

REPORT

from the Capital

Religious accommodations, legal challenges dominate year's news

By Don Byrd
BJC Blogger

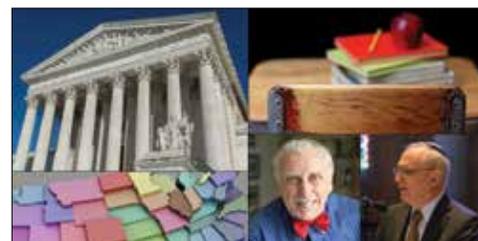
In 2015, religious liberty topped headlines crossing cultural, political, legislative and judicial news. Controversies surrounding the question of legal accommodations for religious objectors, which have been building over the last few years, reached new heights of conflict and media coverage. A review of the top ten religious liberty stories of 2015 must begin with the issue that dominated the news: religious liberty and same-sex marriage.

1. Religious objections to same-sex marriage create cascade of legal accommodation issues

In June 2015, the U.S. Supreme Court ruled in *Obergefell v. Hodges* that constitutional guarantees of due process and equal protection prohibit states from banning same-sex marriage. Same-sex marriage thus became legal throughout the United States.

As the BJC's Holly Hollman wrote in the days following the decision, *Obergefell* is about civil marriage; it is not a religious liberty case. She emphasized that the separation of church and state remains intact. "Churches will continue to make their own decisions about what kind of marriage ceremonies they conduct. Ministers will not be forced to perform same-sex weddings." However, Hollman warned, "the decision will have ramifications for religious liberty" as other institutions and individuals assert religious objections. And they have.

Numerous individual legal disputes arising out of this conflict impacted the national discussion in 2015. Courts in Washington state and Colorado rejected the religious freedom claims of a florist and a baker, respectively, who were charged with violating local non-discrimination laws because they refused to provide services for same-sex weddings. In both cases, courts found the



government had a compelling interest in eliminating discrimination on the basis of sexual orientation, determining that the laws in question were appropriate means of achieving that goal.

In September, a county clerk in Kentucky was found in contempt of court and jailed after she refused to allow her office to issue any marriage licenses due to her personal religious objections to same-sex marriage. Later, Kim Davis was released after she indicated she would not interfere with the issuance of licenses. Governor-elect Matt Bevin has promised to revamp the state's marriage licensing laws to provide greater protection for objecting government officials.

Several states in 2015, including North Carolina and Utah, either authorized religious accommodation for government officials issuing marriage licenses or obviated the need for such accommodation. Other states continue to look toward these two models in addressing this challenge. In the meantime, objections like Davis' raise important questions about the obligations of government officials to act on behalf of all constituents. Under what circumstances should an elected official be exempted from performing the duties of his or her job because of a personal religious objection?

This story wasn't limited to one case; various controversies created cumulative pressures. At times, the resulting conflict got ugly. Some advocates jeered religious objectors as hateful and called into question the wisdom of religious freedom laws (such as the Religious Freedom Restoration Act, known as "RFRA") that protect

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U.S. Supreme Court to hear challenge to contraceptive mandate's religious accommodation

The U.S. Supreme Court agreed Nov. 6 to hear appeals from religious nonprofits challenging the accommodation that allows them to opt out of coverage of contraceptives under the Affordable Care Act.

The High Court granted review and consolidated seven cases to resolve once and for all whether an accommodation allowing institutions like religious hospitals and universities to opt out of the contraceptive mandate significantly burdens their religious freedom.

It will be the fourth time for the Supreme Court to hear a challenge related to the Affordable Care Act, described as the signature legislative achievement of the Obama administration, and the second challenging a rule set by the Health and Human Services Department that employer-provided health insurance plans must cover preventive health care, including a full range of birth control options for women.

In 2014, the Supreme Court ruled that the government could not compel the closely held corporation Hobby Lobby to provide certain contraceptives to which its owners objected because of their religious belief that those contraceptives amount to abortion.

At the outset of the Affordable Care Act, pervasively religious organizations, such as churches and their integrated auxiliaries that serve primarily church members and exist for propagation of the faith, have been exempt from the coverage mandate.

The exemption does not cover religious institutions such as faith-based charities, schools and hospitals that employ people from various faiths. After receiving feedback, the administration added an accommodation allowing employees of such organizations to receive the mandated coverage without their employer footing the bill. When a religious employer opts out of contraceptive coverage, responsibility shifts to the organization's insurance provider to pay for coverage of birth control at no cost to the worker or organization.

The cases the Court consolidated involve religious organizations suing the government. The organizations say that the requirement of letting the government know in writing they wish to opt out of providing the coverage makes them complicit in the distribution of methods of birth control that they believe are morally equivalent to abortion.

Seven federal appeals courts have rejected that argument, reasoning that the act of submitting an opt-out form relieves, rather than imposes, any substantial burden on religious exercise. In September, the 8th U.S. Circuit Court of Appeals differed, finding the opt-out provision violates the Religious Freedom Restoration Act.

The Supreme Court is expected to hear oral arguments in the combined cases, which will be known as *Zubik v. Burwell*, in the spring.

—Baptist News Global and BJC Staff Reports

2016 Religious Liberty Essay Scholarship Contest

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Topic:

At times, an elected or government-appointed official may encounter a conflict between his or her job requirements and a personal religious belief. For example, a county clerk may not want to issue marriage licenses to same-sex couples because of his or her religious view of marriage. Similarly, a clerk who is a pacifist may object to issuing a gun license based on his or her religious belief.

