

Address on Religious Liberty

I. Introduction: The Pallium

Let me begin by warmly thanking the Religious Liberty Observatory of the Italian Ministry of External Affairs and the City of Rome for their invitation to address you this morning on the subject of religious liberty. I wish to express my deep appreciation for the creation of the Observatory to monitor religious freedom issues world-wide, especially in countries marked by religious persecution and brutal repression. In the United Nations Declaration of Human Rights, religious liberty is covered in Article 18 and many countries take that freedom seriously. So it might seem unusual for us also to be concerned about religious liberty issues in liberal democracies such as the United States of America; yet even there, religious freedom needs to be better understood and protected: the freedom of individuals and groups not only to worship freely but indeed to put their faith into practice both privately and publicly.

I am the newly appointed Archbishop of Baltimore and I am in Rome to receive the Pallium The Pallium is a vivid reminder that we bishops do not stand alone in the work of protecting religious freedom. Christ never abandons his Church, most especially in times of threat, and I see clearly Christ's presence in our communion with Pope Benedict XVI to whom I wish to express my appreciation for his courageous defense of religious freedom throughout the world, especially in his address to the Bishops of the Mid Atlantic region of the United States, of which I am now a member./p>

II. The Premier See and Religious Liberty

Baltimore was the first Roman Catholic Diocese in the United States, founded in 1789. This brings us to the roots of the American democratic experiment in which liberty is recognized as coming from God, not from government. This is explicit in America's foundational document, the Declaration of Independence, by which, our founders declared the United States free of England's rule.

And once independence was secured, a Bill of Rights was enshrined in America's Constitution. There, in the First Amendment of that Bill of Rights, religious freedom is protected. In the United States, religious freedom wasn't placed somewhere in the

middle of the list of rights, it is first , which makes it all the more ironic that we are facing religious liberty challenges in the United States. As you may know, the First Amendment has two parts: the first prevents the government from establishing a single, national religion, and the second part guarantees our right to the free exercise of religion – not simply the freedom of worship but also the freedom of believers to live out the teachings of their faith – in public as well as private. This is one of the primary reasons why Americans at the close of the 18th century chose to break with England –in order to enjoy and practice religious freedom which they understood is granted by God not by the government.

The first bishop in the United States was John Carroll, who hailed from a distinguished family and who was well-known and highly regarded by America's founding fathers. Bishop John Carroll's cousin was Charles Carroll of Carrollton, the only Catholic to sign the Declaration of Independence. Although the Carroll's were a wealthy and accomplished family, they were not exempt from the unjust legal restrictions which Maryland colonial law imposed upon its Catholic citizens in the 18th century, which barred Catholics from holding public office. While Charles Carroll was nonetheless active in the affairs of colonial Maryland, he recognized that only independence from the British crown would bring about authentic religious and civil freedom in America. Carroll risked his life, family, and property by supporting the revolutionary cause but he did so, and I quote: "to obtain religious as well as civil liberty" adding: "God grant this religious liberty may be preserved in these states until the end of time."

The history of the United States is filled with anti-Catholic attacks, from the Know-Nothing Party, Blaine Amendments, the Ku Klux Klan, and the like. Indeed, many commentators have observed that a deeply anti-Catholic strain persists in American culture even today, where some see Catholicism, with its hierarchical structure and moral teaching, as foreign and hostile to a completely secular state. Though such notions have gained popularity at times, or have been legislated at the state level, our constitution has typically served to prevent attacks on our faith by the Federal government.

By contrast, one who championed the view that it is entirely possible to be a loyal Catholic and a patriotic American was the 9th Archbishop of Baltimore, James

Cardinal Gibbons. He defended this proposition against anti-Catholic bias on the one hand and against an Old World suspicion of pluralistic democratic government on the other. Newly named a Cardinal in 1886, he came to Rome to take possession of his titular Church, Santa Maria in Trastevere, a site of Christian worship since the 3rd century by many accounts. There Gibbons spoke these words: "For myself, as a citizen of the United States, without closing my eyes to our defects as a nation, I proclaim with a deep sense of pride and gratitude, and in this great capital of Christendom, that I belong to a country where the civil government holds over us the aegis of its protection without interfering in the legitimate exercise of our sublime mission as ministers of the Gospel of Christ."

