

# REPORT FROM THE CAPITAL

Magazine of the Baptist Joint Committee for Religious Liberty



Supreme Court decisions in *Masterpiece Cakeshop*, travel ban

**AMANDA TYLER** shares lessons from history

**HOLLY HOLLMAN** on SCOTUS changes

BJC Fellows take center stage at annual luncheon

Religious liberty and the black church

BJC Executive Director Amanda Tyler speaks outside the U.S. Supreme Court on the day of the travel ban decision





## Supreme Court upholds travel ban

The U.S. Supreme Court ruled 5-4 that President Donald J. Trump's ban on immigration from certain countries is within the power specifically delegated to the president by Congress in an immigration statute. In its *Trump v. Hawaii* decision, the Court was not persuaded that the policy is unconstitutional because of presidential statements disparaging Muslims.

After the U.S. Supreme Court released its decision on June 26, BJC Executive Director Amanda Tyler expressed her deep disappointment with the decision on the steps of the Court. "In giving such broad deference to President Trump, the Court neglects its duty to uphold our First Amendment principles of religious liberty," she said. "Safeguarding religious liberty requires the government to remain neutral with regard to religion, neither favoring one religion over another nor preferring religion or irreligion."

The path to this decision was more complicated than the average case. On Jan. 27, 2017, President Trump issued an Executive Order temporarily halting immigration to the United States from seven Muslim-majority countries and suspended the U.S. Refugee Admissions Program.

When lower courts blocked that Order, the president issued a new travel ban on March 6, 2017. The U.S. Supreme Court had planned to hear oral arguments challenging the second ban, but it dismissed the case after the president issued a new travel ban on September 24, 2017. This third ban was also challenged, and the Supreme Court heard the case on April 25, 2018.

Baptist Joint Committee General Counsel Holly Hollman joined more than 30 other constitutional scholars in a friend-of-the-court brief arguing that the ban was unconstitutionally based in religious animus toward Muslims. Of the 73 friend-of-the-court briefs filed in this case, only 13 were filed in support of the administration.

The president never repudiated his hostile statements or tweets directed at Muslims or the subject of Muslim immigration. This third iteration of the travel ban indefinitely bars various populations from Chad, Iran, Libya, North Korea, Somalia, Syria and Venezuela. It has been in effect since December 4, 2017, when the Supreme Court lifted the lower court's order that had been blocking the policy.

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By Jennifer Hawks, BJC Associate General Counsel

## Supreme Court sidesteps core issue in *Masterpiece Cakeshop* decision

In *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, the U.S. Supreme Court ruled 7-2 against the Colorado Civil Rights Commission, finding that its actions violated the Free Exercise Clause of the U.S. Constitution. The Court avoided the central question of if — and, if so, when — a business can refuse to serve customers in a protected class because of a business owner's religious beliefs.

In 2012, Charlie Craig and David Mullins attempted to purchase a wedding cake from Masterpiece Cakeshop for their upcoming wedding reception in Colorado, which followed their wedding ceremony in Massachusetts. The owner of Masterpiece Cakeshop refused, saying that the bakery did not make cakes for same-sex wedding receptions. The couple sued, asserting that the business violated Colorado's nondiscrimination law, which protects customers from being refused service because of certain protected categories, including race, religion and sexual orientation. Churches and other religious organizations are exempt from this nondiscrimination law that applies to for-profit businesses open to the public. The Commission ruled in favor of the couple. After several appeals, the case made its way to the U.S. Supreme Court.

The Court's June 4 decision, written by Justice Anthony Kennedy, ducked this case's core question. Instead, the decision said that the Commission, in an early stage of its proceedings, had not given Masterpiece Cakeshop's religious objection fair and neutral

consideration. The opinion notes that two of the seven commissioners made statements that could be interpreted as critical of the role of religion. The Court also was concerned about the Commission's failure to properly distinguish why it reached the opposite conclusion in a similar case involving a different customer's inability to get custom cakes from other bakeries.

The dissenting opinion, written by Justice Ruth Bader Ginsburg, agrees with much of the majority opinion about the value of nondiscrimination laws and the ability of states to include sexual orientation as a protected category. The dissent contends that the Commission's actions should not prevent the Court from deciding the central issue that is before it, especially since there was no evidence of bias in the other proceedings.

The Baptist Joint Committee filed a brief on behalf of the Commission, explaining how nondiscrimination laws protect religious liberty. "[Religious liberty] does not mean that religious beliefs provide blanket exemptions to nondiscrimination laws that protect our neighbors," said BJC General Counsel Holly Hollman on the day the decision was released. "As we consider these difficult issues in future cases, we all will fare better when we acknowledge the legitimate interests on both sides of these disputes and approach each other with civility and respect."

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By Jennifer Hawks, BJC Associate General Counsel

## A tour through history raises questions for our time

By Amanda Tyler, BJC Executive Director

This summer, I had an enriching opportunity to learn and deepen my connection to our Baptist history. I participated in the Baptist Theological Seminary at Richmond's course and immersion experience, "A Shelter for Conscience: Religious Liberty among Baptists and other Dissenters," which included visits to historic religious liberty sites in Virginia. The group's tour included a stop at the BJC's Center for Religious Liberty on Capitol Hill in Washington, D.C., where I was a guest lecturer.

Starting in Richmond, we toured historic churches that connect the present to the past. We saw Sixth Mount Zion Baptist Church, founded by Pastor John Jasper, a celebrated preacher who began his ministry as an enslaved person. We visited St. John's Episcopal Church, where Patrick Henry delivered his famous "give me liberty or give me death" speech. We went directly from the Liberty Trail to the Richmond Slave Trail and Lumpkin's Jail, referred to as "the Devil's Half Acre" by enslaved Africans held for auction there.