Should an elected official be able to opt out of certain job duties? How far should government go to accommodate elected or appointed government officials who have religious objections to certain job requirements?

Write an essay in which you discuss both the rights and responsibilities of the official and of the individual(s) applying for the license. In what way does your solution affect all parties involved?

For entry forms and details visit:

www.BJConline.org/contest

REFLECTIONS

The exemplary service of Steve Case

We were all gathering in Washington, D.C., on the first day of the Baptist Joint Committee's annual board meeting on that brisk, but bright, October morn. Steve Case — a board member representing American Baptist Churches USA — arrived early, as was his practice. He was in his element. He loved visiting with other board members, catching up with staff, and joking around and sharing stories with those gathered.

As I greeted Steve, I noticed the bow tie hanging — untied — around his neck. "Brent," Steve said proudly, "I just joined the James Dunn Legacy Circle! But I don't know how to tie the thing. Can you tie it for me?" I gladly performed that delicate maneuver, leaving it slightly askew indicating it was not a clip-on, and congratulated him on his membership. (The JDLC honors those who include the BJC in their estate plans. They receive a lapel pin and a custom bow tie patterned with the JDLC logo.) Steve proudly wore the tie throughout the day, and he continued to sport it into the evening as he dined with his American Baptist colleagues at one of his favorite D.C. restaurants, the Monocle on Capitol Hill.

None of us could have imaged or foreseen the tragic circumstances that would ensue on Tuesday morning when Steve fell down the steps of his Capitol Hill hotel and died two days later due to complications from the injuries suffered in the fall. Steve's untimely death was shocking and heartrending. In my 26 years at the BJC, he was the only currently serving board member to die. I was privileged to participate in Steve's memorial service several weeks later — along with BJC board members Curtis Ramsey-Lucas and Jeffrey Haggarty — in his hometown of Mansfield, Pennsylvania.

Steve was simply an extraordinary person and exemplary BJC board member. We appreciate the contributions of all of our 42 board members, but let me tell you why Steve was exceptional.

He was a passionate advocate for social justice and religious liberty. I first met Steve when he would come to Washington periodically leading a group from Grace Baptist Church (which he pastored for 25 years in Westmont, N.J.) or the public policy working group of the New Jersey Council of Churches to lobby Congress on social justice and religious liberty issues. He later joined the BJC board and chaired the body for two years from 2007-2009.

Steve gave of himself to the Baptist Joint Committee. He and his wife, Diane, were regular

donors to the BJC. And, they donated a beautiful pewter chandelier for our Center for Religious Liberty on Capitol Hill, which opened in 2012. In short, Steve put his money and his property where his mouth was.

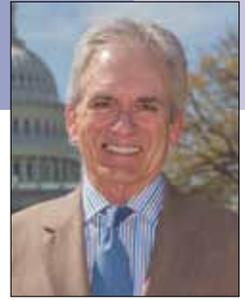
Steve also created opportunities for BJC staff and others to speak and teach. He invited me to preach at his church at First Baptist Mansfield, scheduling the visit to coincide with the local Baptist association's quarterly meeting (where I spoke that same afternoon). He also arranged a gig at Mansfield University, where I was able to reach out to students and faculty beyond Baptist life. He also proudly invited me to speak at meetings of American Baptist Churches of New Jersey and American Baptist Churches of Pennsylvania and Delaware.

Steve also influenced other board members. Beyond his leadership as chair, he developed relationships and encouraged them, including new members as they came on the board. He served on a small group that conducted orientation programs for new board members. Pam Durso, Steve's successor as BJC chair, said she was grateful for his belief in her and his encouragement. "Steve shaped the leader I would become and am becoming as executive director of Baptist Women in Ministry, a position I assumed shortly before becoming chair of the BJC board," she said. "And Steve's influence has moved beyond the Baptist Joint Committee. By extension, his friendship and kindness has shaped the work that I do and has had significance for many Baptists ..., but especially for women called and gifted for ministry."

Mark Wiggs, Steve's predecessor as board chair, told me how he saw firsthand Steve's "deep and abiding commitment" to protecting and expanding religious liberty. "Steve was a gracious leader who employed a genuine pastoral touch in every aspect of his work with the BJC. I was honored to have him as a friend and colleague," Wiggs reflected.

In addition to his passion for religious liberty, his commitment to the BJC and his influence on other BJC board members, Steve incarnated the love of God as he sought to grow in Christ-likeness.

May the peace of Christ that Steve now enjoys in glory be with all of us as the tears of sadness are transformed into smiles of gladness having known, served alongside and loved our friend Steve Case.



J. Brent Walker
Executive Director

Obama denounces religious test for refugees: 'That's not who we are'

In some of his strongest remarks on the subject to date, President Barack Obama denounced calls for a religious test for refugees and immigrants, saying: "That's shameful. That's not American. That's not who we are."

The president made his remarks at a Nov. 16 press conference in Antalya, Turkey, at the conclusion of the Group of 20 meeting. He met there with other world leaders to discuss economic issues, but the attacks in Paris quickly took precedence. At least 129 people were killed in coordinated attacks by the Islamic State group.

