

THE MOST SACRED OF ALL PROPERTY:


# RELIGIOUS FREEDOM

AND THE PEOPLE OF MARYLAND



A Statement  
from the  
Catholic Bishops  
of Maryland



The background features a large, light beige square divided into four quadrants by a blue cross. Each quadrant contains a white geometric shape: a triangle in the top-left, a triangle in the top-right, a triangle in the bottom-left, and a large quarter-circle in the bottom-left. The blue cross has a slight gradient and a shadow effect.

CONSCIENCE IS THE MOST SACRED  
OF ALL PROPERTY; OTHER PROPERTY  
DEPENDING IN PART ON POSITIVE  
LAW, THE EXERCISE OF THAT, BEING A  
NATURAL AND UNALIENABLE RIGHT.

JAMES MADISON, *Property*, 1792

The Most Sacred of All Property:

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# Religious Freedom *and the* People of Maryland

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A Statement from the Catholic Bishops of Maryland

**F**or 31 years, the Greater Baltimore Center for Pregnancy Concerns has had a simple mission: to help expectant mothers in need. Since 1980, the Center has provided pregnant women with material and emotional support like diapers, clothing, furniture, parenting classes, and adoption referrals. In a city where more than 20 percent of residents live in poverty, more than 1,000 women each year receive personal assistance through the good work of the Greater Baltimore Center for Pregnancy Concerns.

The Greater Baltimore Center for Pregnancy Concerns is the kind of charitable organization that public officials should promote. Yet simply because the Center has a pro-life mission, it was targeted by a 2009 Baltimore ordinance that subjected it and other pro-life pregnancy centers to compelled speech requirements. No similar restrictions were placed on abortion clinics. The Center was forced to file a lawsuit in federal court to defend its right to free speech.

Sadly, the experience of the Greater Baltimore Center for Pregnancy Concerns is not an isolated one. Efforts to restrict the rights of individuals and institutions because of their religious or moral beliefs are on the rise here in Maryland and around the nation. Religious liberty – a right rooted in our human dignity and protected by the First Amendment to the U.S. Constitution – is being silently and subtly eroded.

We know that religious liberty is a foundational element of a vibrant democracy and helps guarantee those other precious freedoms we Americans enjoy. The only way to preserve it is through the vigilance of concerned citizens and their willingness to stand up for this right. So we invite you, dear brothers and sisters in Christ, to learn more about this urgent matter and join us in taking positive steps to safeguard religious liberty for generations to come.

*Religious liberty in this country began with the founding of Maryland.*

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## A Place of Toleration

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**Religious liberty in this country began with the founding of Maryland. We must honor our state's unique role in the preservation and promotion of this fundamental principle of government.**

In 1634, a mix of Catholic and Protestant settlers arrived at St. Clement's Island in Southern Maryland from England aboard the *Ark* and the *Dove*. They had come at the invitation of the Catholic Lord Baltimore, who had been granted Maryland by the Protestant King Charles I of England. While Catholics and Protestants were killing each other in Europe, Lord Baltimore imagined Maryland as a society where people of different faiths could live together peacefully.



This vision was soon codified in Maryland's 1649 Act Concerning Religion (also called the "Toleration Act"), which was the first law in our nation's history to protect an individual's right to freedom of conscience. But Maryland's early history teaches us that, like any freedom, religious liberty requires constant vigilance and protection, or it will disappear.

Maryland's experiment in religious toleration ended within a few decades. The colony was placed under royal control and the Church of England became the established religion. Discriminatory laws, including the loss of political rights, were enacted against those who refused to conform. Catholic chapels were closed and Catholics were restricted to practicing their faith in their homes. The Catholic community lived under these conditions until the American Revolution.

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## The First Freedom

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**The right of religious liberty had long been denied in Europe when Maryland's early settlers promoted it in the mid-17th century.** But by the end of the 18th century our nation's founders embraced freedom of religion as an essential condition of a free and democratic society.

James Madison, often called the Father of the Constitution, described conscience as "the most sacred of all property."<sup>1</sup> He wrote that "the Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate."<sup>2</sup> George Washington wrote that "the establishment of Civil and Religious Liberty was the Motive that induced me to the field of battle."<sup>3</sup>

<sup>1</sup> James Madison, *Property* (Mar. 29, 1792).

<sup>2</sup> James Madison, *Memorial and Remonstrance Against Religious Assessments* (Jun. 20, 1785).

