



Missouri Catholic Conference

Good News

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Bringing the Light of Christ to Missouri.

It is of great importance in a republic, not only to guard the society against the oppression of its rulers; but to guard one part of society against the injustice of the other part.

—The Federalist No. 51:
Madison



"The Council further declares that the right to religious freedom has its foundation in the very dignity of the human person as this dignity is known through the revealed Word of God and by reason itself. The right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus is to become a civil right."

—Second Vatican Council,
Declaration on Religious
Freedom

Human Dignity and Religious Liberty: Values at Stake in Same-Sex Nondiscrimination Debate

Should Selinger Center, which is right across the street from the Missouri Capitol and owned and operated by St. Peter parish, be required to open its doors to same-sex weddings, anniversaries, and similar functions?

Should a professional photographer be forced to photograph a lesbian wedding ceremony when it violates her most deeply held religious or moral convictions?

Missouri, like most states, bans discrimination on the basis of race, color, religion, national origin, ancestry, sex, or age. However, legislation under consideration in the general assembly would add sexual orientation and gender identity to the list.

While recognizing the importance of protecting all people from unjust discrimination, the Missouri Catholic Conference (MCC) opposes the legislation pending in the general assembly. These bills — SB 962, sponsored by Senator Jolie Justus (D-Kansas City); HB 1858, sponsored by Representative Stephen Webber (D-Columbia); and HB 1930, sponsored by Representative Kevin Engler (R-Farmington) — are riddled with vague terms, and could have many unintended and harmful consequences.

The irony is that in seeking to uphold human dignity for some, these bills could provide legal support for attacks on the human dignity of others. Our nondiscrimination laws, however, should respect the human dignity of all people.



—Selinger Center, St. Peter parish

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Human Dignity: Basis for Nondiscrimination and Religious Liberty

The Catholic Church affirms the God-given dignity of every human being, and teaches that no one, including those with same-sex attraction, should be the victim of unjust discrimination, including in the workplace or in the public sphere.

No one should be the subject of scorn, hatred, or violence for any reason, including his or her sexual inclinations, be they heterosexual or homosexual. (Catechism of the Catholic Church pgh. 2358).

In testimony before legislative committees the MCC has affirmed that as a matter of human dignity no one should be bullied, threatened with physical harm, or be denied a livelihood or means of support because of same sex attraction or because the person self-identifies as gay or lesbian.

At the same time, the MCC is trying to remind legislators that it is also contrary to the dignity of the human person for a business owner to be verbally abused, publicly condemned, and run out of business, because she has chosen not to provide a floral arrangement, for example, for a same-sex wedding ceremony, because to do so would offend her sincerely held religious beliefs.

Respecting religious convictions of individuals is based on the dignity of the human person, who should be allowed to live out his or her beliefs so long as they are not a threat to the public order. When the Catholic Church considered the issue of religious liberty at the Second Vatican Council, it was the declaration of the council after much deliberation that "...the right of man to religious freedom has its foundation in the dignity of the person..." (Declaration on Religious Freedom, 1965, pgh. 9).

What is under Attack?

Under attack at the present time is the religious conviction that sexual activity outside of a marriage between one man and one woman is morally wrong. For Catholics this teaching is based upon fundamental truths about the human person and the sexual compli-

mentarily of men and women. This teaching preserves for the benefit of all the sanctity of the family, which is the basic building block of society providing children the opportunity to be raised by their biological mothers and fathers. What is being demanded in many of the nondiscrimination bills is an explicit endorsement of same-sex marriage ceremonies, which would violate the religious convictions of many faith traditions.

The Challenge of Legislating Nondiscrimination and Fairness

The legislation under consideration by the general assembly, while seeking to prohibit discrimination against homosexual persons in the areas of employment, housing, and public accommodation, would allow homosexual persons to allege they have been discriminated against by those seeking to operate their businesses in accordance with their faith tradition, and who do not wish to endorse or condone same-sex "practice," or marriage. Thus the bills have a significant potential to infringe upon religious liberty. This is perhaps most recently evident in the area of public accommodation.

In the last few years, business owners, including bakers, photographers, florists, innkeepers, and others operating their businesses according to their religious faith traditions, have had complaints filed against them

or been sued in states with similar statutes due to their refusal to provide services to those seeking to solemnize or celebrate "same-sex" relationships, be they marriages or unions. These lawsuits and complaints have even been brought in states that do not legally recognize same sex marriage. The basis for these complaints and lawsuits is a claim of unjust discrimination.