We learned how dangerous it was to be a Baptist in Virginia in the 18th century, when you would have almost certainly known at least one person who had been jailed or whipped for preaching without a license. Baptists often discuss this history, but the trip left me asking questions, too. How much more dangerous was it to be a black person of any religion during that time? How do we reconcile the birth of religious liberty in a place that denied liberty to nearly half the population? How do we appropriately celebrate the achievements of Jefferson and Madison without idealizing them to the point of turning a blind eye to their sins of action and inaction? Once raised, these questions are not easily answered. Addressing them in an honest and forthright way, I believe, is essential to a more complete and inclusive treatment of religious liberty going forward.

We also toured notable historical sites, including Polegreen Church, which marked the preaching ministry of Presbyterian Samuel Davies. An open-air, modern frame in stark white outlines the footprint of a meeting house destroyed in the Civil War (pictured on this page). It was there that we learned, from Virginia Baptist Historical Society Director Nathan Taylor, about the ways

that Presbyterians dissented within the system, applying for preaching permits, while our Separate Baptist forebears resisted the licensure process itself as an affront to soul freedom. Then, as now, there are various ways to resist authoritarian control. We needed all approaches for disestablishment of official religion in Virginia and the other colonies.



The Polegreen site also included a walking timeline of religious liberty, with stone markers beginning in the Roman Empire and continuing through 18th century Virginia. As I silently walked through the centuries of oppression, I wondered how exceptional are these times in which we are living now? Are the challenges we face truly greater than those that earlier Americans or citizens of the world confronted? Despite hyperbolic pronouncements around us, I think the answer is no. But what helped those before us overcome injustices were their exceptional responses to their times. I believe that we are in need of extraordinary witnesses for justice, mercy and humility to confront our present-day challenges to religious freedom for all.

The walking timeline ends in 1791 with the adoption of the First Amendment and its guarantee that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Our Founders left us with a first freedom that has, at times, been more aspirational than descriptive. It is up to us, as both heirs and sustainers of that freedom, to make those words a reality, not just for ourselves but for people of *all* races and ethnicities, and of *all* faiths and of no faith at all.

## Change on the High Court

By Holly Hollman, BJC General Counsel

**A**t the end of the U.S. Supreme Court's term, Justice Anthony Kennedy announced his retirement, providing President Donald J. Trump the opportunity to reshape the Court with his nomination of a second justice in just two years, Judge Brett Kavanaugh. With no shortage of issues that divide the country, the prospect of a new justice brought immediate anxiety for some and hopeful anticipation for others.

As becomes clearer each day, religious liberty is the responsibility of every American. Legal protections are insufficient without the public's commitment to uphold it in our pluralistic society. The protection of religious liberty in law and practice is not accidental or self-perpetuating. The separation of church and state is evident in the design of our Constitution, particularly in the ban on religious tests for public office in Article VI and in the first 16 words of the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It forms the legal basis of our religious liberty and must be vigorously defended.

As the arbiter of these and other laws, the Supreme Court's role is crucial, and each new justice may have a significant impact. For the BJC, the mark of a good justice is one who takes seriously both Religion Clauses — no establishment and free exercise — as twin pillars of our constitutional architecture, reflecting our country's unique history and commitment to religious freedom. Though we won't always agree on the outcome in a given case, we must all demand — as Americans and as historic Baptists — that our courts are nonpartisan protectors of our religious liberty legacy.

As the Senate Judiciary Committee prepares for hearings on the president's nominee, the BJC is reviewing D.C. Circuit Court Judge Brett Kavanaugh's record and looking at the potential impact of this nomination on religious liberty and our work. When viewed in light of Justice Kennedy's church-state legacy and ongoing conflicts, it is clear that living up to our country's promise of religious liberty for all remains an uphill battle.

### Legacy of Justice Kennedy

Justice Kennedy's pivotal role on the Court is undeniable. His record includes casting the deciding vote in landmark decisions across a broad spectrum of legal issues. While his opinions upholding LGBT rights and striking restrictions on abortion access put him at the political center of the nine-member court, his record is complex. He is not known for ideological consistency but instead for being open-minded and respectful in the judicial process. Those who have worked closely with him say that he carefully weighs competing values. He maintains civility in disagreement. While those characteristics meant it was possible that Kennedy could be on the side the BJC advocated in any given case, we were often disappointed, particularly in his narrow view of government establishments of religion and when claims may proceed in the courts (known as standing doctrine). When considering his replacement, we acknowledge Kennedy's extensive religious liberty legacy, important aspects of which are summarized here.

On the free exercise front, Kennedy voted with Justice Antonin Scalia and the majority in *Employment Division v. Smith* (1990), the case that rejected an exemption for a Native American's sacramental use of peyote and altered free exercise law. In *Smith*, the Court held that the Free Exercise Clause does not require exemptions from neutral laws that incidentally burden religion. Opposition to the decision united religious and civil liberty groups, forging a coalition led by the BJC to advocate for the creation and passage of the Religious Freedom Restoration Act (RFRA) to restore the standard *Smith* undermined. A few years later, Kennedy wrote the majority opinion in *City of Boerne v. Flores* (1997), which held that the passage of RFRA exceeded congressional authority as applied to the states in violation of federalism principles. That decision meant RFRA no longer applied to state and local governments, and it spurred some states to pass their own versions of that law.

