AlbertMohler.com

Religious Liberty In Peril: The Catholic Charities Decision

Piece by piece, America's famed and cherished principle of religious liberty is being dismantled. The demolition crew includes activist courts increasingly hostile to the principles upon which this nation was established. The latest evidence comes in a decision handed down in early March by the Supreme Court of California. In a 6-1 ruling, the California high court ordered Catholic Charities of Sacramento to include payment for contraceptives in its health insurance program offered to employees. In other words, California's highest court ordered Catholic Charities of Sacramento to violate Catholic moral principles.

Wednesday, March 17, 2004

Piece by piece, America's famed and cherished principle of religious liberty is being dismantled. The demolition crew includes activist courts increasingly hostile to the principles upon which this nation was established. The latest evidence comes in a decision handed down in early March by the Supreme Court of California. In a 6-1 ruling, the California high court ordered Catholic Charities of Sacramento to include payment for contraceptives in its health insurance program offered to employees. In other words, California's highest court ordered Catholic Charities of Sacramento to violate Catholic moral principles.

The case emerged in the wake of California's adoption of the Women's Contraceptive Equity Act [WCEA] in 1999. The law–championed by feminist groups as a great step forward for women–requires California employers to include contraceptive coverage in any health insurance program that includes payment for pharmaceuticals. Primary opposition to the law came from members of the Roman Catholic Church, who complained that mandatory inclusion of contraceptive services violated historic Catholic moral teaching against any use of artificial birth control. For this reason, the California legislature included a religious exemption in the law, intending by this exemption to protect religious institutions from violation of conscience.

Nevertheless, the California Supreme Court ruled that Catholic Charities of Sacramento did not meet the qualifications for the religious exemption and was not to be classified as a "religious employer." In its ruling, the court said that Catholic Charities fails to meet the requirements of the exemption because it includes non-Catholics among its employees and serves a client base that also includes non-Catholics. Thus, the charity is now punished for serving non-Catholics through its humanitarian ministries, and the court turned Catholic Charities' very mission into a weapon to use against the organization.

In its majority opinion, the Court stated: "We do not doubt Catholic Charities' assertion that to offer insurance coverage for prescription contraceptives to its employees would be religiously unacceptable. Catholic Charities adequately supports the assertion with the declaration of the Roman Catholic priest who serves as Executive Director of the Secretariat for Doctrine and Pastoral Practices of the National Conference of Bishops. Catholic Charities may, however, avoid this conflict with its religious beliefs simply by not offering coverage for prescription drugs."

This is logic only a bureaucrat could love. In the name of enforcing its arbitrary vision of "equity," the court now proposes that Catholic Charities can avoid paying for contraceptives simply by refusing to pay for all other pharmaceutical services as well. In other words, the court argued that it would be better for Catholic Charities to pay for no pharmaceutical coverage than for the Catholic organization to be allowed an exception for conscience on the matter of contraceptives.

In a scathing dissent, Justice Janice Rogers Brown declared the majority's ruling to be "an intentional, purposeful intrusion into a religious organization's expression of its religious tenets and sense of mission." As Justice Brown asked, "May the government determine what parts of bona fide religious organizations are religious and what parts are secular?"

With precision skill, Justice Brown attacked the arrogance of the court's majority: "The question is a very narrow one. May the government impose a mandate on a religiously affiliated employer that requires the employer to pay for contraceptives–in violation of an acknowledged religious tenet–or to redefine what constitutes religious conduct?"

By any measure, this latest judicial atrocity from California is further evidence of the erosion of religious liberty rights in America. The steady march of secularism has now produced a court ruling that will require a Catholic organization to violate long established Catholic moral teaching in order to operate in the state of California.

Justice Brown understands exactly what is at stake. "The controversy here does not involve solicitation, or potential chilling effects, religious schools, administrative discretion, or ad hoc determinations. In reality, this case is worse. Here we are dealing with an intentional, purposeful intrusion into a religious organization's expression of its religious tenets and sense of mission. The government is not accidentally or incidentally interfering with religious practice: it is doing so willfully by making a judgment about what is or is not religious. This is precisely the sort of behavior that has been condemned in every other context. The conduct is hardly less offensive because it is codified. Definition may be just as pernicious as ongoing monitoring if its purpose is to suppress or burden religious conduct."

The law's religious exemption, at least as interpreted by the California Supreme Court, is far too narrow, argued Justice Brown. The requirement that Catholic Charities would serve only Roman Catholics and employ only Catholic personnel is unreasonable, she argued. "This is such a crabbed and constrictive view of religion that it would define the ministry of Jesus Christ as a secular activity," she argued. "The stinginess of the exemption makes the structure of the act all the more baffling. The mandate applies only to employers that provide prescription coverage. Thus, Catholic Charities can avoid the mandate by dropping the coverage. The state wants to make sure that women are not burdened more than others. Where employers cooperate, the WCEA will produce the inequitable financial burden of healthcare for women. If religiously affiliated employers are serious about their objections, however, women who work for those employers could actually be worse off."

Justice Brown's common sense is a refreshing antidote to the toxic judicial philosophy offered by the court's majority. Nevertheless, the fact that Justice Brown–who was nominated by President George W. Bush to the federal bench, but whose confirmation is being held up in the Senate–was alone in her dissenting vote in the case marks the radical nature of the California Supreme Court. This should serve as a warning, for this is the very court that will soon take up the question of same-sex marriage.

Though this particular case dealt only with Catholic Charities of Sacramento, the court's decision is certain to fuel momentum toward similar rulings in different jurisdictions. In effect, the California court has ruled that Catholic Charities must choose between being Catholic or a charity. By denying the organization coverage under a religious exemption, the Court has arrogantly declared its intention to decide which dimensions of a religious organization's work qualify as sufficiently "religious" to pass muster. By extension, the same aggressive approach could be taken with a Baptist children's home, a Presbyterian hospital, or a Jewish youth camp.

The very fact that this case centered on Catholic Charities and the issue of contraception draws the issue into an even tighter analysis. In this case, the California law was a direct violation of historic Catholic teaching. This fact requires no extensive theological analysis and is well known to anyone who knows anything about Roman Catholic moral teaching. We can only imagine the even greater dangers faced by Christian institutions when other laws address less known–and even less popular–areas of moral conviction.

Furthermore, the logic of this decision allows the government to determine which parts of a religious organization's operations are truly religious. David E. Bernstein, professor of law at George Mason University, charges that this decision is a direct violation of the constitutional protection of religious conscience. "It is hardly consistent with either the free exercise clause or the American tradition of the separation of church and state for the government to be determining which parts of the Catholic Church are sufficiently 'religious' to deserve exemption from anti-discrimination laws." Bernstein also warns that this pattern of judicial activism is spreading to other states. "Several federal courts have rejected free exercise defenses claimed by conservative church schools sued for sex discrimination by teachers fired for getting pregnant out of wedlock. Similarly, religious universities have been required under anti-discrimination principles to extend full recognition and funding to gay rights organizations that advocate ideas contrary to the universities' religious missions." In conclusion, Bernstein warns that "anti-discrimination laws [are] consistently running roughshod over freedom of religion."

This ruling by the California Supreme Court is certain to be appealed by Catholic Charities, and the case may wind its way to the United States Supreme Court. In that event, we can only hope that sounder minds will prevail and religious liberty will be protected. If not, religious liberty will be effectively dead for Catholic Charities, and our constitutional guarantee will be left to the whims of the courts and the agenda of the secularists. This decision forces Catholic Charities of Sacramento to violate its conscience. Who's next?