Gibbons understood that the American experiment was not perfect; but he championed the view that the form of government adopted by the United States has made it possible not only for the Roman Catholic Church but for all faiths to flourish and to be a powerful force in shaping the morality of a country. Gibbons understood that a strong moral consensus, based on the eternal law written on all human hearts, is essential for the right use of freedom and for authentic human development. For, as the perceptive European observer of democracy in America, Alexis de Tocqueville, wrote: "Religion does not give [Americans] their taste for freedom. It singularly facilitates their use of it."

Through preaching, worship, and programs of charity and education, churches point to the fact that, although we live in a secular culture, we human beings have a transcendent origin and destiny which is the source of our dignity, freedom, and rights, and that it is our responsibility to seek the truth and to be formed in virtue. The point of the Fortnight for Freedom, (introduced by the Catholic Bishops of the United States and occurring now through our Independence Day, July 4th) is to pray that our freedom to proclaim and practice our faith will be preserved and to spark among ourselves and our fellow citizens that eternal vigilance which is the price of freedom.

III. The Common Good

The Church exists to teach and worship and to see to the salvation of her members. But it is precisely what the Church believes and teaches, precisely our belief in the transcendent dignity of every human being, that prompts the Catholic Church, and

many churches, to serve the common good. This is an ancient, foundational and abiding instinct in Catholic social teaching. Serving the common good is a difficult task that includes promoting a wide range of human goods. However, the common good is not a utilitarian ‘greatest good for the greatest number’ calculation. That type of calculus almost always excludes minorities and the vulnerable. Instead, the Church always advocates that social policies and be formulated so as to promote the common good of all. The common good should not be conceived in a way that excludes individuals, as the philosophical theory called utilitarianism tends to do. Nor should the common good be conceived of in a way that excludes groups – especially groups formed to promote those good things that are necessary for human flourishing. And so a wise version of the common good will protect families, churches, and other institutions that stand as a buffer between the power of the state and the conscience of the individual.

Thus, without abandoning its legitimate role in seeing to the health and safety of its citizens, our form of government is obliged – legally and morally – to recognize the freedom of religion of individuals but also the freedom of religion for religious institutions that serve not only their own members but indeed the common good of society. In a word, protecting the rights and human dignity of individuals and serving the common good through a network of organized charities and schools are a deeply engrained part of the Church’s mission, not a sideline, not a secular business component, and not an optional extra. The Church serves those in need not because they are Catholic but because we are. The Church has done this from the beginning even when her members suffered persecution at the hands of Roman Emperors.

IV. HHS Mandate

Historically, the United States Federal Government has accommodated churches that seek to serve the wider society in accord with the faith that inspired such service. It has refrained, by and large, from entangling itself in the internal life of the Church and let the Catholic Church and all churches serve the common good according their own teaching and inspiration. That is, until now.

Last August, nearly a year ago, the U.S. Department of Health and Human Services, published its Preventive Services Rule (commonly known as the HHS Mandate).

Because of this rule, many-perhaps most-religious employers would be required to provide through their employee benefits plans procedures and pharmaceuticals that the religious employers have judged to be immoral.

But that's not the worst of it.

Embedded in the HHS mandate is an extremely narrow definition of religion put there as a litmus test to determine which religious organizations are "religious enough" - by the government's definition - to deserve an exemption from providing services contrary to their teachings. Only those organizations that hire their own, serve their own, and exist primarily to inculcate their own doctrine qualify for this exemption. If a religious body hires people of other faiths & serves people of other faiths or none with an eye toward serving the common good of society - the Federal Government is now saying - such a religious body isn't "religious enough" to follow its own teachings. Let me add that this attempt to define religious organizations comes on the heels of the Hosanna - Tabor case in which the U.S. government's Department of Justice said that a church had no more rights in choosing who its ministers would be than would a labor union or a social club had in hiring employees. The government's view was unanimously rejected by the Supreme Court.

Thus, the Administration is drawing lines where we, the sponsors of religious works, don't draw lines ourselves. The government's attempt to tell the Church which of our institutions seem religious to the state is itself profoundly offensive and entangles the government in the internal life of religious institutions. Unless we stop it now, this narrow, governmental definition of what a church is will likely spread throughout our nation's laws and policies. And the real point of this definition is not just who is exempt from the HHS rule but reduces the ways the religious community can influence the culture. Either we stay the sacristy or else we violate our consciences. This is not a good menu from which to choose!