Prior to RFRA's passage, however, Kennedy wrote the





majority opinion for a unanimous Court that found that a law prohibiting the sacrificial killing of animals violated the Free Exercise Clause. Ameliorating the sting of the Court's ruling in *Smith*, Justice Kennedy's opinion in *Church of Lukumi Babalu Aye v. City of Hialeah* (1993) at least made clear that the Constitution still forbids the government from unfairly targeting religious practices. That case has been cited broadly and creatively in recent cases, such as *Trinity Lutheran Church of Columbia v. Comer* (2017), which challenged a state's rule designed to avoid funding places of worship, and *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018), which challenged government efforts to ensure LGBT nondiscrimination in the commercial marketplace.

Kennedy joined unanimous decisions to uphold strong statutory protections for free exercise provided by the passage of RFRA and the Religious Land Use and Institutionalized Persons Act (RLUIPA). In the most controversial application of RFRA, Kennedy cast the deciding vote in *Burwell v. Hobby Lobby Stores* (2014). That case upheld RFRA's application to a closely held for-profit corporation and found that the retail chain was entitled to relief from a requirement to provide contraceptive coverage to its employees. While the scope of the Court's ruling is contested, Kennedy's narrow concurrence emphasizes the Court's assumption that the government has a compelling interest in women's health and equality. He stressed the importance of



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providing an accommodation for the employer that would not risk loss of benefits for employees.

Like other conservative justices, Kennedy has been less likely to find violations of the Establishment Clause, which protects religious freedom by keeping government from advancing, sponsoring or affiliating itself with religion. Establishment Clause cases include government involvement in religious displays and funding for religious institutions or religious exercises. While noting that this area of the law is fact-sensitive, Kennedy consistently voted to uphold religious displays on government property. He explicitly rejected the endorsement test, which would strike government actions that send the message that those who agree with a religious message are political insiders. Instead, Kennedy more often focused on whether the government coerces support for or participation in religion, or otherwise acts in a way that establishes religious faith or tends to do so.

Kennedy was more concerned about government advancement of religion in the public schools where he found government coercion more readily apparent. His majority opinion in *Lee v. Weisman* (1992) found school-sponsored prayers at graduation ceremonies to be unconstitutional, and he voted to strike a school policy providing for student-led prayer at public high school football games in *Santa Fe Independent School District v. Doe* (2000). In *Lee*, he explains the different ways that speech and religion are protected in the First Amendment. He recognizes that it protects objectors and dissenting non-believers, but it also exists to protect religion from government interference.

Kennedy expressed less concern with government-sponsored religion in *Town of Greece v. Galloway* (2014), a case in which he wrote the majority opinion in a 5-4 decision upholding a prayer practice (predominantly Christian prayer) at local government meetings. While purporting not to announce a new test or extend beyond cases that deal with "ceremonial" prayer, the decision is noteworthy for its broad reading of *Marsh v. Chambers* (1983), which upheld chaplain-led prayer before state legislatures,

## Key Kennedy church-state opinions

### ***Lee v. Weisman* (1992)**

A 5-4 decision said public school graduation prayers are unconstitutional, as the government should not coerce students into participating in religious exercises.

### ***Church of Lukumi Babalu Aye v. City of Hialeah* (1993)**

A unanimous Court held that the government cannot pass laws targeting unpopular religious practices.

### ***City of Boerne v. Flores* (1997)**

A 6-3 decision held that the federal RFRA could not apply to state governments, leading to several states passing their own versions of RFRA.

### ***Arizona Christian School Tuition Organization v. Winn* (2011)**

A 5-4 decision said taxpayer plaintiffs did not have standing to challenge a state school voucher program, effectively eliminating the doctrine of taxpayer standing.

### ***Town of Greece v. Galloway* (2014)**

A 5-4 decision upheld a town's practice of opening its municipal meetings with official prayers.

citing historical practices in Congress. In the BJC's brief, which was cited in a dissenting opinion, we argued that *Marsh* should not have been extended to the context of local government meetings where citizens gather to conduct civic business. Though the settings have material differences, Kennedy and the majority were unwilling to distinguish the Town of Greece's practice from the prayers upheld in *Marsh*.

#### **Kennedy's final opinions**

Kennedy wrote separately in both religious freedom cases before the Court this term. While neither opinion breaks new ground nor provides much guidance, both reflect his measured style and focus on dignity.

Justice Kennedy's legacy advancing equality for LGBT people is well-established. As conflicts between marriage rights and religious objections rose through the courts, advocates on all sides focused on Kennedy, who is also a staunch free speech advocate. Not surprisingly, he wrote the majority opinion in *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018), a case in which a commercial baker refused to prepare a custom cake for a same-sex couple in violation of a state statute that prohibits discrimination on the basis of sexual orientation, among other protected categories (see page 2 for details). Kennedy's opinion for a 7-2 majority rests on the perceived animus in the administrative proceedings that originally decided against the baker. It was not a broad win for religious objectors to LGBT rights, and it instead reflects a commitment to LGBT equality and the struggle to uphold the dignity of those who oppose same-sex marriage on religious grounds.

Kennedy provided his last religious liberty statements as a sitting justice in *Trump v. Hawaii* (2018), a 5-4 decision upholding the third iteration of a Trump administration immigration and refugee policy that began with Trump's promise of a Muslim ban (see page 2). He joined Chief Justice John Roberts' majority opinion in full and wrote a short concurrence. While the majority opinion gave short shrift to the religious animus concerns,

Kennedy highlighted the pressing danger to the Constitution inherent in executive discretion free from judicial scrutiny:

"The First Amendment prohibits the establishment of religion and promises the free exercise of religion. From these safeguards, and from the guarantee of freedom of speech, it follows there is freedom of belief and expression. It is an urgent necessity that officials adhere to these constitutional guarantees and mandates in all their actions, even in the sphere of foreign affairs. An anxious world must know that our Government remains committed always to the liberties the Constitution seeks to preserve and protect, so that freedom extends outward, and lasts."