Some Republicans have suggested a religious or nationality test for Syrian and other Middle East refugees. A Syrian passport, stamped by authorities in Greece, Macedonia, Serbia and Croatia, was found near the body of one of the attackers, though authorities have yet to determine if it is authentic or if it belonged to a refugee.

Texas Sen. Ted Cruz said the U.S. should only accept Christian refugees because they bring "no meaningful risk of committing acts of terror." Jeb Bush, speaking on CNN, said refugee efforts should be centered "on the Christians being slaughtered."

"When I hear folks say that," the pres-

ident said, "when I hear political leaders suggesting that there would be a religious test for which a person who's fleeing from a war-torn country is admitted, when some of those folks themselves come from families who benefited from protection when they were fleeing political persecution, that's shameful."

Cruz's father fled Cuba in 1957.

Governors in several states said they would not welcome Syrian refugees after the Paris attacks. The U.S. has said it plans to admit 10,000 Syrian refugees in 2016.

The president also strongly restated his — and his predecessor's — belief that a war against ISIS is not a war against Islam.

"I had a lot of disagreements with George W. Bush on policy, but I was very proud after 9/11 when he was adamant and clear that this is not a war on Islam," Obama said. "And the notion that some of those who have taken on leadership in his party would ignore all of that, that is not who we are. On this they should follow his example. It was the right one. It was the right impulse. It's our better impulse."

Republicans were not impressed with the president's remarks. "With his excuse-laden and defensive press conference, Pres-

ident Obama removed any and all doubt that he lacks the resolve or a strategy to defeat and destroy ISIS," said Reince Priebus, chairman of the Republican National Committee. "Never before have I seen an American president project such weakness on the global stage."

The president at times seemed both anguished over the attacks and frustrated with reporters' questions. He stated that Muslims also bear a responsibility in rooting out extremists in their midst.

Some Muslims, he said, are "not as willing to challenge extremist thought or why Muslims feel oppressed." Those ideas, he said, "must be challenged" by Muslims and non-Muslims alike.

"In the same way the Muslim community has an obligation not to in any way excuse anti-Western or anti-Christian sentiment, we have the same obligations as Christians, and we are, it is good to remember that the United States does not have a religious test and we are a nation of many peoples of different faiths, which means that we show compassion to everybody. ... That is what my administration intends to stand for."

—Kimberly Winston, Religion News Service

Walker, religious leaders ask all to stand for freedom

Faith leaders are calling on all Americans to stand up for religious freedom and against harassment and violence based on religion.

On Oct. 23, BJC Executive Director Brent Walker joined dozens of religious leaders and community members at an event highlighting the need to protect religious liberty and model it for the world. At a press conference at the Washington National Cathedral, they discussed the vital importance of religious freedom and introduced a pledge politicians can sign to demonstrate their commitment.

"I believe religious liberty is a gift from God and that governments should seek neither to advance nor inhibit religious choices," Walker said. "Individual citizens and religious bodies should exercise their faith responsibly and fully respect religious beliefs of their neighbors. Governments throughout the United States — and all Americans — must model these values for the world."

Rabbi Jack Moline, executive director of the Interfaith Alliance, said that "none of us is free to follow any faith or philosophy unless all of us enjoy the same protections of the Constitution."

Isma Chaudhry of the Islamic Center of Long Island added, "Religious freedom is an inherent right that ensures humanity, dignity, peace, respect and harmony."

The press conference followed a service called "Beyond



Walker

Tolerance: A Call to Religious Freedom and Hopeful Action." The multi-faith service focused on the call from different faith traditions to care for one another, moving beyond mere tolerance in a multi-religious society.

Pastor Bob Roberts of Northwood Church in Keller, Texas, led a prayer at the service. "I love Muslims as much as I love Christians," he said. "Jesus, when you get hold of us, there's nobody we don't love."

The event was co-hosted by the National Cathedral and Shoulder-to-Shoulder, an interfaith organization dedicated to ending anti-Muslim sentiment.

The pledge, available online at religiousfreedompledge.us, says that the signer will speak out against discrimination and harassment based on religion and "uphold and defend the freedom of conscience and religion of all individuals."

—BJC Staff Reports and Religion News Service

Walker talks with Rajwant Singh of the Sikh Council on Religion and Education and Jim Winkler, president of the National Council of Churches.





K. Hollyn Hollman
General Counsel

Protect religious liberty: Reject false narratives, big and small; condemn violence, not religion

'Tis the season—the time of year when we hear outrage about how commercial businesses or public schools recognize or fail to recognize Christmas. Thanks to Starbucks and their red cups without snowflakes, a trumped up allegation of a war on Christmas came early.

The BJC often uses this time of year to explain our country's tradition of religious liberty, which wisely separates the institutions of religion and government. It is the work of religion — religious individuals and houses of worship — to celebrate and promote religion and religious holidays in all their diversity. The Constitution protects that. While public schools, as institutions of government, can and should teach about religion (including religious holidays), the government should not celebrate or promote Christianity or any other religion. The Constitution protects us from that.

It is also important to recognize that the holiday spirit in the air at a coffee shop or shopping mall has little to do with religion or the Constitution and much more to do with consumerism. No one should confuse the manner in which a business recognizes the customs of its potential customers with the state of religion and religious liberty in America. The suggestion that a paper cup's design or any retailer's use of an inclusive holiday greeting reflects harm to Christians is false and should be rejected out of hand.

