

Religious freedom: Not just Pakistan and China

Thirty-some years ago, I spent a fair amount of time on religious freedom issues: which meant, in those simpler days, trying to pry Lithuanian priests and nuns out of Perm Camp 36 and other GULAG islands. Had you told me in 1982 that one of my “clients,” the Jesuit Sigitas Tamkevicius, would be archbishop of Kaunas in a free Lithuania in 2012, I would have thought you a bit optimistic. If you had also told me, back then, that there would eventually be serious religious freedom problems in the United States, I would have thought you a bit mad.

But you would have been right on both counts.

To be sure, Americans of conviction and conscience are not under the same threats that made a martyr of Shahbaz Bhatti in Pakistan a year ago. American believers in biblical religion and its moral teachings do not face the relentless pressure visited upon Chinese Christians who refuse to concede that the church is a subdivision of the state. But religious freedom is, nonetheless, under assault in these United States. The assault is both cultural and legal. It is shameful that the present administration underwrites the former while being a major actor in the latter.

I try to unravel some of the cultural aspects of the problem – the attempt to erect an empty “shrine” at the heart of western democracy – in the Spring 2012 issue of National Affairs, in an article whose title is taken from the Book of Daniel: “The Handwriting on the Wall.” (The article is available online at nationalaffairs.com.) As for the administration’s legal assault on religious freedom, consider the following:

1) The recent HHS mandate – which requires that all employers (including religious institutions with moral objections and private-sector employers with religiously-informed moral objections) facilitate the provision of contraceptives, sterilizations, and abortifacient drugs such as Plan B and Ella to their employees – is an effort to bend religious convictions to the government’s will. Under the mandate, the federal government will impose its understanding of “preventive health care” on all of American society. And if that tramples the right of religious freedom enshrined in

the First Amendment and the provisions of the Religious Freedom Restoration Act, then too bad – or, as the administration seems to believe, all the better. The administration is likely to lose this battle, legally, but the underlying intent to erode religious freedom is all too clear.

2) The gross overreach of the HHS mandate is of a piece with other administration policies, such as the Equal Employment Opportunity Commission's remarkable claim that the First Amendment's religion clauses offer no protection against EEOC's reach into the hiring practices of religious institutions. In January, the Supreme Court batted that claim down, 9-0; thus the constitutional firewall held. But the administration's intent to break it down was, again, unmistakable.

3) The Justice Department has refused to do its constitutional duty and defend the federal Defense of Marriage Act (DOMA) in the federal courts. Why? One can reasonably conclude that the refusal to do what the law requires the administration to do is based on the administration's agreement with the claim of DOMA's critics: that genuine support of traditional marriage (as distinguished from the president's ever-meeker lip service to it) is irrational bigotry – a slander the administration seems willing to see applied to American citizens who once marched on Washington to support civil rights and thus make the election of an African-American president possible.

4) Then there is the State Department, which now refers to “freedom of worship” rather than “religious freedom” in discussing U.S. international human rights policy. This dumbing-down is bad enough in its abandonment of men and women of conscience around the world. But it now seems to have seeped back into domestic policy: for aren't the cases cited above efforts by the administration to hollow out religious freedom and reduce it to a privacy right that accommodates certain weekend recreational activities?

These questions should be at the center of the conversation between now and Election Day.