary or overstated. They're happening right now. They're immediate, serious, and real.* Last year religious liberty advocates won a significant and appropriate Supreme Court victory in the 9-0 *Hosanna-Tabor v. EEOC* decision. But what was stunning even to the justices in that case was the disregard for traditional constitutional understandings of religious freedom shown by the government's arguments against the Lutheran church and school.

*Hosanna-Tabor* is not an isolated case. It belongs to a pattern of government coercion that includes the current administration's HHS mandate, which violates the religious identity and mission of many religiously affiliated or inspired public ministries; interfering with the conscience rights of medical providers, private employers, and individual citizens; and attacks on the policies, hiring practices, and tax statuses of religious charities and ministries.

Why is this hostility happening? I believe much of it links to Catholic and other religious teaching on the dignity of life and human sexuality. Catholic moral convictions about abortion, contraception, the purpose of sexuality, and the nature of marriage are rooted not just in revelation, but also in reason and natural law. Human beings have a nature that's not just the product of accident or culture, but inherent, universal, and rooted in permanent truths knowable to reason.

This understanding of the human person is the grounding of the entire American experiment. If human nature is not much more than modeling clay, and no permanent human nature exists by the hand of the Creator, then natural,

unalienable rights obviously can't exist. And no human "rights" can finally claim priority over the interests of the state.

The problem, as law scholar [Gerard Bradley points out](#), is that critics of religious faith tend to reduce all of these moral convictions to an expression of subjective beliefs. And if they're purely subjective beliefs, then—so the critics argue—they can't be rationally defended. And because they're rationally indefensible, they should be treated as a form of prejudice. In effect, two thousand years of moral experience, moral reasoning, and religious conviction become a species of bias. And arguing against same-sex "marriage" thus amounts to religiously blessed homophobia.

There's more, though. When religious belief is redefined downward to a kind of private bias, then the religious identity of institutional ministries has no public value—other than the utility of getting credulous people to do good things. So exempting Catholic adoption agencies, for example, from placing children with gay couples becomes a concession to private prejudice. And concessions to private prejudice feed bigotry and hurt the public. Or so the reasoning goes. This is how moral teaching and religious belief end up being branded as hate speech.

Here's my fourth and final point: From the beginning, believers—alone and in communities—have shaped American history simply by trying to live their faith in the world. *We need to realize that America's founding documents assume an implicitly religious anthropology*—an idea of human nature, nature's God, and natural rights—that many of our leaders no longer really share.

We ignore that unhappy fact at our own expense.

*Copyright 2013 the Witherspoon Institute. All rights reserved.*