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A Blueprint for Reclaiming Religious Liberty Post-*Hobby Lobby*

By Donna Barry, Sandhya Bathija, Laura E. Durso, Joshua Field, Carmel Martin, and Sally Steenland

June 2014

Introduction and summary

Religious liberty is woven into the very fabric of our nation. It defines the boundaries of our government and serves as a measuring stick for freedom. We are a nation of diverse religious beliefs and of no religious belief. From our nation's earliest days, our Constitution has ensured both the freedom to worship and believe according to one's conscience, as well as freedom from the government imposing religion upon its people or coercing them to follow beliefs that are not their own. This is the very essence of religious liberty.

However, instead of being a shield to protect both religious institutions and individuals' right to worship and believe according to their consciences, the principle of religious liberty is being used as a sword by a range of conservative groups currently engaged in an organized effort to discriminate and impose their doctrinal views on a pluralistic nation.

The U.S. Supreme Court's opinion in *Burwell v. Hobby Lobby Stores, Inc.* and *Conestoga Wood Specialties Corp. v. Burwell* illustrates a product of that effort. In what has simply become known as *Hobby Lobby*, two for-profit companies—the giant craft chain Hobby Lobby and the furniture-maker Conestoga—were fighting for their right to withhold insurance coverage for certain forms of contraception based on religious grounds. The Court's 5-4 ruling provides clear evidence of how the conservative Roberts Court has misinterpreted the free exercise of religion to the point of absurdity by allowing the religious beliefs of the owners of for-profit, secular corporations to be used as justification to deny their employees the contraceptive-health coverage that they are entitled to under federal law.

With *Hobby Lobby*, the Court has imposed the religious beliefs of a few on the many, burdening thousands of employees and creating legal precedence that turns the notion of secular society on its head.

American jurisprudence is rooted a theory of religious liberty—in which the freedom to exercise one’s religious beliefs is a fundamental right, but one that is limited when that exercise imposes costs or burdens on others.¹ As the Supreme Court said in *Estate of Thornton v. Caldor*, “The First Amendment ... gives no one the right to insist that in pursuit of their own interests others must conform their conduct to his own religious necessities.”²

The Court’s *Hobby Lobby* decision has drastically distorted religious liberty protections as we as a nation have known them. It is time to re-establish religious liberty protections to what they have been throughout our nation’s history—a strong shield that protects individuals’ right to believe according to their consciences, but a right that is limited from becoming a sword used to impose those beliefs as costs and burdens on others.

This report will examine our pluralistic nation, the roots and recent history of our religious liberty jurisprudence, and where America must go post-*Hobby Lobby*.

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