It is even more troubling to hear public officials connect the supposed hostility toward Christians in this country to the very real and life-threatening religious violence against Christians, Jews, rival Muslim sects and other religious minorities elsewhere in the world. Almost daily, the news presents us with heartbreaking examples of true threats to religious liberty.

The terror attacks in Paris, committed in the name of Islam, seem to have awakened the whole world to these dangers. The individual and communal pain and grief, the devastation to peace and order, and the scope of the problem to be addressed are enormous. Our political and military leaders now face the challenge of responding effectively.

As citizens who enjoy enviable legal protections for our religious freedom and as

advocates seeking to defend that freedom and expand it throughout the world, we also have an important role.

We must condemn all violence in the name of any religion, acknowledging the threats within any tradition that can lead to violence. We must encourage our leaders to reject efforts that misplace blame for violence as inherent in religion. As the evangelical and politically conservative columnist Michael Gerson warned in a *Washington Post* column, failure to do so will be counter-productive: "All our efforts are undermined by declaring Islam itself to be the enemy, and by treating Muslims in the United States, or Muslims in Europe, or Muslims fleeing Islamic State oppression, as a class of suspicious potential jihadists. ... [I]f U.S. politicians define Islam as the problem and cast aspersions on Muslim populations in the West, they are feeding the Islamic State narrative."

As the BJC has noted in the past, our own experience and understanding of religion should inform our response and guard against scapegoating:

Can somebody cherry-pick proof texts for violence in the Quran? Yes, you can. But you can do the same in the Hebrew and Christian scriptures. Should all of Islam — practiced by about one fifth of the world's population — be impugned by aberrant acts of criminals who happened to be motivated by their perverted understanding of their religion? Absolutely not, no more than all of Christendom can be blamed for violence spawned over the years by the Ku Klux Klan or all Baptists because of the rhetorical terrorism spewed by members of the Westboro Baptist Church.

Confronting violence in a global context will continue to challenge our country. So, too, will protecting religious liberty for all. We must be wary of those who both exaggerate religious liberty problems confronting Christians in America and confuse those issues with violent extremism that harms people of all religions (or none) here and abroad.

"We must condemn all violence in the name of any religion, acknowledging the threats within any tradition that can lead to violence. We must encourage our leaders to reject efforts that misplace blame for violence as inherent in religion."

Griffen calls evangelicals to red

Lectures examine the call of Jesus to protect

“Religious liberty is a fundamental social justice imperative,” Judge Wendell Griffen proclaimed, as he advocated for a deeper examination of how Scripture calls followers of Jesus to protect the oppressed and respect the dignity of all people.

In two presentations Nov. 12-13, Griffen drew lines connecting religious freedom and justice on the campus of Fuller Theological Seminary in Pasadena, California. Delivering the BJC’s Lectures on Social Justice and Religious Liberty, Griffen examined issues ranging from liberation theology to conscientious objections to same-sex marriage. His message centered on the ways God teaches his people to love and fight for justice for all.

Griffen is pastor of New Millennium Church in Little Rock, Arkansas, as well as Circuit Judge for the 6th Judicial District of Arkansas, 5th Division. He frequently lectures and writes about legal ethics and professionalism, religion and social justice, and public policy. He also serves as CEO and owner of Griffen Strategic Consulting.

In his first lecture, Griffen used his legal and pastoral expertise to consider whether religious freedom, equal protection and the teachings of Jesus collide or build upon each other.

Griffen reviewed recent events that create tension between the First Amendment’s religious freedom guarantee and the right to equal protection granted by the Fourteenth Amendment, such as the conflicts over the contraceptive mandate in the Affordable Care Act, a Kentucky clerk’s refusal to issue marriage licenses to same-sex couples, and an increase in non-discrimination laws across the country.

But, Griffen noted he was not there to delve into divergent legal analyses of those issues. “I am more concerned, as a follower of Jesus and a jurist, in provoking serious thought and conversation about how the constitutional values of religious liberty and equal protection are understood vis-à-vis the ‘love thy neighbor’ ethic in the gospel of Jesus,” he said.

Quoting from Luke 10:25-37, Griffen told the story of the Good Samaritan and asked the crowd questions regarding how Jesus’ admonition to “love thy neighbor” squares with respect for religious liberty and equality, including how we approach non-discrimination measures.

“Whether one is religious or not, these questions

force us to decide whether religious liberty, equality and the love ethos of Jesus function in a circle, collide or can somehow co-exist.”

Griffen pointed out that followers of Jesus often discuss political arguments surrounding hot-button issues, but they do not often ponder them in light of Jesus’ command to love our neighbors nor do they cite the teachings and conduct of Jesus.

“That is remarkable because the Gospel accounts of the life and ministry of Jesus illustrate that he often violated religious laws and practices,” Griffen said, providing several examples, including Jesus healing others on the Sabbath – which was a day forbidden to work – and touching a man with leprosy, even though touching a leper rendered someone unclean in the prevailing religious view.

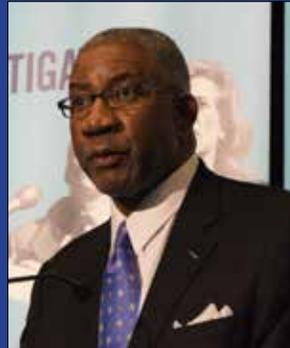
Griffen said that, at minimum, one would expect pastors and religious leaders to ponder aloud how supporting religious exemptions for public laws – which were created to eliminate and discourage discrimination against people vulnerable to suffer – squares with the example of Jesus.