<sup>3</sup> Michael Novak & Jana Novak, *Washington's God* (2006).



*“No person ought by any law to be molested in his person or estate, on account of his religious persuasion, or profession, or for his religious practice.”*

MARYLAND DECLARATION OF RIGHTS, ARTICLE 36

It is therefore no surprise that when the framers of our Constitution adopted a Bill of Rights, religious freedom was given the distinction of being at the forefront of the First Amendment. The First Amendment, modeled in part on Maryland’s Act Concerning Religion, guarantees that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” It is this First Amendment that provides the foundation for our pluralistic society, in which people of different faiths and beliefs can live and worship in peace.

The primacy of religious liberty was later similarly guaranteed in the Maryland Constitution and in the United Nations’ Universal Declaration of Human Rights.



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## A Natural Right

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**Religious freedom is not merely a civil right afforded us by our government, but, more fundamentally, it is a natural right due each person because of his or her human dignity.**



Each person is made in the image and likeness of God. We are therefore made to know Him and to seek His truth. The Lord – as evidenced by the incarnation, death, and resurrection of His Son – wishes to unite us with Himself. Yet Christ came to convince, not to compel. He offers us His love but He does not force us to accept it. The Lord respects our freedom to accept Him or to reject Him; so too must government and society.



Religious freedom, therefore, is an essential element of the human person and a basic human right. As Pope Benedict XVI explained, “Openness to truth and perfect goodness, openness to God, is rooted in human nature; it confers full dignity on each individual and is the guarantee of full mutual respect between persons. Religious freedom should be understood, then, not merely as immunity from coercion, but even more fundamentally as an ability to order one’s own choices in accordance with truth.”<sup>4</sup>

Thus religious freedom protects the ability to practice any faith or no faith. It defends a person’s right to convert from one faith to another. It preserves the right to follow one’s conscience, in acts both internal and external, in private and in public, as an individual and as a member of a community.



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## A Contribution to the Common Good

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**Religious freedom is so fundamental to our nature that not only does it uphold individual human dignity, but it is also integral to the establishment of a good and just society.** Individuals who are free to exercise religious liberty are free to live out their faith in service to others and to build up the common good. For example, faith groups and religious organizations often are the largest providers of private social services, including hospitals and health clinics, schools and universities, shelters and food pantries.

Religious liberty also enables religious groups to provide a voice for the voiceless. At the dawn of our nation, the Quakers led the charge in publicly challenging our new national government to abolish slavery. When slaves themselves were voiceless in political debates, the Quaker minority strove to remind their fellow citizens that they could not simply legislate or define away the humanity and inherent dignity of African slaves.

Those who suffer from mental or physical disabilities are often ignored or, at times, even outright rejected by society. Religious individuals and groups have played a key role in reminding society of their intrinsic human dignity and need to respect their value and worth. Eunice Kennedy Shriver, a Catholic who had family experience with an intellectual disability, founded the Special Olympics in 1968. Today it is a worldwide movement to provide opportunities to those with intellectual



<sup>4</sup> Pope Benedict XVI, “Religious Freedom, the Path to Peace,” Message for the Celebration of the World Day of Peace (Jan. 1, 2011).



disabilities. The Church here in Maryland was a leader in successful efforts in 1989 to ban the execution of those with an intellectual disability.

Workers' rights have long been a concern of the religious community in the United States. In 1887, Cardinal James Gibbons of Baltimore published his famous memorial defending the Knights of Labor, at that time the foremost national labor organization in the United States. By advocating the fundamental dignity of workers and their right to organize, he placed the Catholic Church in the United States squarely on the side of labor and helped influence the development of Catholic social teaching in this area.

But perhaps the most striking example of the good fruits of religious liberty was the civil rights movement. In many ways, the civil rights movement was a religious movement. Its leader was a Baptist minister and it expressed an explicitly religious call for the equal treatment of African Americans. It was in this context that Rev. Dr. Martin Luther King, Jr. wrote from a Birmingham jail to his fellow ministers about the difference between just and unjust laws – a concept that presupposes a higher law. While Rev. King argued that there is a legal and moral responsibility to obey just laws, he cited St. Augustine for the principle that “an unjust law is no law at all.”

