

Religious liberty can become a subterfuge for discrimination

Pat Perriello | Mar. 3, 2014 NCR Today

[Two significant articles](#) [1] [from the political blog](#) [2] *Think Progress* confront the issue of religious freedom and its limitations.

The anti-gay law in Arizona has been vetoed by the governor, but many are contending that while it may have been a sound decision economically, it is infringing on the religious liberty of Arizona citizens. Citizens are being forced to go against their religious beliefs and provide service to gay people. These viewpoints are being echoed by the Catholic bishops of Arizona as well as individual citizens and other anti-gay groups.

This is not a new cry. As Ian Millhiser's article points out these are the same arguments used during the civil rights era to advocate denial of service to African Americans. We also constantly hear gun rights advocates speak to the first amendment as providing unfettered access to firearms with no acceptable restrictions.

No matter how loud these voices become, however, the truth is that all of our rights under the constitution exist within a context. Millhiser notes that "people of faith do not exist in a vacuum." In elementary school when we first learned about our freedoms under the Constitution, we also learned that my individual freedom stops where my neighbors' freedoms begin. Yet those raising their voices are seeking to extend their own personal rights to the point that the rights of the next person are restricted. It seems that some of these people, including the Catholic bishops, either lack an understanding of what religious freedom really means, or just don't care.

Again, Millhiser states, "Religious liberty is an important value" but we do not allow it to be used to destroy the rights of others." The Civil Rights Act of 1964 resolved the issue of the requirement to serve all of the people when providing public accommodations. While private clubs may be able to decide who they will or will not admit, if one is providing services to the public then those services must be provided to all equally. At the time President Lyndon Johnson made clear that "Invidious discrimination is wrong. And it doesn't matter why someone wants to discriminate."

In his subsequent article Millhiser points out that two cases before the Supreme Court could permit the discrimination the Arizona law was proposing depending on how they are decided. The cases involve businesses wanting to deny birth control services to their employees for religious reasons. The issues involved include: are corporations people, can they be people of faith, and can they claim exemptions based on religious convictions.

The bottom line is for employers to deny their employees birth control services is to impose their own personal beliefs onto their employees. In the same way, refusing to serve a gay person because you have a religious objection to their sexual orientation is a denial of the gay person's right to whatever public accommodation you may be providing. A 1983 Supreme Court decision made clear that religious beliefs cannot justify racial discrimination. The standard the court seems to use is to side with religious freedom if there's little or no evidence the practice is interfering with the rights of others in a significant way.

It really is time to get beyond some of these old arguments and stop insisting that they are constitutional when

they are not. We live in a multicultural and pluralistic society which means our laws and Constitution are designed to provide everyone with the maximum freedom without infringing on the rights of others. This will logically result in disagreements that will at times need to be settled by the courts. However, the notion that the constitution was devised to give me and my ideas the benefit of complete freedom without considering my neighbor is untenable.

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Links:

[1] <http://thinkprogress.org/justice/2014/02/28/3347081/upcoming-supreme-court-case-impose-arizonas-anti-gay-entire-country/>

[2] <http://thinkprogress.org/justice/2014/02/26/3333161/religious-liberty-racist-anti-gay/>