Griffen said followers of Jesus must understand that religious liberty is no excuse for discrimination and other injustices. “[W]e, who profess to love God, must also love our neighbors as we love ourselves, including our neighbors whose beliefs, identities, relationships and behaviors differ from our own and who are, consequently, vulnerable to physical, social, economic and political oppression.”

As an example, he noted that Kim Davis, a clerk in Rowan County, Kentucky, must be free to believe that marriage is between one man and one woman in accordance with her religion. However, as a public official, she is not free to make her deep and sincere beliefs the official practice of the county. “She can find authority for honoring the ideal of equality and justice not only in the Fourteenth Amendment guarantee of equal protection of the law; she can find authority for doing so also, and more fundamentally, in the life and ministry of Jesus,” Griffen said.

In his second presentation, Griffen took that instruction and confronted ethical and discipleship issues in the 21st century.

Griffen said evangelical followers of Jesus “have not theologically, hermeneutically and ethically considered religious liberty to be part of the deep and wide justice imperative that appears throughout Scripture.”



Judge Wendell Griffen

Define perspective on religious liberty

others and recognize the inherent dignity of all people

While the freedom to exercise religion – or not – has long been considered a fundamental human right, Griffen said many view religious liberty in the United States from the perspectives of Western European and U.S. history. Instead, he argues that the religious liberty ideal has biblical antecedents in the Hebrew Testament, gospels of Jesus and the rest of the New Testament.

Citing passages throughout Scripture, Griffen focused on the Exodus narrative and how it exposes “a struggle for religious, social and physical liberty,” referring to it as a “vivid illustration about the quest for religious liberty and the collision of divergent systems of religious belief.”

In listing cases in the New Testament, Griffen pointed out how Jesus often pushed aside sectarian and ethnic animosities in pursuit of redemptive fellowship, including his intra-faith dialogue with Nicodemus and encounter with the woman at the well.

“Our sacred writings illuminate God’s concern that people be free to live, work and be accepted ... as persons of dignity and worth, not deviants, threats or commodities for private and social exploitation.”

Moving into the concept of liberation theology, Griffen said he agreed with those who argue that the Bible presents God as suffering alongside oppressed people. He noted God identified with the enslaved people in Exodus, not the Egyptian empire that oppressed them. “[E]vangelicals primarily consider religious liberty an essential attribute for a well-ordered society, not a moral and ethical imperative arising from the divine passion for liberation from all forms of oppression,” he said.

Griffen gave examples – including the Civil Rights and the Black Lives Matter movements – of why “people struggling against oppressive power view claims of evangelicals about religious liberty with disappointment, mounting distrust, and disgust.” He said it appears many leaders care about religious liberty because they want to be free to proselytize their religion, not because they believe God cares about liberating all people who suffer from any oppression.

As he closed his presentations, Griffen urged evangelical followers of Jesus to break from the practice of sup-

porting “soul liberty” while opposing the demands from others for life, liberty and equality.

“The love of God about which we preach, study, sing, write, teach and pray demands that followers of Jesus love God enough to protect our neighbors,” he said, “including our neighbors with divergent lives, beliefs, behaviors and struggles, as much as we cherish our own religious liberty.”

“Respect for religious liberty must be understood, affirmed and be bottomed in the deeper and wider love of God, the love that inspires one to recognize and respect the inherent dignity and equality of all persons.”

The lectures also provided opportunities for the campus and community to engage in religious liberty issues. After the first presentation, Fuller’s Hak Joon Lee, professor of Christian Ethics, offered a faculty response regarding evangelicals, social justice and his points of agreement and disagreement with Griffen’s remarks. On Thursday night, BJC Executive Director Brent Walker and Griffen led a religious liberty discussion at First Baptist Church of Pasadena, which included an examination of the differences in Religious Freedom Restoration Acts, why Sharia laws do not trump civil law, and the Baptist heritage of religious liberty.

This event was the first of a series of lectures designed to increase the demographic reach of the BJC. Future lecture series will take place on different campuses, with the goal of bringing religious liberty discussions and the BJC to diverse communities.

—Cherilyn Crowe



Griffen eats lunch with Fuller students after the first lecture.



BJC Executive Director Brent Walker and Griffen confer during a Q&A session at First Baptist Church Pasadena.

Visit BJCOnline.org/FullerLectures



- Photos
- Videos
- Podcast with Griffen and BJC's Charles Watson Jr.

people of faith from unnecessary government burdens. On the other side, court rulings against religious objectors are being touted as evidence of a government hostility toward faith or a “war on religion.” In fact, the interplay of religious liberty rights with other government interests has always been a careful balance. Religious liberty has never been a trump card allowing objectors to sidestep legitimate government regulations, particularly where the rights of others are at stake.

This collision between same-sex marriage rights and the claims of religious objectors remains at the forefront of the religious liberty debates in America today. Currently, appeals are either expected or have already been filed in each of the three cases outlined above. As court decisions clarify the issue, Congress and state legislatures will likely come under increased pressure to take action.