Rev. King also explained the proper role of churches in society: “The church must be reminded that it is not the master or the servant of the state, but rather the conscience of the state. . . . It must be the guide and the critic of the state, and never its tool.”<sup>5</sup> Rev. King’s message of equality and justice thus presupposed and deliberately relied upon a free and flourishing religious tradition to bring about its noble goals.

<sup>5</sup> Rev. Dr. Martin Luther King, Jr., *Strength to Love* (1963).

*“The conscientious scruples of all men should be treated with great delicacy and tenderness; and it is my wish and desire, that the laws may always be extensively accommodated to them.”*

GEORGE WASHINGTON,  
Letter to the Annual Meeting of Quakers, 1789



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## Subtle Threats

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*“Christians are called, not only through their responsible involvement in civic, economic and political life but also through the witness of their charity and faith, to offer a valuable contribution to the laborious and stimulating pursuit of justice, integral human development and the right ordering of human affairs. The exclusion of religion from public life deprives the latter of a dimension open to transcendence.”*

POPE BENEDICT XVI,  
Message for World Day of Peace, 2011



Americans are blessed to enjoy freedoms for which many in our world can only hope, and for that we should be truly grateful. But in recent years there has been a subtle promotion of the idea that religious liberty should be restricted to Sunday morning worship. The right to exercise our faith and follow our conscience in all aspects of our lives is a right increasingly viewed with hostility. Below are some recent examples of religious liberty violations in the United States.

### The Public Square

A healthy democracy can function only when its citizens are able to freely engage in public debate. That includes the freedom to approach the public debate through the lens of faith and moral values. As Catholics, we have a responsibility to “contribute...to the good of society in a spirit of truth, justice, solidarity, and freedom.”<sup>6</sup> We participate in the public square not to impose our religious beliefs on others, but to propose the timeless and universal truth of the dignity of the human person. This



truth is the foundation of all of the Church’s advocacy. Catholics, as both faithful members of the Church and as citizens, bring these most cherished values to the public debate.

Sadly, some view the Church’s very presence in the public square as an act of imposition. They claim that our identification as persons of faith disqualifies us from participation in the public debate. During the recent nationwide debate on health care reform, for example, some groups accused the Church of “hijack[ing] the legislative process”<sup>7</sup> when they argued that taxpayer funds should not be used to pay for abortions, a position the Church shares with the majority of Americans.

<sup>6</sup> *Catechism of the Catholic Church*, par. 2239.

<sup>7</sup> Statement of Planned Parenthood Federation of America Condemning Passage of the Stupak/Pitts Amendment (Nov. 2009).



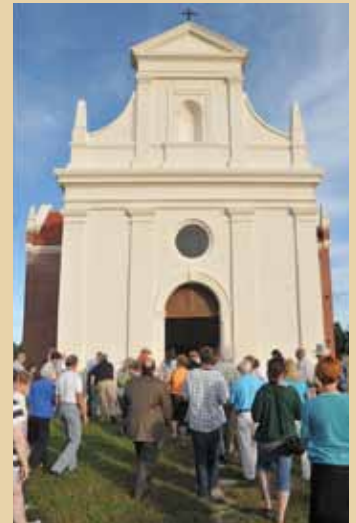
## Respect for Life

The most basic of all rights is the right to life – the right upon which all other rights are based and without which all other rights lose their meaning. This right is especially precious to us as Catholics because we acknowledge God as the author of life. Yet today in the United States, the right to life is often subjugated to the whims of convenience. Not only has the right to life become conditional, so too has the right to demonstrate respect for life in one’s profession and activities.

- ***Pregnancy Resource Centers***

Maryland’s 40 pregnancy resource centers (including the Greater Baltimore Center for Pregnancy Concerns) together freely serve about 30,000 pregnant women a year. Yet they have been singled out for regulation three times in the last four years for the single reason that they do not provide or refer for abortions.

They were first targeted in the Maryland General Assembly in 2008, when a bill would have forced them to tell clients that they are not required to provide “factually accurate information.” That bill failed, but in November 2009 the Baltimore City Council passed a bill regulating the speech of pro-life centers by requiring them to post a sign listing services they do not provide (abortion and contraception) or face a daily fine. The Montgomery County Council soon approved a similar regulation. The Baltimore ordinance has been declared unconstitutional by a federal court, and the Montgomery County law has been enjoined by a court that found that it too is largely unconstitutional.<sup>8</sup> Much damage has already been done, however. Laws similar to Baltimore’s are now on the books in New York City and Austin, Texas. Even as courts begin to overturn these laws, they place a huge time and financial burden on these charitable organizations and are a distraction from their mission.