With these words calling for government officials to be accountable to our constitutional ideals, Kennedy exits and provides an opening for a justice whose approach appears to be quite different from his own and less concerned about deferring to the executive branch.

#### **Judge Brett Kavanaugh**

Kavanaugh grew up in the suburbs of Washington, D.C., and is well-known in the D.C. legal community where he has spent most of his professional life, following his education at Yale. At the announcement of his nomination, he mentioned that he, like Kennedy, is Catholic. He spoke of his community activism, particularly through his church and church-related charities, which suggests he would affirm religion's vibrant role in the public square. From that, some may assume he would sympathize with claims asserted by religious individuals and institutions and be a strong protector of religious liberty. Being a faithful religious adherent, however, is not synonymous with upholding the Constitution's promise of religious liberty for all and guarding against government advancement of or interference in religion.

As a former Kennedy clerk, Kavanaugh claims great admiration for the justice whose seat he hopes to take. On a variety of issues, however, Kavanaugh's

record suggests he will shift the Court in a decidedly different, more ideological direction. His government service is extensive, including 12 years as a judge on the D.C. Circuit Court of Appeals and as a lawyer in the executive branch. His experience provides abundant material for the Senate to review and form an opinion about his ability, judicial temperament and approach to a number of important legal issues. Compared to other areas of law that are more commonly brought before the D.C. Circuit (such as regulatory issues), Kavanaugh's church-state record is sparse. Still, it is fair to say that religious freedom is an issue of personal and professional interest to him.

## **Clues to Kavanaugh's church-state views**

### **Kavanaugh praises Chief Justice William Rehnquist's views in 2016 speech:**

"In the Establishment Clause context, Rehnquist was central in changing the jurisprudence and convincing the Court that the wall [of separation] metaphor was wrong as a matter of law and history."

### **Kavanaugh dissents in *Priests for Life v. Department of Health and Human Services***

While Kavanaugh wrote that government had a "compelling interest" in "facilitating access to contraceptives," he accepted the claim that a specific accommodation for religious institutions itself was a "substantial burden" on the exercise of religion. That position distorts RFRA in a way that threatens to discredit the cause of religious liberty.



### The Kavanaugh record

While serving on the D.C. Circuit Court of Appeals, Kavanaugh participated in at least a dozen cases that addressed church-state issues. The few in which he wrote opinions, as well as his public speeches, give the most significant clues about his views and how he may differ from the justice he hopes to replace.

His admiration for Justice Kennedy's approach is on display in a number of cases. For instance, Kavanaugh narrowly construes standing, though his views in various cases are difficult to reconcile. One case challenging prayers and religious references at inaugurations was dismissed for lack of standing, but he wrote a concurrence to explain that he would have found standing and rejected the claim on the merits. In doing so, Kavanaugh dismissed the idea that the incidents were minor or lacking religious importance and explained his view that they were nonetheless consistent with American history and tradition and the Court's ruling on legislative prayers with *Marsh*.

In a dissent from the D.C. Circuit's decision in *Priests for Life v. Department of Health and Human Services* (2014), one of many challenges to the Affordable Care Act's contraceptive mandate, Kennedy's influence on Kavanaugh seems apparent. Kavanaugh noted that the government had a "compelling interest" in "facilitating access to contraceptives," a position criticized by some



**Courts must uphold the institutional separation of church and state that guards religious liberty for all, without regard to religion.**

in the anti-abortion movement. Unlike the majority of the D.C. Circuit, however, Kavanaugh accepted the plaintiffs' claim that the accommodation provided for the plaintiffs (which the Supreme Court had relied on in *Hobby Lobby*) was itself a "substantial burden" on the exercise of religion under RFRA. That issue was heard but later dismissed by the Supreme Court without decision in *Zubik v. Burwell* (2016). In a brief filed in the *Zubik* case, the BJC argued that the plaintiffs' position amounts to near total deference and is dangerous to RFRA's continuing vitality and the whole enterprise of religious exemptions.

Perhaps more telling than these opinions is Kavanaugh's praise for the late Chief Justice William Rehnquist's influence on church-state matters. In a recent speech,



Kavanaugh credited Rehnquist for moving away from church-state separation toward non-preferentialism with regard to religious institutions seeking government funding. The distinct roles of the institutions of religion and government have guaranteed the flourishing of religious liberty and protected religious institutions from government interference. But Kavanaugh's comments raise alarms that he lacks appreciation for the unique treatment of religious institutions in our constitutional history.

### Looking to the future

The Supreme Court's precedents acknowledge that the institutional separation of church and state is beneficial to religious liberty. From Kennedy's legacy, it is evident in *Lee v. Weisman* and, to a lesser extent, in the boundaries he outlined in *Greece v. Galloway*. His emphasis on dignity and his view of the harm that may be inflicted by government coercion in religious matters provided some measure of protection against majoritarian abuses. Whether Kavanaugh appreciates the Establishment Clause as a limit on government involvement with religion and an essential protection for individual religious liberty is questionable.

As the Senate hearings commence, the BJC expects a careful examination of the nominee and his approach to religious liberty. Acknowledging the vital role of religion in the life of the country is essential, and our Constitution embraces a welcoming role of religion in the public square. That role is protected by Free Exercise and Establishment Clause principles, including those that prevent government sponsorship of religion, whether through government-led religious practices or funding schemes. Like the Founders recognized, government should refrain from usurping religion's role, and the courts must uphold that vision protecting religious liberty for all.



Photos by Lesley-Ann Hix Tommey

## The next generation takes the stage at the Religious Liberty Council Luncheon

BJC Fellows across the country are actively standing up for our first freedom in their congregations, communities and careers. At this year's Religious Liberty Council (RLC) Luncheon, hundreds of religious liberty supporters gathered to hear from members of each class of BJC Fellows, who shared their individual journeys and how they're putting the BJC Fellows Program's teachings to use in their everyday settings.

