

Inside The Religious Freedom Report That's Making Conservatives So Mad

The U.S. Commission on Civil Rights's report suggests that some religious exemptions "significantly infringe" on civil rights.

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The U.S. Commission on Civil Rights recently released a report criticizing religious exemptions that infringe on civil rights — and some conservative voices are not happy about the final outcome.

The USCCR started examining how federal courts have handled claims of religious exemptions in 2013. Years later, and without resolving much of the disagreement within its leadership, the commission has put out a report that ultimately came down on the side of those who believe religious exemptions have the potential to "significantly infringe" on a person's civil rights.

"Religious exemptions to the protections of civil rights based upon classifications such as race, color, national origin, sex, disability status, sexual orientation, and gender identity, when they are permissible, significantly infringe upon these civil rights," the Sept. 7 report reads.

In a statement, the commission's chair, Martin R. Castro, suggested that phrases like "religious liberty" and "religious freedom" have become "code words" for discrimination.

"Religious liberty was never intended to give one religion dominion over other religions, or a veto power over the civil rights and civil liberties of others," Castro wrote in his statement. "However, today, as in the past, religion is being used as both a weapon and a shield by those seeking to deny others equality."

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Religious exemptions have a long history in America. In the past, exemptions have protected members of minority faiths, allowing conscientious objectors to be exempt from drafts, for instance. They've also prevented the government from getting too deeply entangled with the inner workings of religious institutions, exempting churches from anti-discrimination laws and allowing them decide what kinds of ministers to hire.

But what happens when one person's right to religious liberty comes into conflict with the government's duty to protect people from discrimination?

Recent lawsuits have highlighted the frictions that lie at the intersection between anti-discrimination policies and religious liberty claims — bakers who have refused to provide services for same-sex wedding ceremonies, county clerks who defied orders to issue same-sex marriage licenses, and employers who don't want to sign off on health insurance coverage that includes contraception services that they find immoral.

In its report, the USCCR found that "overly broad religious exemptions unduly burden nondiscrimination laws and policies" and recommended that "federal and state courts, lawmakers, and policy-makers at every level must tailor religious exceptions to civil liberties and civil rights protections as narrowly as applicable law requires." The commission advocated for a

return to looking at exemptions as a way to protect religious beliefs, rather than religious conduct.

The USCCR is a bipartisan, independent agency established by Congress. No more than four of the eight-member commission can be from the same political party and the commission has no power to enforce its findings.

Yet, the response from conservatives to the report was swift and condemning. The United States Conference of Catholic Bishops called Castro's statements "shocking" and "reckless."

"We do not seek to impose our morality on anyone, but neither can we sacrifice it in our own lives and work," said Archbishop William E. Lori, chairman of the conference's Committee for Religious Liberty. "The vast majority of those who speak up for religious liberty are merely asking for the freedom to serve others as our faith asks of us."

Russell Moore, president of the Southern Baptist Ethics & Religious Liberty Commission, called the USCCR's report a "logical, moral and political disaster."

"For this administration to argue that religious liberty is merely a euphemism for unlawful discrimination demonstrates how deeply entrenched our federal government is in a culture war mentality against religious dissidents," Moore told Baptist Press.

In an interview with The Christian Post, Brian Walsh, president of the Civil Rights Research Center, said that the tone of the majority opinion seemed "irrationally hostile" and "betrays a polarizing mindset."

"[It's] yet another extreme claim that the civil rights and liberties that religious Americans of all faiths have long enjoyed must be eliminated or restricted to accommodate new and emerging rights," Walsh told The Christian Post.

At the heart of the matter is a difference in perspective that goes much deeper than one's opinions on the hot button issues of the day. It's a divide that likely won't be resolved by statements, or even by lawsuits.

One of the dissenters within the commission, Peter Kirsanow, said that the tension here comes from trying to reconcile secular and religious world views, which have different ways of thinking about identity and morality. In the secular worldview, an individual's sexual behavior is an "act of self-creation and something that goes to the deepest level of their identity," Kirsanow wrote in a statement. The religious worldview holds that the morality of a person's conduct depends on whether it conforms to divine law, which some people of faith believe exists over and above laws created by humans.

The next president of the United States will have the power to nominate Supreme Court justices that will shape the conversation around religious exemptions and civil rights for decades. But at the end of the day, it's much simpler to weigh in on a single case than it is to try to change how people answer the big questions about morality, self-expression, and humans' relationship to the divine.

Kirsanow said the debate won't end with a single report from the USCCR — it's likely to continue "for at least a generation."

"The passions involved [in this conflict] may be fiercer than in any civil rights struggle since the 1960s, as both sides' ultimate commitments are implicated," he wrote. "And regardless of the outcome, we may emerge a very different country than the one we have been."