2. Religious Freedom Restoration Act measures increase; Indiana, Arkansas face intense backlash

This year brought a wave of religious freedom proposals in state legislatures across the country. In particular, several states considered adding or amending laws with legislation of varying degrees of resemblance to the federal RFRA statute. RFRA prohibits the federal government from imposing a substantial burden to a person’s religious exercise unless doing so is necessary to achieve a compelling government interest. At the beginning of the year, 19 states had similar laws restricting state and local governments. Several others proposed state RFRA statutes in 2015. Typically, such proposals barely would have dented a year-in-review piece, but 2015 was no ordinary year of state RFRA developments.

Indiana was the first of two states to enact a new RFRA law in 2015. The state’s proposed RFRA, which departed from the federal statute in significant ways, faced intense scrutiny from those who argued it lacked sufficient protections against being used to allow discrimination in the name of religion. The backlash against Indiana’s version became a national story; many large corporations in the state opposed the bill and warned of its potential

negative economic impact. The NCAA threatened to remove upcoming sporting events from the state, citing the law’s perceived sanction of discrimination on the basis of sexual orientation. Even Charles Barkley got involved, voicing his opposition. Ultimately, Gov. Mike Pence insisted the legislature pass additional non-discrimination guarantees in what was seen as a victory for the law’s opponents in the state.

Meanwhile, the controversy likely played a role in short-circuiting other states’ attempts to pass versions of the law. In Arkansas, a RFRA-like law passed the legislature but was returned by Gov. Asa Hutchinson; he ultimately signed a RFRA that mirrored the federal statute.

Other state legislatures abandoned their RFRA efforts entirely rather than face the same pressures. In Georgia, for example, a RFRA proposal moved forward in the legislature but never passed. The BJC pointed out that bills departing from the federal law often tipped the scales in favor of the religious claimant, contrary to the intended balance of the original law.

Which states have a RFRA? Which ones don’t? Check out our tracker at BJCOnline.org/state-RFRA-tracker-2015

The condition of state RFRA laws at the end of 2015 is clear and unfortunate: in the current political climate, RFRA proposals are being amended by legislators and misrepresented by advocates to pursue goals the federal RFRA was never intended to achieve.

3. U.S. Supreme Court sides with prisoner seeking religious right to grow beard

In *Holt v. Hobbs*, the U.S. Supreme Court unanimously held that the Arkansas Department of Correction violated the religious freedom of Muslim inmate Gregory Holt by denying him the right to grow a one-half-inch beard in accordance with his faith. Using the Religious Land Use and Institutionalized Persons Act (RLUIPA), the Court found the state failed to demonstrate any significant security interest in prohibiting such a beard. The BJC joined a brief supporting his rights, and the decision sent a strong message

For more on the two briefs the BJC filed at the U.S. Supreme Court this year, visit BJCOnline.org/HoltvHobbs BJCOnline.org/Abercrombie

that, while prison officials are given some deference to determine security needs, their unsupported assertion of a security risk without demonstrating the real need for restrictions like a “no beard” rule cannot overcome the substantial burden of an inmate’s religious freedom.

4. U.S. Supreme Court rules for worker in discrimination suit against Abercrombie & Fitch

In *EEOC v. Abercrombie*, the Court ruled that a Muslim job applicant was the victim of unlawful religious discrimination when she was denied employment because her religious headscarf did not meet the company’s “look policy.” The Court rejected the company’s argument that because the applicant failed to raise the issue herself in the interview, they were not properly on notice that she wore it for religious purposes and required a religious accommodation. The BJC filed a brief supporting her rights, and the Court ruled 8-1 that religion may not be a “motivating factor” in Abercrombie’s employment decision, regardless of whether they had “actual knowledge” of an applicant’s need for accommodation.

5. Religious nonprofits continue fight against contraceptive mandate

Claims challenging the contraceptive mandate in the Affordable Care Act on religious freedom grounds continued in circuit courts all year long, and the U.S. Supreme Court decided in November that it will hear the consolidated cases in 2016.

In *Burwell v. Hobby Lobby* (2014), the Court ruled that closely held for-profit corporations are eligible for an accommodation so they will not have to provide contraception coverage that violates the owner’s sincerely held religious beliefs. The cases heading to the Court in 2016 were brought by religious nonprofit organizations who qualify for the religious accommoda-

tion. Their objection is that the accommodation process itself violates their religious freedom rights under RFRA.

IN MEMORIAM

James Dunn, the firebrand defender of religious liberty who led the BJC from 1981-1999, passed away in July. The BJC has a multimedia page honoring his life and legacy: BJCOnline.org/JamesDunn



Wake Forest Photo

6. Federal agencies propose new faith-based partnership rules

In August, after years of discussion following a 2010 Executive Order from President Barack Obama, the White House announced rule proposals from nine federal agencies to implement the order, which addresses the federal government's partnerships with faith-based organizations in order to protect against excessive church-state entanglements.

The proposed rules emphasize that faith-based organizations receiving federal funds must keep separate "in time or location" religious activities from federally funded activities. In addition, federally funded religious organizations must provide the beneficiaries of their services with written notice of their rights, including the right not to participate in religious activities and the right not to be subject to discrimination because of their religious beliefs.

The BJC submitted comments on the rule proposals. Comments are now under review by the agencies before they issue final rules.

7. Colorado Supreme Court rules school voucher system unconstitutional

In June, Colorado's highest court said a school voucher program violates the state constitution's ban on government aid to religious education. Like many states, Colorado law provides even stronger religious liberty protection against state-supported religion than does the U.S. Constitution. The Colorado Consti-

tion bans "any public fund of moneys whatever" from helping "to support or sustain any school ... controlled by any church or sectarian denomination" The BJC joined a brief urging the court to strike down the program, noting that religious education is a matter best left to families and houses of worship and should not be supported by taxpayer dollars.

