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Religious Liberties in Peril

Religious Liberty Protections Enunciated by the United States Supreme Court

In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decisions of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to appeals as the organism itself provides for. *Watson v. Jones*, 13 Wall 679, 728-29 (1871)

The opinion radiates, however, a spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine. Freedom to select the clergy, where no improper methods are proven, we think, must now be said to have federal constitutional protection as a part of the free exercise of religion against state interference.

Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 116 (1952)

The door of the Free Exercise Clause stands tightly closed against any government regulation of religious *beliefs* as such. Government may neither compel affirmation of a repugnant belief, nor penalize or discriminate against individuals or groups because they hold religious views abhorrent to the authorities, nor employ the taxing power to inhibit the dissemination of particular religious views.

Sherbert v. Verner, 374 U.S. 398, 403 (1963) (citations omitted)

For civil courts to analyze whether the ecclesiastical actions of a church judicatory are in that sense “arbitrary” must inherently entail inquiry into the procedures that canon or ecclesiastical law supposedly requires the church judicatory to follow, or else in to the substantive criteria by which they are supposed to decide the ecclesiastical question. But this is exactly what the First Amendment prohibits; recognition of such an exception would undermine the general rule that religious controversies are not the proper subject of civil court inquiry, and that a civil court must accept the ecclesiastical decisions of church tribunals as it finds them. Indeed, it is the essence of religious faith that ecclesiastical decisions are reached and are to be accepted as matters of faith whether or not rational or measurable by objective criteria. Constitutional

concepts of due process, involving secular notions of “fundamental fairness” or impermissible objectives, are therefore hardly relevant to such matters of ecclesiastical cognizance.
Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 713-14 (1976)

For where resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them in their application to the religious issues of doctrine or polity before them.
Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696, 709 (1976)

The free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires. Thus, the First Amendment obviously excludes all “governmental regulation of religious *beliefs* as such.” The government may not compel affirmation of religious belief, punish the expression of religious doctrines it believes to be false, impose special disabilities on the basis of religious views or religious status, or lend its power to one or the other side in controversies over religious authority or dogma.
Employment Div., Dept. of Human Resources v. Smith, 494 U.S. 872, 877 (1990) (citations omitted)

[P]ublic policy forbids the maintenance of any suit in a court of justice, the trial of which would inevitably lead to the disclosure of matters which the law itself regards as confidential, and respecting which it will not allow the confidence to be violated. On this principle, suits cannot be maintained which would require a disclosure of the confidences of the confessional.
Totten v. United States, 92 U.S. 105, 107 (1875)

The priest-penitent privilege recognizes the human need to disclose to a spiritual counselor, in total and absolute confidence, what are believed to be flawed acts or thoughts and to receive priestly consolation and guidance in return.
Trammell v. United States, 445 U.S. 40, 51 (1980)