Three BJC Fellows from the class of 2017 took the stage for a panel discussion moderated by the Rev. Dr. George Mason, pastor of Wilshire Baptist Church in Dallas. Joining him were the Rev. Aurelia Davila Pratt, lead pastor of the Peace of Christ Church in Round Rock, Texas; Sofi Hersher, assistant communications director of the Religious Action Center of Reform Judaism in Washington, D.C.; and the Rev. Corey Mitchell, a speech-language pathologist in Raleigh, North Carolina, and associate minister for children and youth at the Rock Spring Missionary Baptist Church in Creedmoor, North Carolina.

Since 2015, the Baptist Joint Committee for Religious Liberty has selected 10 BJC Fellows each year, bringing them to Colonial Williamsburg, Virginia, for an intensive and interactive seminar. Members of the BJC staff, alongside other scholars and historical interpreters, deepen the Fellows' historical, legal and theological understandings of religious liberty, thus equipping these young professionals to take action on religious

liberty issues in their own communities and contexts.

Pratt shared that she was drawn to the program because of the opportunity to increase her awareness of religious liberty and to develop advocacy skills. She said it was a feeling of despair after the 2016 election that led her to search for ways to become more civically minded. "I wanted to take my frustration and turn it into productive civic action. It seemed like the right time for me to try to be a part of the Fellows program," she said. "The program helped me further my passion, gifts and calling in ministry."

In Mitchell's ministry work with children, he said his knowledge from the program has helped him communicate "tolerance" as well as "how to be accepting of peers who have a different faith background." He reiterated that this concept can be especially difficult for children to wrap their heads around if they have met few people who differ from them – theologically or otherwise.

Hersher, who is Jewish and the first non-Christian BJC Fellow, said that, among the many things she learned during the BJC Fellows Seminar, is "how complicated it is to be Baptist," to which the room responded with raucous laughter. The BJC has a long history of working with the Jewish community on matters of religious liberty, and Mason recognized this relationship, adding, "When we think about minority faiths, there's often been a shared experience between early Baptists and Jews in this



country.”

Pratt has seen the impact of the BJC Fellows Program on her congregation’s efforts in interfaith community building. “Interfaith work at its core is just about getting to know your neighbor,” she said. “As Christians, we’re called to love our neighbor, and you can’t love someone if you don’t know them.”

Pratt also pointed out that religious liberty is something many faith-based persons can get behind. “Religious liberty becomes a shared value, and our goal then becomes to preserve and protect that for all, whether you worship a different god from them or no god at all.”

Mitchell added that “a little love can go a long way,” urging that much more can be accomplished by loving each other than the opposite. Plus, he added, “Religious liberty is the responsibility of everyone in this room.”

Hersher agreed with both Mitchell and Pratt, noting that “the future of religious liberty is strongest in partnership,” referring to her own partnership with the BJC as a “beautiful” one. She offered a historical lens as well, reminding everyone that religious liberty can be a shared experience that is — unfortunately — often rooted in religious persecution. “Everyone in this room at some time and at some place on earth is a part of religion that at one point in history has been part of a majority and part of a minority,” she said.

Pratt echoed Hersher’s sentiment. “Religious liberty is not automatic,” she said. “We have to work together to pre-



“[R]eligious liberty  
is strongest in  
partnership.”

**SOFI HERSHER  
2017 BJC FELLOW**

serve it, whether through advocacy in the community, or by becoming a BJC Fellow, or giving to organizations like the BJC.”

After the panel concluded, eight other BJC Fellows took to the microphones to share their insights and experiences as advocates.

“Being a BJC Fellow means having the tools to model best practices as a religious voice in the public square,” said the Rev. Lauren McDuffie of Morehead, Kentucky. “I’m grateful for the education I received as a BJC Fellow that has pre-

pared me to help guide conversations in the midst of difference and to advocate for those whose voices are sometimes unintentionally silenced in the interest of easy answers.”

The Rev. Megan Pike, a 2016 BJC Fellow living in Little Rock, Arkansas, said her advocacy includes the nonprofit sector. “I really see the value of preserving the Johnson Amendment,” she said, as both a minister and a member of a local nonprofit board. “Messing with the Johnson Amendment would be infiltrating our nonprofit organizations with partisan politics, which makes our organizational missions vulnerable to external pressure and could be divisive in our congregations.”

“I am sensitive to my own religious privilege,” said the Rev. Kyle Tubbs, a 2015 BJC Fellow based in Decatur, Georgia. “I strive to be a religious liberty advocate for my inter-religious neighbors, remembering that Baptists, at one time, were religious minorities, too.”

Incoming BJC Fellows — members of the class of 2018 — also shared their excitement about what lies ahead.

The Rev. Brent Newberry of Worcester, Massachusetts, expressed interest in how the BJC Fellows program can help him better explore his own inter-religious community.

The Rev. Claire Hein Blanton of Houston, Texas, said she was “excited about the opportunity” to translate her doctoral studies in political theology to “everyday life,” and “gain a vocabulary” that will help her “further the mission of religious liberty.”

The Rev. Annette Owen, a pastor of a small congregation in the Chicago suburbs, said she is looking forward to having what she learns at the BJC Fellows Seminar “empower the congregation to see themselves as agents of change.”

To close the luncheon, the Rev. Alyssa Aldape, a 2015 BJC Fellow and pastor in Washington D.C., told the audience, “We are called to be in this work together. Let’s be do-ers, together.”

“Our future is in the excellent hands of the BJC Fellows,” said BJC Executive Director Amanda Tyler, commending the next generation of religious liberty advocates during her remarks. She also shared an update on how many advocates from across the theological spectrum have recently worked together to make a difference.

