

Archbishop Lori reflects on religious liberty challenges after Obergefell

By Sean Gallagher

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NEW ALBANY, Ind. – The Supreme Court’s decision on same-sex marriage will likely have broad effects across the legal system, said Baltimore Archbishop William E. Lori, chairman of the U.S. bishops’ Ad Hoc Committee for Religious Liberty.

“Marriage, as understood between one man and one woman, is embedded throughout the law,” he said, “so to upend that is to produce a sea change in our legal system.”

The archbishop made the comments in an interview with *The Criterion*, newspaper of the Archdiocese of Indianapolis, while in his hometown of New Albany July 18. He was attending a celebration with former classmates of the 50th anniversary of their graduation from the eighth grade at Our Lady of Perpetual Help School.

In its 5-4 decision in *Obergefell v. Hodges*, the court ruled June 26 that marriage licenses cannot be denied to same-sex couples nationwide.

“It has certainly already begun to affect individuals who want to bring their Christian principles to their work,” Archbishop Lori said, noting past court rulings at the state level against Christian business owners opposed to same-sex marriage. “We certainly think of the bakers, photographers and county clerks with marriage licenses.

“On a day-to-day basis, it will certainly affect almost everyone, because every day we bump up against the institution of marriage, either because we’re part of it or because we deal with it.”

In reflecting on the possible effects of Obergefell on churches and church organizations, Archbishop Lori noted with concern how Justice Anthony Kennedy, who wrote the majority opinion, said that religious groups retained their right to teach and advocate for opposing views on marriage. He did not include the right to apply those teachings as an exercise of religious liberty.

“We’ve already been driven out of adoption in many places,” Archbishop Lori said. “Hiring for mission may become a problem. So, if you don’t want to hire a teacher who is living in a marriage that the church can’t recognize because you’re trying to give a good example to the students, that would become problematic.”

He said such hiring practices could be legally questioned even in light of the Supreme Court’s 2012 ruling in *Hosanna-Tabor vs. Equal Employment Opportunity Commission*. The court said churches, their schools and other religious groups “must be free to choose their teachers and employees when their primary duties consist of teaching, spreading the faith, church governance, etc., without government interference.”

“It depends how widely we can cast the ministerial mantle, so to speak,” Archbishop Lori said.

“The trouble with all of this is that it keeps pushing the church within the four walls,” he added. “It makes it less a force in the shaping of culture and of people’s minds and hearts.”

Nonetheless, Archbishop Lori found hope in an Associated Press poll released earlier the day of the interview that reported that support for religious liberty and for traditional marriage had increased in the wake of Obergefell.

“That kind of gives us a sense that we have a fighting chance,” he said. “There are plenty of people who see the problem, and plenty of people who don’t like it. So, I don’t think that we should give up the ghost.”

Archbishop Lori particularly encouraged supporters of religious liberty to back the First Amendment Defense Act, or FADA, introduced in Congress. If it became law, it would prohibit federal agencies from taking punitive actions, such as revoking a tax-

exempt status, against religious organizations that teach that marriage is a union between one man and one woman.

He also spoke about ongoing lawsuits against the federal Health and Human Services mandate on abortifacient, sterilization and contraceptive coverage.

The federal agency issued what it calls an “accommodation” for nonexempt religious employers opposed to the mandate on moral grounds whereby they fill out a form or notify HHS stating their objections, which then allows a third party to provide the coverage.

“Although many people will deny it, the objecting religious organizations are not just signing a form,” Archbishop Lori said. “The form has an effect. The form sets in motion the very thing you are objecting to. Otherwise, you wouldn’t have to send a form in. You wouldn’t have to notify the government.

He also noted that religious organizations that oppose the mandate are doing much to serve the common good.

“They’re the ones that serve the poor kids in the inner city,” Archbishop Lori said. “They’re the ones that are serving in Catholic charities and Catholic social service organizations. They’re the ones bringing the Gospel to the margins.

“So, any suggestion that defending religious liberty is somehow at odds with serving the poor is really poorly construed and really needs to be rethought.”

“I think our message is a very simple one,” he continued. “We’re not out to discriminate against anyone. We recognize America as a place that has always been pluralistic where a variety of points of view have been in the marketplace.

“We’re simply asking that those of us who take our faith seriously and who want to bring it out into that marketplace have the right to do so and not be discriminated against ourselves. I think it’s that simple.”

Despite the legal and political wrangling related to defending religious liberty, Archbishop Lori said that it is “ultimately an evangelization issue.”

"If 75 percent of Catholics went to Mass on Sunday, we wouldn't be having these problems," he said. "In an age when 20 or 25 percent go, these problems are really quite possible."

He expressed thanks for the many Catholics — clergy, religious and laypeople — who have stood up for religious freedom.

"If we're willing to stand up for our faith in public, I think people who are on the margins of the faith might be willing to take another look and say, 'Wow. If it's so important to folks like the Little Sisters of the Poor, maybe I ought to take another look.'"

In the face of growing challenges to religious liberty in the courts, government agencies and society as whole, Archbishop Lori said that Catholics can still find hope in "the same place where we've always found it, and that is in the Lord who promised to be with us until the end of the age. ... and we find the Lord in the church."

He even sees opportunities for the church to grow in strength in the face of such challenges.

"I think the church flourishes in times of persecution," Archbishop Lori said. "It seems to me that that is one of the rules of church history. In fact, when the church won widespread acceptance in our culture was when some of our greatest problems began to take root in our midst."

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