Of course, all this has been falsely portrayed by some as a fight about contraception - as part of a war on women. It is not. It is a struggle to preserve a fundamental 1st Amendment Freedom, namely the exercise of religion free of governmental interference. It is about the Federal Government's decision to breach the wall of separation, to come into the Church's territory, and to force the Church's hand

regarding its teaching on faith and morals as these are lived out not only in the sanctuary but also in the Church's institutions of service and in the private and professional lives of the Church's members. A further indication that this is not a struggle about contraception is that the Catholic Church is joined by other church communities that do not share the Church's teaching regarding contraception. What these religious communities do understand very clearly is that once the Federal Government can force the Catholic Church to choose between its teachings on abortifacients, sterilization, & contraception on the one hand, and the charitable and educational services it will offer on the other hand – then the door has been opened for the Government to force any church on any issue, without a rational explanation, let alone a compelling interest.

Almost everywhere in the United States the Catholic Church is the largest non-governmental source of social and educational services, many of them directed to our nation's poorest inhabitants. The Church doesn't merely talk about the common good and human flourishing, no, the Church is doing something about it – we do a lot about it – thanks in large measure to the generosity of parishioners who themselves see that serving those in need flows from our teaching and worship. We want to continue providing these services in fidelity to the faith that prompted the founding of these institutions in the first place. That's why we have so earnestly engaged the Administration; that is why we have sought a legislative remedy; that is why lawsuits have been filed to overturn the HHS mandate; and that is why we observe this Fortnight for Freedom.

Our concern extends beyond Church-sponsored institutions. The demands of the Preventive Services Rule extends to employers who are themselves very religious and now find themselves in a situation in which they will be required to include provisions in their employee benefits plan that they find offensive and immoral. They seek to put into practice on Monday the faith they profess on Sunday. But unlike church institutions, private employers have no grace period. Church institutions have until August 2013 to comply; the HHS mandate goes into effect for private employers in about a month, on August 1st. Some of these employers run private businesses according to Christian teachings, and others are businesses that serve the mission of church but are not themselves religious organizations – such as Catholic publishing houses, insurers, fraternal organizations, and the like. These are

responsible employers, providing good jobs and benefits, in large measure because they are conscientious employers. Of course, no one is forced to work for such an organization. But if the employer, the employee, and the insurer are willing to proceed in this way, why should the Federal Government interfere?

Indeed, the Virginia Act for Establishing Religious Freedom, drafted by the author of the Declaration of Independence - Thomas Jefferson - and enacted in 1786, proclaims it tyrannical for the government to force an individual to contribute money "to the propagation of opinions in which he disbelieves" - but that is the net effect of the HHS rule upon private employers who conscientiously object to providing abortion-inducing drugs, sterilization, contraception - or any other services which the government might mandate in the future.

V. Conclusion

Even if the religious groups that filed suit were to prevail in court over the HHS mandate or there were to be a legislative fix or some form of relief from the Administration, the struggle to preserve and defend religious liberty would not be over. And, indeed, we meet on a momentous day, for in all likelihood, the Supreme Court will hand down its decision on the constitutionality of the Patient and Affordable Healthcare Act today. Whatever the outcome-whether the bill survives or is struck down in whole or in part- the HHS mandate, like the Hosanna Tabor case, is troubling because both show a hostility to religious freedom common enough at the state level but unprecedented on the part of the federal government. Both are troubling because both seek to redefine religion to suit the government and not religious groups or their adherents.

And HHS and Hosanna Tabor are the tip of the iceberg.

In some areas of the country, Catholic Charities adoption services have been driven out of business and the National Labor Relations Board has taken the extraordinary step of declaring certain institutions of higher learning not to be Catholic so that they would not be exempt from certain labor regulations. Catholic Migration and Refugee Services, in spite of an excellent record of service, is discriminated against in competing for government contracts because it refuses, among other things, to cooperate in providing abortions to victims of human trafficking. Such violations of

religious freedom should alarm us all – whether one is religiously inclined or not. Something fundamental is being lost in American culture and law – and this loss of freedom does not and will not serve the common good of our nation or other nations where bloody religious persecutions are underway.

At the end of the day, we will be judged by our fidelity to our responsibilities and how we sustain that fidelity. St. John of the Cross wrote: “In the evening of our lives, we will be judged on love alone.” Our responsibilities call us to rally for religious freedom in the context of the national common good and as a beacon of hope for people suffering religious persecution in various parts of the world. We are also called to engage our fellow citizens and government leaders robustly but to do so in hope, respect, and love. This is the pattern given us by the saints. This is our path, too, as we sustain our national promise of freedom and equality to succeeding generations.

Thank you for your kind attention.