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2020 | Volume 2

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COVID-19 Could Impact Religious Liberty

The World Health Organization has noted that "countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights." Nevertheless, COVID-19 is already affecting religious liberty rights in some countries.

In China there are reports of forced labor in factories from minority religious groups due to the majority population sheltering in place. South Korea has asked for a list of church membership from the Shincheonji denomination, to which they traced an initial corona victim, and there is a petition to ban the church. In Iran, 24 Sufi prisoners were reportedly moved to wards despite known cases of COVID-19.

These are a few impacts on religious freedom from around the world. And of course, internationally and within the United States, many houses of worship have closed their doors to worshipers. A lawsuit challenging New Hampshire's ban on 50-plus gatherings, on behalf of religious groups, was struck down by a Superior Court

judge, citing protection of public health. Some would consider this a restriction on freedom of religion; others might classify it as limiting the spread of the virus — similar to closing many non-essential businesses and restricting group activities.

Are there larger implications with the U.S., however? Of great concern is that the Department of Justice has asked Congress to temporarily suspend habeas corpus. DOJ wishes to allow chief judges to indefinitely hold people without trial, and to suspend other constitutionally protected rights during the coronavirus.

Habeas corpus, granted by the Constitution, gives those arrested the right to appear in front of a judge and ask to be released before trial. The current request means citizens could be arrested and not even be brought before a judge until this pandemic emergency is deemed to be "over."

This is disturbing to religious/civil rights organizations country-wide, but maybe especially to the Adventist Church in light of its interpretation of prophecy.

Supreme Court Urged to Affirm Monetary Damages Permitted by RFRA Where Appropriate

The Baptist Joint Commission (BJC), the Christian Legal Society, and 14 religious liberty scholars, in a friend-of-the-court brief, have urged the Supreme Court to affirm an earlier ruling by the 2nd U.S. Circuit Court of Appeals: "RFRA permits a plaintiff to recover money damages against federal officers sued in their individual capacities."

Currently, if someone has a successful lawsuit under the Religious Freedom Restoration Act (RFRA), they will benefit from an order that requires the government to change whatever policy restricted their religious liberties. Monetary damage has not been a given, though. The U.S. Supreme

Court was to consider monetary judgments in *Tanzin v. Tanvir*, which was scheduled for oral argument in March 2020, but has been delayed due to COVID-19.

RFRA permits a person whose religious liberty rights have been violated to obtain "appropriate relief against government." The case the Supreme Court is due to hear will ask them to determine if that includes monetary damages, as the 2nd Circuit decided earlier.

The BJC brief notes that monetary damages have rarely been appropriate in the past, but are essential in some cases where there is no other remedy because the remedy would come too late.

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- *The Supreme Court found in late February that a Puerto Rico court did not have the jurisdiction to seize Catholic Church assets to pay for school pensions. Employees of three separate Catholic schools filed suit after their common Trust declared bankruptcy and terminated pension plans. A lower court had ordered reimbursement by the Catholic Church in Puerto Rico.*

- *The Supreme Court has agreed to hear an appeal on the religious liberty dispute on foster care and same-sex marriage. A Catholic foster agency may lose its government contract because of refusing to recruit or certify same sex couples as foster parents. The case raises important religious liberty issues, and will be heard next term.*

- *In Maine, voters gave overwhelming support to a law (in effect September 2021) that denies religious exemption from student vaccination requirements. Asked to repeal the law which forbids all non-medical exemptions, including those based on religious beliefs, voters rejected the proposal by nearly 3-1. Currently, 5% of kindergartners in Maine, twice the national average, are unvaccinated by religious exemption.*

NEWS OF THE WORLD

Sudan Disbands Last Regime's Discriminatory Church Council

Sudan's transitional government has ordered that church councils formed by the former regime be disbanded. Those councils had been used to rationalize the persecution of Christians by confiscating and destroying their church properties.

New Minister of Religious Affairs and Endowments Nasreldin Mofreh was in-

strumental in the decision to disband.

The previous government, overthrown in April 2019, has been called one of the world's worst violators of religious freedom.

Anurima Bhargava, commissioner of the U.S. Commission on International Religious Freedom (USCIRF), notes that USCIRF

is "encouraged by Minister Nasreldin Mofreh's decision to demonstrate support for and inclusion of Sudan's Christian community. By disbanding these church councils, the Sudanese government is returning agency to religious organizations and allowing them to conduct their own affairs."

