

Religious liberty, the Constitution and SB 1779

—Sixteenth in a series.—

Targeting any group offends the great liberties — due process, equal protection and the privileges and immunities of citizens — of the American Constitution. By definition, a law that targets a group is not one of general applicability. The Constitution proclaims that all people and groups are equal before the law. Government is to target behavior, not individuals or groups.

Targeting groups in the past, by race, religion or by association has had disastrous consequences for Americans and their civil liberties. American Catholics over the course of their history have known the sting of prejudice and of being singled out for unfavorable treatment. Unfortunately, the present State of California has continued that practice.

Last December, the United States District Court for the Southern District of California upheld SB 1779, a law that repealed the statute of limitations for the duration of 2003 for the filing of civil cases dealing with the sexual abuse of minors. (It exempted public schools, state-run foster homes, juvenile detention facilities and other governmental entities.)

The decision answered the following question posed by the Court during oral argument: "...what if the law targets a Church, but the result of the law is that it doesn't burden the religious practices of the Church, what happens then?" The Court found that SB 1779 simply extended the statute of limitations for suits arising out of the sexual abuse of minors and that it did not interfere with "religious beliefs, opinions or practices." Therefore, it upheld the law.

This judgment raises questions concerning the protection of the free exercise of religion:

—First, does a civil court have the authority or the ability to determine what burdens religious belief or practice?

—Second, may government target a religious group as long as it does not single out religious belief, opinion or practice? If it can, then legislators could control or suppress unpopular religious groups by targeting them with secular regulations that would harass, bankrupt or suppress them.

The Supreme Court has always held that a religious objection does not exempt one from obeying an otherwise valid law, even if it burdens religious belief and practice. However, as that Court explained in the precedent-setting *Smith* decision in 1990, such laws must be valid, neutral and of general applicability.

In the present case under discussion, the Court decided

it did not have to consider this standard, because it had already decided that religion had not been burdened. In doing so, the Court assumed the role of interpreter of Catholicism, and substituted its judgment for that of Catholic leaders as to what interferes with Catholic belief, opinion and practice. It based its decision on a topic over which it has no jurisdiction (i.e., what burdens religion) and ignored the question wherein it does have authority (i.e., what is a valid, secular law of general applicability).

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SB 1779 is not a neutral law of general applicability. Child abuse is found throughout all of society. This law, however, did not address the evil of child abuse but rather targeted the Catholic Church.

Catholics lament the abuse of minors by Catholic clergy. However, such abuse, though inexcusable, represents a very small fraction of all sexual abuse of minors. In actuality, SB 1779 reverses those figures in that virtually all of the cases resulting from it were filed against the Catholic Church.

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Child abuse is an appalling evil. However, in SB 1779, the response of the State of California has been to perpetrate another serious breach of civil and religious liberty by targeting the Catholic Church for punishment of a problem that is found throughout all of society.

Editor's note: This weekly series of feature stories, commentary and analysis is compiled and edited by an advisory group to the Media Relations Office of the Archdiocese, through which the articles are distributed.