“I can report to you that, thanks to your effort and involvement, our laws still contain protections that keep political leaders and candidates from trying to co-opt our houses of worship and other 501(c)(3) nonprofits for their own campaign pur-



Kathryn Freeman



Rev. Libby Grammer



Rev. Brent Newberry



Rev. Lauren McDuffie

poses,” she said. “Over the past year, you have been an integral part in our success to keep the Johnson Amendment intact: to keep our nonprofits nonpartisan and to keep partisan electioneering out of our tax-exempt sanctuaries.”

Tyler thanked all who have reached out to their members of Congress, written letters and op-eds, added their name to [Faith-Voices.org](https://Faith-Voices.org) (which is still accepting signatures), and raised their voices in other ways to push back against proposed changes to the law. She reminded everyone that the efforts are ongoing, and “the fight continues.”

As the individual donor organization of the Baptist Joint Committee, the Religious Liberty Council is one of the 15 supporting bodies of the BJC. All BJC donors are members of the RLC, and the luncheon included the election of RLC officers and RLC representatives to the BJC Board of Directors.

Lynn Brinkley of North Carolina and the Rev. Andrew Daugherty of Colorado were re-elected to new three-year terms serving as RLC representatives on the board, and Gary Walker of Florida and the Rev. Elizabeth Mangham Lott of Louisiana were elected to serve for their first three-year terms. Tyler thanked the Rev. Tambi Swiney of Tennessee and Aubrey Ducker of Florida for their two terms of service as RLC representatives.

The crowd also re-elected the Religious Liberty Council Officers: Co-chairs Swiney and Aldape and Secretary Ashton Wells of Missouri, a 2016 BJC Fellow.

The annual Religious Liberty Council Luncheon is held in conjunction with the Cooperative Baptist Fellowship General Assembly each summer, and it is open to anyone who wants to attend. Next year’s event will be in Birmingham, Alabama. Tickets will be available for purchase in spring 2019.

To see more scenes from this year’s event and to watch a video of the entire program, visit [BJCOnline.org/Luncheon](https://BJCOnline.org/Luncheon). You can also search the hashtag #RLCLunch on social media for additional event coverage.

Read on for information about connecting with the BJC Fellows Program and how to partner with this next generation of religious liberty leaders.

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By Ilana Ostrin

## From Washington to Dallas

During the Cooperative Baptist Fellowship General Assembly in Dallas, the BJC led a workshop on religious liberty. Executive Director Amanda Tyler and Associate General Counsel Jennifer Hawks covered recent U.S. Supreme Court decisions and gave an update on Executive Orders and other news from Washington.

Want to bring a similar religious liberty workshop to your community or event? Email Charles Watson at [cwatson@BJCOnline.org](mailto:cwatson@BJCOnline.org) for information.



Stream a video or podcast of the luncheon: [BJCOnline.org/Luncheon](https://BJCOnline.org/Luncheon)



Amanda Tyler, Rev. Tambi Swiney and Aubrey Ducker





Members of the 2015, 2016, 2017 and 2018 classes of BJC Fellows gathered at the 2018 RLC Luncheon in Dallas. Front row, from left to right: Alyssa Aldape, Libby Grammer, Megan Pike, Lauren McDuffie, Aurelia Davila Pratt, Sofi Hersher, Brent Newberry, Claire Hein Blanton. Back row, from left to right: Corey Mitchell, Annette Owen, Kathryn Freeman, Katie Murray, Kyle Tubbs.

# TAKE ACTION!

Inspired by these new leaders? Show your support for religious liberty by connecting with the BJC Fellows Program.



## 1. ENGAGE A BJC FELLOW

Invite a BJC Fellow in your region to speak at your church or in your community about religious liberty. Contact Charles Watson Jr., associate director of education, for details at [cwatson@BJCOnline.org](mailto:cwatson@BJCOnline.org).

### BJC Fellows throughout the country:

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Megan Pike '16

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Jaimie Crumley '16

#### Georgia

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Daniel Headrick '18  
Brian Knight '16  
Kyle Tubbs '15

#### Idaho

Tanner Bean '18

#### Illinois

Annette Owen '18

#### Indiana

Meriah VanderWeide '17

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Lauren McDuffie '15  
John Weber '16

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#### Tennessee

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Katie Murray '15  
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Aurelia Davila Pratt '17  
Adam Wright '15

#### Virginia

Sarah Amick AlZubi '16  
Sabrina Dent '15  
Jenny Hodge '16  
Libby Grammer '17  
Will Thomas-Clapp '18

#### Washington, D.C.

Alyssa Aldape '15  
Chelsea Clarke '18  
Sofi Hersher '17  
Elijah Zehyoue '15



## 2. RECRUIT A BJC FELLOW

Don't see a BJC Fellow in your area? Know a person perfect for our program? Suggest they apply! Applications will be available in December at [BJCOnline.org/Fellows](http://BJCOnline.org/Fellows).



## 3. DONATE TO THE BJC FELLOWS PROGRAM

Your contribution ensures the future of religious liberty advocates. Make your gift: [BJCOnline.org/Donate](http://BJCOnline.org/Donate).

# Freedom of religion or belief: Engaging the global church

By Shane McNary  
United Nations Representative for the Baptist World Alliance

**F**reedom of religion or belief (FORB) was barely mentioned during meetings at the United Nations (UN) in Geneva in April. The pre-session was in preparation for the Universal Periodic Review (UPR) Session 30, which took place in May of 2018. What makes this striking is that four countries have serious FORB concerns: Azerbaijan, the Russian Federation, Turkmenistan and Uzbekistan.