<sup>8</sup> As of Nov. 2011.



*“Religious freedom should be understood ... not merely as immunity from coercion, but even more fundamentally as an ability to order one’s own choices in accordance with truth.”*

POPE BENEDICT XVI,  
Message for World Day of Peace, 2011



- ***Conscience Rights of Health Care Workers***

Luke Vander Bleek owns a small-town pharmacy in Morrison, Illinois that sells almost every drug – except the “morning after pill,” to which he has religious objections. Though a public hospital just a few blocks away sells it, the state of Illinois threatened to close his business and end his career because he would not sell this one particular drug. Mr. Vander Bleek was forced to retain an attorney and file a lawsuit to defend his right to practice his profession in accordance with his religious beliefs. Thankfully, an Illinois trial court ruled in Mr. Vander Bleek’s favor. The trial revealed that – despite the state’s claims to the contrary – religious objections to emergency contraception had never created a health problem in Illinois. The claimed health emergency that required driving pro-life pharmacists out of the profession turned out not to exist at all.

Catherina Cenzone DeCarlo is a nurse who worked at a New York City hospital. Ms. DeCarlo was forced to participate – under threat of the loss of her job and her nurse’s license – in the abortion of a 22-week old fetus with Down syndrome, even though she told her employer in her job interview and later in writing that she was prohibited by her Catholic faith from participating in abortions, and even though there were other nurses willing to take her place.

- ***Conscience Rights of Health Care Facilities***

The nation’s 600 Catholic hospitals annually serve millions of patients, including many who are poor and uninsured. However, these same hospitals are finding themselves under increased scrutiny for providing care in accordance with their – our – religious beliefs. The American Civil Liberties Union has asked the federal government to investigate Catholic hospitals for declining to provide abortion and emergency contraception. The ACLU alleges that Catholic hospitals are violating federal law by adhering to their religious beliefs.

- ***Conscience Rights in Health Care Debate***

As part of the U.S. Department of Health and Human Services’ efforts to enact the 2010 Patient Protection and Affordable Care Act, the department is mandating that all private health insurance plans cover surgical sterilization procedures and birth control, including IUD, “morning-after” pills and abortion-inducing drugs, in addition to “education and counseling” for women and girls of reproductive age.<sup>9</sup> What is missing is any real opt-out for the Catholic Church and other religious institutions to not offer health insurance with these mandates. Furthermore, individuals are given no protection against contributing to these procedures.

<sup>9</sup> As of Nov. 2011.

## Marriage and the Family

For all the changes, for better or for worse, that marriage and the family have experienced in recent decades, one factor has remained constant: Marriage is between one man and one woman. It is based not on a social prejudice, but rather on the recognition that the union of a man and woman is the only possible source – and their married relationship the best possible environment – for the children who will become society’s next generation. Efforts to alter society’s longstanding definition of marriage distort this important reality. Moreover, and despite protestations to the contrary, they infringe upon the religious liberties of individuals and institutions that acknowledge heterosexual marriage not only as a fact of nature but also as an article of faith.

- ***Maryland and Same-Sex Marriage***

The Maryland General Assembly in its 2011 session narrowly defeated a bill that would redefine marriage to include same-sex couples. Had the bill passed, however, it would have done grave harm to religious liberty by providing no protections to individuals and limited protections to institutions to allow them to maintain their sincerely held religious beliefs about marriage.

Religious business owners like florists, bakers, musicians, or photographers would not have been able to decline to participate in a same-sex marriage ceremony. This violation of rights is not hypothetical. A Christian photographer in New Mexico was found by that state’s Human Rights Commission to have engaged in illegal discrimination after the company declined to photograph a same-sex ceremony. A Methodist church in New Jersey lost its tax-exempt status for declining to allow a same-sex couple to marry in a pavilion it owned.

Our state’s legislature is expected to take up the issue of marriage again in 2012.