8. Vaccination controversy triggers debate over religious exemptions

In January, outbreaks of the measles, a preventable disease controllable by childhood immunizations, sparked a national controversy about the growing number of parents who refuse to vaccinate their children. While few faiths believe children should not be immunized, the availability in most states of exemptions from immunization requirements for religious objectors raised concerns over the impact of accommodation – including religious accommodation – to the forefront of debate.

As the BJC's Holly Hollman wrote in a February column, "[p]rotecting children and public health is an interest of the highest order." While some states may grant religious exemptions, they are not required by law to do so in the face of such heightened stakes. Throughout the year, several states moved to eliminate non-medical exemptions from vaccination requirements. In Vermont, for example, exemptions were removed for parents with "philosophical" objections to immunizations but kept in place for parents with religious objections, prompting a renewed interest in religion among objecting parents throughout the state.

9. David Saperstein becomes international religious freedom ambassador

On Jan. 6, Rabbi David Saperstein assumed his duties as the U.S. Ambassador-at-Large for International Religious Freedom. The job had been vacant since October 2013, much to the chagrin of many religious liberty watchdogs. Saperstein, the first non-Christian to hold the office, worked closely with the BJC for years when he headed the Religious Action Center of Reform Judaism. At his official swearing-in ceremony, Saperstein said our nation can be – and must be – a "beacon of light and hope" to the religiously oppressed in every land. You can follow @AmbSaperstein on Twitter to keep up with his work.



10. Oklahoma Ten Commandments monument struck down

In July, the Oklahoma Supreme Court declared a Ten Commandments monument displayed on the grounds of the State Capitol violates a provision of the state constitution barring the direct or indirect use of state money or property for religious purposes. The court ruled that the Ten Commandments "are obviously religious in nature." Gov. Mary Fallin balked at the ruling and threatened to defy the court's order to remove the display, but ultimately cooler heads prevailed. The monument was removed from the Capitol grounds in October.

Don Byrd is the author of the Baptist Joint Committee's Blog from the Capital, available at BJCOnline.org/blog.

What to watch in 2016

- How will the Supreme Court rule on the contraceptive mandate for religious nonprofits, and what will the decision say about RFRA?

- The 4th Circuit will hear a legislative prayer case involving a county commission in North Carolina; plaintiffs allege commissioners lead prayer and ask the public to stand and join. Will the

court build upon or limit the Supreme Court's ruling allowing sectarian legislative prayer in *Town of Greece*?

- Will state legislatures try again in 2016 to pass or amend state RFRA laws after the experiences of 2015?

- The Kentucky Court of Appeals will rule on a case involving a T-shirt

printing shop charged with violating Lexington's nondiscrimination law for refusing to print a gay pride shirt that violates the owner's religious beliefs.

- There's a presidential election coming! Will religious liberty continue to be a hot-button issue for candidates that emerge through the primary and general election season?



TRAVEL

82,623 MILES

to educate people about religious liberty

(a 77% increase over 2014)

HOST

25

GROUPS

in the Center for Religious Liberty

That's

390

PEOPLE

(83% increase over 2014)

FILE 6

AMICUS BRIEFS

2

in the U.S. Supreme Court

protecting the free exercise rights of a Muslim prisoner and Muslim job applicant.

4

in state supreme courts

protecting religious liberty in schools by opposing government sponsorship of religion.

LAUNCH

2

new educational programs:



THE BJC FELLOWS PROGRAM

hosted 10 young professionals at Colonial Williamsburg for a seminar to deepen their historical, theological and legal understanding of religious liberty.



THE NEW LECTURES ON SOCIAL JUSTICE AND RELIGIOUS LIBERTY

sent Judge Wendell Griffen to Fuller Theological Seminary in Pasadena, California.

THANK YOU!

BECAUSE OF YOUR SUPPORT IN 2015, THE BAPTIST JOINT COMMITTEE FOR RELIGIOUS LIBERTY HAS BEEN ABLE TO...

REACH

people on social media

1,000,000+

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VISIT



12

churches



14

states



13

colleges, universities & seminaries



7

denominational meetings

PUBLISH



138,979

copies of Report from the Capital

237

posts on Blog from the Capital

PRODUCE

a useful website

121,729

individuals visited BJCOnline.org this year

JOIN



coalition partners to submit comments to proposed new regulations for 9 federal agencies' interactions with faith-based groups.



BAPTIST JOINT COMMITTEE FOR RELIGIOUS LIBERTY

BJCONLINE.ORG

BJC Fellows Program applications open Jan. 4

Young professionals from any background have the opportunity to apply for the BJC Fellows Program, designed to deepen their historical, legal and theological understanding of religious liberty. The application period opens Jan. 4, and all materials must be received by Feb. 16 to be considered for the 2016 class.

The cornerstone of the program is the BJC Fellows Seminar, which will be held in Colonial Williamsburg from July 27-31, 2016. The program covers most travel to and from the seminar.

Visit BJCOnline.org/Fellows to learn more about the BJC Fellows Program and hear from the 2015 class, including how they are advocating for religious liberty.