Such a claim of discrimination was brought against New Mexico photographer Elaine Huguenin, who was charged with violating New Mexico's non-discrimination law for declining to provide photography services to a lesbian couple for a same-sex ceremony. She was ordered by the state of New Mexico in 2008 to pay \$6,637.94 in attorney's fees for violating the New Mexico statute. The New Mexico Supreme Court affirmed this ruling in August 2013 (New Mexico did not recognize same-sex marriage at the

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time), stating that Huguenin did not have the right to refuse service to the couple, her religious beliefs notwithstanding. In a chilling concurring opinion, N.M. Supreme Court Justice Richard Bosson opined that being required to provide these services in this setting is “the price of citizenship.”

In defense of the decision to deny these services, Ms. Huguenin, and business owners like her, have claimed that their refusal to provide services in these settings is guided by their sincerely held religious beliefs or moral convictions. The MCC believes that a photographer running a small family-owned business should not be compelled against her will to photograph a wedding ceremony for a lesbian couple when to do so would infringe upon her sincerely held religious convictions.

As one views America’s vibrant and diverse culture it is not that difficult to identify ways in which respect can be extended to both persons with same-sex attraction and those who, in conscience, cannot facilitate or participate in same-sex weddings, anniversaries or similar activities. In most business transactions the sexual orientation of the customer, say, at a hardware store, is not an issue. Essential services are available regardless of sexual orientation. Under federal law, for example, essential healthcare services must be provided to all in emergency rooms (42 USC §1395dd).

What is at issue are those transactions in which businesses are asked to perform a service or provide a product, the provision of which could be deemed as an explicit or implicit endorsement of same-sex marriage, such as photographing or providing a cake or floral arrangement for a same-sex marriage ceremony. At a minimum in these circumstances, rights of conscience could be implicated and should be respected.

The United States has a long tradition of respecting rights of conscience and the free exercise of religion, even enshrining the principle of religious liberty in the first article of the Bill of Rights (the First Amendment). Rights of conscience are thus integral to the American



—New Mexico photographer Elaine Huguenin was charged with violating New Mexico's nondiscrimination law.

democratic experiment, and respect for these rights recognizes that an individual’s sincerely held religious convictions often make up the core of who they are as a human being.

If the pending bills were to pass in their current form and the conscience rights of persons of various faith traditions were not respected, the power of the state would be employed to quell, in the name of good citizenship, the conscience rights of those who do not support same-sex marriage, thereby undermining their human dignity by forcing them to participate in something they cannot in good conscience support.

Would Selinger Center across the street from the Capitol, for example, which is owned and operated by St. Peter’s Catholic Church and which opens its doors for groups such as the Lions Club, be required under this statute to make its facilities available for same-sex ceremonies?

"Sexual Expression": What Does This Mean?

The legislation presently under consideration in the general assembly makes no distinction between sexual inclination and sexual conduct. Indeed, the very definitions within the bills would provide special legal protection to homosexual and heterosexual “inclination,” “practice,” or “expression.” These terms are very broad and their meaning is unclear. Could passage of this legislation provide **Continued >>**

Missouri Catholic
Conference
PO BOX 1022
Jefferson City, MO
65102-1022

RETURN SERVICE
REQUESTED

Phone: (573) 635-7239
Fax: (573) 635-7431



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legal protection for immoral sexual behavior in the workplace; for example, an adulterous affair between coworkers that could undermine workplace cooperation.

Transgender: Confusions in the Workplace

The proposed bills also reflect a rejection of the biological basis for gender. The bills define “gender identity” in such a way as to lend force of law to a tendency to view gender as nothing more than a social construct or psychosocial reality that a person may choose at variance with his or her biological sex. This provision also fails to account for the privacy interests of others, particularly in workplace contexts where they may reasonably expect only members of the same sex to be present, such as in the restroom.

Respect for All Persons

Our state’s human rights laws should respect the dignity of all Missouri citizens. Instead of entering into the “culture wars” wracking so many other states, Missouri should forge a path in which there are no victims and all people are respected as persons made in the image and likeness of God, our Creator.



—St. Peter's parish and the Missouri Capitol