- ***The District of Columbia and Same-Sex Marriage***

Among the many services provided by Catholic Charities of the Archdiocese of Washington in its 80 years of service was a partnership with the District of Columbia for its foster care and public adoption program. Then, in 2010, a law legalizing same-sex marriage in the District took effect and the city informed Catholic Charities that it would no longer be an eligible foster care and adoption partner. The reason? Because, as a Catholic organization, Catholic Charities was devoted to placing children in homes with both a mother and a father. Moreover, when District residents appealed to bring the issue of marriage before voters so that they could have a voice in the debate, their request was repeatedly denied by the D.C. Board of Elections.





## Institutional Concerns

The separation of church and state we so cherish here in America is as much about protecting religious bodies from government interference as it is the other way around. And rightly so: We cannot freely worship (or choose not to worship) God if government officials have the power to tell us how to do so. Sadly, there has been a growing trend of government intrusion into the institutional and administrative life of the Church.

One of the most alarming illustrations of this trend occurred in 2009, when a bill was introduced in the Connecticut legislature that would have allowed the state of Connecticut to mandate the structure and organization of Catholic parishes (and only Catholic parishes; it applied to no other denominations). The measure, which ultimately failed, would have removed many administrative and pastoral responsibilities from the pastor and placed them instead in the hands of committees whose membership was defined by the state legislature.



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# Defending Religious Freedom

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**Where do we go from here? Given all that we've discussed, what do we do to preserve and strengthen the great gift of religious liberty?**

- **Prayer**

Prayer is the most powerful tool we have. Conversation with Our Lord opens up wellsprings of grace that enable us to become effective instruments in His hands and that assist others in making prudent decisions. We must first thank God for the great gift of religious liberty and ask Him to help us to use it wisely. We must pray for our elected leaders and all public officials whose duties affect religious liberty. We must intercede for those whose religious liberty or right of conscience has been violated. We must ask blessings on those who look on the right of conscience and religious freedom with disdain or those who do not yet appreciate these gifts.

- **Education**

Religious liberty and the right of conscience will be further eroded unless the Catholic community stays informed about the challenges these rights face and the reasons why they are integral to a just society. We encourage you to share this statement with family and friends so that they too may learn more about this issue. More thorough examinations of this issue may be found in *Dignitatis Humanae*, which is the Second Vatican Council's Declaration on Religious Freedom, as well as "Religious Freedom, the Path to Peace," which was Pope Benedict XVI's message for the 2011 World Day of Peace. Our diocesan newspapers are invaluable sources of information about current threats to religious freedom and the Church's efforts to support religious freedom.

- **Action**

The most basic way for us to participate in the political process is by voting in local, state, and federal elections, an action we should always undertake with prayer and prudence. After that, standing up for religious liberty only takes one click of the keyboard or mouse. Our Maryland Catholic Advocacy Network, run by the Maryland Catholic Conference, provides updates on public policy issues of concern and provides pre-drafted e-mails to send to lawmakers and other public officials on key issues. You can register online at [www.mdcathcon.org](http://www.mdcathcon.org). There also are opportunities to advocate for religious liberty in person, such as the Catholic Lobby Night held every Presidents' Day in Annapolis.

*"This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others."*

SECOND VATICAN COUNCIL,  
Declaration on Religious Freedom, 1965



*“Religious freedom is ...  
an essential element of  
a constitutional state;  
it cannot be denied  
without at the same  
time encroaching on  
all fundamental rights  
and freedoms.”*

POPE BENEDICT XVI,  
Message for the World Day of Peace, 2011



**In closing**, we call on all Marylanders – including those of our Catholic faith, other faiths, or no faith at all – to reaffirm the basic, foundational principles upon which our democratic society is built. Everyone has the right to freedom of thought, conscience, and religious belief. No one should be subject to coercion because of those beliefs. Everyone has the right to live in accordance with his or her particular religious beliefs, subject only to such limits as are necessary for the safe operation of society. Society as a whole benefits when all citizens in our pluralistic democracy – including religious citizens and institutions – remain free to participate in public life and to do so in accordance with their sincerely held beliefs.

These are the principles that those first Marylanders brought with them on the *Ark* and the *Dove*. These are the principles embraced by our Founding Fathers and by our Church. These are the principles that are indeed the most sacred of all property.

Faithfully in Christ,

Bishops of Maryland

November 2011

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## **Maryland Catholic Conference Religious Liberty Task Force Members**

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*With gratitude for their leadership, expertise,  
and faith-filled service*

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Bishop Carroll laying the cornerstone in Baltimore of America's first Catholic cathedral, the Basilica of the Assumption of the Blessed Virgin Mary.