## What are the specific issues?

One of them is the forced registration of religious groups; yet applications are delayed or denied and, when the religious groups meet, they face harassment, arrest or prolonged detention.

Take for example the case against Baptist pastors Hamid Shabanov and Mehman Agammadov in northern Azerbaijan. They have attempted registration since 1994 and still Azerbaijani officials refuse to register the congregation, making their meetings illegal.

Just days before I left for Geneva, a letter from the All-Ukrainian Union of Evangelical Christian-Baptist Churches was forwarded to me. It points out “the systemic religious freedom violations in the territory of the so-called Lugansk People’s Republic.”

Of specific concern are the impending re-registration requirements of all religious organizations, restrictions on where religious groups can meet to practice their religion or distribute religious materials, and scrutiny of funds received from foreign sources. It is likely that most churches in the Union would be unable to meet all the requirements and would be forced to close or continue to meet illegally.

Similar crackdowns across the Russian Federation against minority religions — including Muslims, Protestant Christians, and especially Jehovah’s Witnesses — have drawn the attention of the European Baptist Federation (EBF) and the Baptist World Alliance (BWA), who spoke to the FORB situation in resolutions approved during their annual meetings last year. Solidarity with persecuted religious minorities is a clear signal that Baptists are continuing their commitment to freedom of religious belief for ALL.



## What is the best way to engage in FORB advocacy?

By collaborating. Situations in various countries are too complex and, to be candid, too costly for any one organization to fully research and bring recommendations for consideration within the United Nations’ UPR processes. A single voice is not likely to be heard in these deliberations, whereas a coordinated effort by a cluster of organizations with a similar focus on FORB will gain the attention of state actors and other stakeholders.

Joining with the regional and transnational partners whom we can and should collaborate with calls for investment in both personal and organizational empowering relationships.

## How can a local church or an individual be engaged?

This is, I believe, where the future work of FORB advocacy intersects with local congregations and individuals. An individual representative traveling to meetings in Geneva or New York or Nairobi with the United Nations does not have nearly the impact of positive collaboration with members of our own global Baptist family and others who must engage locally on a daily basis with FORB issues. To that end, I felt hopeful when Christians from several Central Asian countries gathered last fall for training on what FORB means and how to engage in the UPR process.

Investing in these local leaders is a catalyst for greater collaboration and action.

Future engagement in FORB will be about more collaboration among transnational and regional organizations as well as with local churches and individuals who are engaged in transforming their own countries. The situation of FORB for the global church is likely to become more precarious as the trend toward more restrictions and violations is outpacing the expansion and protection of this basic human right.

*Shane McNary is one of the Cooperative Baptist Fellowship’s field personnel. He serves alongside his wife, Dianne, in Slovakia and the Czech Republic. Learn more about their ministry at [cbf.net/mcnary](http://cbf.net/mcnary).*

*A version of this article originally appeared on the CBF blog and is reprinted here with permission.*



## Why We Give:

# Supporting religious liberty is a family tradition

On a recent vacation together, four generations of the Brown family donned their BJC T-shirts for a family photo and to advocate for religious liberty for all.

Kent and Ann Brown, along with their adult children — life-long Virginia Baptists living in the southern part of the state — are also financial supporters of the BJC. “Contributing to the BJC is a unique way to fight for religious liberty and of working to ensure that people throughout the country have the same religious liberty that we enjoy,” said their son Robert Brown, a former member of the BJC Board of Directors.

In addition, Kent and Ann have included the BJC in their estate plans, ensuring the BJC’s mission into the future.

Join the Browns and many other families who support the BJC through annual or planned gifts by visiting [BJCOnline.org/Donate](http://BJCOnline.org/Donate).

For more information about naming the BJC as beneficiary of a will or retirement plan, please visit [BJCOnline.org/Planned-Giving](http://BJCOnline.org/Planned-Giving) and complete a simple form.

You also may contact Taryn Deaton, senior director of development and strategy, at 202-544-4226 or [tdeaton@BJCOnline.org](mailto:tdeaton@BJCOnline.org).



**Pictured:** Back row, left to right: Robert Brown (with Sarah), Karen Brown (with Evan), Kent Brown, Ann Brown, Erin Brown (with Caleb and Seth), William Brown (with Luke). Front row: Charlotte Brown, Allen Brown, Emily Fitzgerald.

## Baptist Joint Committee welcomes summer interns

*The Baptist Joint Committee is pleased to have two summer interns working alongside our staff in Washington, D.C.*



**AMBER CUNNINGHAM**, a native of Charlotte, North Carolina, is a senior at Chowan University, majoring in history. On campus, she serves as a ministry chaplain and the president of the NAACP campus chapter. Cunningham is active with campus ministries, and she has been part of mission trips to Cuba and South Africa. She attends Mt. Sinai Church of God in Murfreesboro, North Carolina. After completing her undergraduate studies, Cunningham plans to attend law and divinity school.

**DAVID MCCONNELL**, a native of Seymour, Tennessee, is a senior at Carson-Newman University, double majoring in political science and philosophy, with a minor in speech. While at Carson-Newman, he won a national championship as a member of the university’s debate team. An Eagle Scout, McConnell previously served his church as a family life center employee. The son of David and Donna McConnell, he plans to attend law school in 2019.

## Connect with the BJC at upcoming events

### August 7-8

BJC Executive Director Amanda Tyler brings greetings at the Progressive National Baptist Convention’s Annual Session in Philadelphia, **Pennsylvania**. BJC Associate Director of Education Charles Watson Jr. also speaks during the chaplain’s breakfast at the gathering.

### September 24-27

BJC Associate General Counsel Jennifer Hawks collaborates with the Cooperative Baptist Fellowship of **South Carolina** to speak to churches in the state.