Parochial Schools Fight for Right to Set Criteria, Select Teachers

The Supreme Court has postponed oral argument in two California Catholic school cases, *Our Lady of Guadalupe School v. Morrissey-Berru* and *St. James Catholic School v. Biel*, due to the COVID-19 pandemic. The cases will look at Title VII of the Civil Rights Act and ministerial exceptions, in light of the schools defending their right to set their own criteria in selecting teachers. The schools in question are Catholic, but the outcome could affect the rights of all paro-

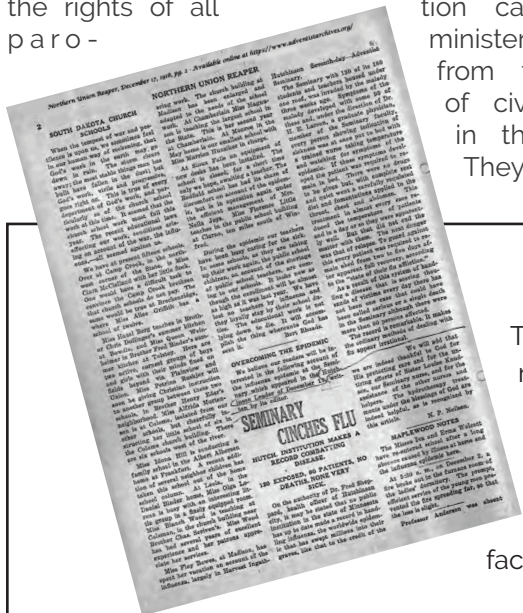
chial schools. Title VII of the Civil Rights Act of 1964 states that employers with 15 or more employees may not discriminate based on race, color, religion, sex, or national origin. However, religious corporations, associations, educational institutions, and societies are exempt from some aspects. Additionally, the ministerial exception says employees serving in clergy roles may not make civil rights claims.

The ministerial exception causes religious ministers to be exempt from the protection of civil rights laws in their workplace. They could, in the-

ory, be fired for race, sexual orientation, behavior, etc. Pertinent to the cases at hand, SCOTUS will be looking at whether teachers with limited religious duties are included in the ministerial exemption.

Some will point out that if SCOTUS allows the term “minister” to encompass those with minimal religious duties, then many employees will be exempt from the protection of civil rights laws. However, if the decision sways the other direction, church-run schools could lose their right to both set criteria for and select their employees based on upholding the standards of their denomination.

Church-run schools could lose their right to set criteria for and select employees based on denominational standards.



Pandemics and the Adventist Church

The current COVID-19 pandemic may seem doubly frightening because most of us have never experienced anything like this before. However, in earlier years, Seventh-day Adventist Church members and institutions have faced worse scenarios calmly and with many aspects of the health message. In the 1918 Spanish Flu pandemic, an Adventist school responded in a way that led to public notice. Below are interesting facts from the old North Union *Reaper* of December 17, 1918.

- The newspaper The Hutchinson Reader published a story about the Adventist seminary, titled “Seminary Cinches Flu.”
- The paper proclaimed no public institution in Minnesota had handled the epidemic as well as the Adventist school.
- When first signs appeared, they immediately began to isolate patients onsite, treating with rest, quiet, diet, hydrotherapy, and with special care against relapse.
- Despite 90 of 120 students/employees becoming sick, not one died. (Some 675,000 died in the U.S., and 50 million worldwide.)
- The newspaper noted that it made the “ordinary methods of dealing with flu appear irrational.”

During COVID-19, your Public Affairs and Religious Liberty Department is still working from home and monitoring religious liberty news. We encourage you to join us in placing our trust in God and following sensible public health practices. You may still reach us at 770-408-1800.

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SCOTUS Will Not Hear Sabbath Accommodation Case of Seventh-day Adventist Worker

The Supreme Court decided in late February not to hear the Sabbath accommodation case of Seventh-day Adventist *Darrell Patterson v. Walgreen*.

Three judges felt the issue deserves future review, but stated "this case does not present a good vehicle."

Patterson's employer had accommodated him for years, but then fired him when he refused to attend a Saturday training session.

"The Southern Union Pub-

lic Affairs and Religious Liberty Department helped Mr. Patterson through his local ordeal, and recommended his case to the North American Division for litigation," said Amireh Al-Haddad, director.

"We worked his case for more than 11 years, pouring in energy and resources," she continued. "We wanted to help Mr. Patterson, and we also felt it was a case that could have an impact on future Sabbath cases.

"Our commitment never failed and our prayers were continuous, and we are heartbroken that the Supreme Court declined to hear this. However, we trust God to present a case that could be even more significant for the future of Sabbath accommodation.

"We continue to stand by Church members like Darrell Patterson — faithful Sabbath observers who experience discrimination in the workplace."

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