Marshall to deliver Shurden Lectures

Molly T. Marshall, president of Central Baptist Theological Seminary in Shawnee, Kansas, will deliver the 2016 Walter B. and Kay W. Shurden Lectures on Religious Liberty and Separation of Church and State. The lectures will be at Bethel University in St. Paul, Minnesota, on April 4-5, 2016.



Marshall

For more than 30 years, Marshall has been in theological education. She taught at Central in various positions before her appointment as president in 2004, and she continues to serve as Professor of Theology and Spiritual Formation. Previously, Marshall was Associate Professor of Theology at The Southern Baptist Theological Seminary in Louisville, Kentucky. Her experience in ministry is varied, including service as youth minister, campus minister and pastor in churches across Oklahoma, Texas, Arkansas and Kentucky.

A graduate of Oklahoma Baptist University, Marshall received her M.Div. and Ph.D. from The Southern Baptist Theological Seminary. Her writings include three monographs, *No Salvation Outside the Church?*, *What it Means to Be Human*, and *Joining the Dance: a Theology of the Spirit*, as well as numerous book chapters, journal articles and Bible study curricula. She also has published six volumes of *Trinitarian Soundings*, a collection of reflections on the lectionary. Currently, Marshall is writing a commentary on Thessalonians for the BELIEF series.

The Shurden Lectures began when Walter B. Shurden and Kay W. Shurden of Macon, Georgia, made a gift to the BJC in 2004 to establish an annual lectureship on the issues of religious liberty and the separation of church and state. Each year, the Shurden Lecturer is someone who can inspire and call others to an ardent commitment to religious freedom.

The lectures will be free and open to the public. For the latest, including details on the schedule as it becomes available, visit BJCOnline.org/ShurdenLectures.

Pew study: More Americans reject religion, but believers firm in faith

Americans as a whole are growing less religious, but those who still consider themselves to belong to a religion are, on average, just as committed to their faiths as they were in the past — in certain respects even more so, according to the 2014 U.S. Religious Landscape Study, released Nov. 3 by the Pew Research Center.

“People who say they have a religion — which is still the vast majority of the population — show no discernible dip in levels of observance,” said Alan Cooperman, director of religion research at Pew.

“They report attending religious services as often as they did a few years ago. They pray as often as they did before, and they are just as likely to say that religion plays a very important role in their lives,” he continued. “On some measures there are even small increases in their levels of religious practice.”

More religiously affiliated adults, for example, read Scripture regularly and participate in small religious groups than did so seven years ago, according to the survey. And 88 percent of religiously affiliated adults said they prayed daily, weekly or monthly — the same percentage that reported such regular prayer in the 2007 study.

While nearly nine in 10 adults say they believe in God, belief in God overall has ticked down by about 3 percentage points in recent years.

And now 77 percent of adults surveyed describe themselves as religiously affiliated, a decline from the 83 percent who did so in Pew’s 2007 landscape study.

Pew researchers attribute these drops to the dying off of older believers, and a growing number of Millennials — those born between 1981 and 1996 — who claim no religious affiliation.

The researchers also found that as religiosity in America wanes, a more general spirituality is on the rise, with six in 10 adults saying they regularly feel a “deep sense of spiritual peace and well-being,” up 7 percentage points since 2007. Also increasing: the number of people who experienced a “deep sense of wonder” about the universe, which also jumped 7 percentage points.

Other findings from the study include that 40 percent of Jews and 90 percent of Muslims say they do not eat pork, the consumption of which is forbidden by Jewish and Islamic law. It also found that six in 10 adults, and three-quarters of Christians, believe the Bible or other holy scripture is the Word of God. About 31 percent — and 39 percent of Christians — believe it should be interpreted literally.

The 2014 U.S. Religious Landscape Study interviewed 35,071 Americans and has a margin of error of plus or minus less than 1 percentage point. This portion of the survey, which focuses on beliefs and practices, is the second of two parts. The first, released in May, found that the nation is significantly less Christian than it was seven years ago.

—Religion News Service with BJC Staff Reports



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REPORT

from the Capital

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WHY WE GIVE

By Barbara Humphrys
Johnson City, Tennessee

Before I began my career in teaching, I was privileged to work for a few years at the Texas Baptist Christian Life Commission for Foy Valentine, Bill Pinson and Jimmy Allen. It was a historic time: the "prayer in public schools" decision was handed down and issues with integration were escalating. The outstanding Christian leaders and others I met (including a young James Dunn) were part of a prominent voice for the separation of church and state in our area, and we often partnered with the Baptist Joint Committee on current events and legislation.



After leaving that position and moving across the country, I realized how much I needed "backup" for my own small voice in facing recurring challenges to church-state issues in my new community. I began my personal support of the BJC and have continued to the present. Because the timely information in *Report from the Capital* reaches across all denominational lines, I can easily share it with

my neighbors.

When a few years ago I began serious estate planning, I realized it was a perfect way to offer a bit more to maintain the work and presence of the BJC than I have been able to do during my lifetime. I would urge anyone who feels the need to keep this huge voice heard to do the same. Now as part of the James Dunn Legacy Circle, I am proud to be able to honor his memory in this way.

If you have included the BJC in your estate plans or would like more information about naming us as beneficiary of a will or retirement plan, please visit our website at BJCOnline.org/planned-giving and fill out the simple form. You may also contact Development Director Taryn Deaton at 202-544-4226 or by email at LegacyCircle@BJCOnline.org.