### October 13

Watson leads a workshop during the Evergreen Association of American Baptist Churches’ Annual Meeting at Grace Baptist Church in San Jose, **California**.

### November 4

Tyler speaks on the “Baptists Who Are Passionate About Justice” panel at the Parliament of the World’s Religions in Toronto, **Canada**.

**For additional BJC events, visit**  
[BJCOnline.org/Calendar](http://BJCOnline.org/Calendar)

# Why religious liberty matters to the black church

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## What is religious liberty?

The Baptist Joint Committee for Religious Liberty (BJC) defines religious liberty as our God-given right to choose how, when, where and if we worship. It is the freedom of the individual conscience to choose to worship God, or not, according to the dictates of one's heart and mind. Religious liberty enables one to embrace biblical truth freely (or one's sacred scripture or no scripture). For American citizens, it is also a right protected by the First Amendment of the U.S. Constitution.

## What does the Constitution say about religious liberty?

The First Amendment provides two clauses with safeguards for religious liberty. The first 16 words state: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

## What does "make no law respecting an establishment of religion" mean?

This is known as the Establishment Clause, and it prevents the federal government from establishing a national religion or state-controlled church. It also prevents the government from advancing, privileging or funding religion.

## What about "prohibiting the free exercise thereof"?

This is known as the Free Exercise Clause, and it keeps the government from unnecessarily interfering with religious practices.

## Why is this important to the black church?

The black church has always struggled for its freedom in the U.S. This struggle is our heritage; it is in our DNA. Since the days of slavery, African-Americans have fought to worship God freely: first in secret and then through small plantation churches under the master's watch. Our struggle for religious liberty is connected to our struggle for freedom and justice in America. Since we historically have experienced this injustice, it is important for us to fight for the religious freedom of all Americans and faith traditions.

## How can the black church help support the cause for religious liberty in America?

Religious liberty is a civil rights issue — its moral basis is the recognition that freedom of conscience is fundamental to human dignity. The black church should continue in the tradition of advocating for "the least of these," which also should include those whose religious freedoms are being compromised.

A threat to *anyone's* religious liberty is a threat to *everyone's* religious liberty.



The Rev. Corey Mitchell created this guide for the Baptist Joint Committee. A 2017 BJC Fellow, Mitchell is the associate minister for children and youth at Rock Spring Missionary Baptist Church in Creedmoor, N.C., and a speech-language pathologist in Raleigh, N.C. The two-page handout debuted at the Annual Session of the Progressive National Baptist Convention, held August 6-10 in Philadelphia, Pennsylvania.

For a printable handout of this information, visit [BJCOnline.org/Resources](https://BJCOnline.org/Resources).





“Religious liberty suggests that a person is free to choose from any number of religious traditions active within a society, and the government works to protect the rights of all of them to operate according to their own conscience.”

**Rev. Dr. Marvin McMickle**

*Author of Pulpit and Politics: Separation of Church and State in the Black Church*, president of Colgate Rochester Crozer Divinity School and the keynote speaker at the BJC’s 2015 Religious Liberty Council Luncheon

“While a constitutional framework protects our rights to freedom of conscience and belief, we must never forget the unspoken and painful history of slavery during the time of the drafting of the First Amendment. Ignoring the omission of human freedom over spiritual freedom creates potential threats of discrimination against racial and religious minorities in today’s political climate.”

**Dr. Sabrina Dent**

Director of admissions and recruitment at the Religious Freedom Center of the Freedom Forum Institute and a 2015 BJC Fellow



“The black church historically has used its moral conscience and prophetic voice both to speak to government officials for justice and against unjust, immoral policies. The BJC is a trusted partner of the PNBC: protecting our mandate ‘to lift our voice for the voiceless’ in our pulpits as well as in the public square.”

**Rev. Dr. Timothy “Tee” Boddie**

General secretary of the Progressive National Baptist Convention and vice chair of the Baptist Joint Committee Board of Directors

“In the quest for freedom and justice, and at a time when many would confuse God and government, Dr. King said that a time comes when silence is betrayal. I submit that, for the black church – a church born fighting for liberty and religious liberty – indeed for all of us, regardless of race or religion, that time is now.”

**Rev. Dr. Raphael Warnock**

Senior pastor of Ebenezer Baptist Church in Atlanta and the keynote speaker at the 2016 BJC Symposium titled “Religious Liberty and the Black Church”





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The Baptist Joint Committee for Religious Liberty defends religious liberty for all people and protects the institutional separation of church and state in the historic Baptist tradition. Based in Washington, D.C., we work through education, litigation, legislation and mobilization, often combining our efforts with a wide range of groups to provide education about and advocacy for religious liberty.

## SUPPORTING BODIES of the BJC

- Alliance of Baptists
- American Baptist Churches USA
- Baptist General Association of Virginia
- Baptist General Convention of Missouri (Churchnet)
- Baptist General Convention of Texas
- Converge
- Cooperative Baptist Fellowship
- Cooperative Baptist Fellowship of North Carolina
- National Baptist Convention of America
- National Baptist Convention USA Inc.
- National Missionary Baptist Convention
- North American Baptists Inc.
- Progressive National Baptist Convention Inc.
- Religious Liberty Council
- Seventh Day Baptist General Conference

## REPORT FROM THE CAPITAL

**Amanda Tyler** EXECUTIVE DIRECTOR  
**Cherilyn Crowe** EDITOR  
**Ilana Ostrin** ASSOCIATE EDITOR



## GO ONLINE FOR MORE FROM THE BJC



### Scenes from the RLC Luncheon

See photos and watch a video of the entire event online:  
[BJCOnline.org/Luncheon](http://BJCOnline.org/Luncheon).