

Testimony by Congressman Joseph P. Kennedy, III (MA-04)

for

*“Do No Harm: Examining the Misapplication of the ‘Religious Freedom Restoration Act’”*

I first would like to thank Chairman Scott for his tireless leadership on this issue and his staff for holding this important hearing.

In 1993, Congress passed the Religious Freedom Restoration Act with overwhelming bipartisan support in response to *Employment Division v. Smith*, which saw two Native Americans fired from their jobs and denied unemployment after they consumed a drug outside of work as part of their religious faith.

For these Native Americans and other religious minorities like them, RFRA was meant to be a shield to protect: because Native Americans should be free to practice their religion; Jewish children should be allowed to wear yarmulkes in public schools that prohibit them; fire department restrictions on facial hair should contain exceptions for those of Muslim faith.

However, over the years, RFRA has morphed from a shield of protection to a sword of infringement, allowing employers to undermine basic workplace protections, organizations to stonewall child labor investigations, and health providers to deny needed care for victims of sexual abuse.

The Supreme Court’s 2014 ruling in *Burwell v. Hobby Lobby Stores* opened these floodgates even further, providing a path for corporations to cite faith in discriminating against employees.

Since then, what we have witnessed is an administration that has laid the foundation for discrimination in the name of religious liberty at every conceivable opportunity.

Right now, this administration is fighting to make it easier for women to be denied critical contraceptive coverage on the basis of an employer’s religious and moral beliefs.

The Department of Justice issued memorandum to all federal agencies and Departments misinterpreting RFRA to permit employers that use their sincerely-held religious beliefs to discriminate in employment, even with publicly-funded dollars.

Earlier this year, the Trump Administration granted a request from South Carolina to use RFRA to waive non-discrimination requirements for state-contracted child welfare agencies, allowing Miracle Hill Ministries, the state’s largest foster care provider, to turn one woman, Aimee Maddonna, away because she is Catholic and not Protestant.

And, only a few weeks ago, the Administration cited RFRA to roll back the ACA’s Health Care Rights Law and allow discrimination in healthcare, simply because a person in need of health care happens to be transgender, or because of a woman’s reproductive health care decisions.

It is precisely for these reasons Congressman Bobby Scott and I introduced the Do No Harm Act: to restore RFRA to its original purpose — as a protective shield for religious minorities — and clarify that no one can claim religious exemption from laws that protect against discrimination, govern wages and collective bargaining, prohibit child labor and abuse, provide access to health care, regulate public accommodations, or provide social services through government contracts.

The Do No Harm Act confirms what generations of civic history, constitutional law and American experience have proved true: if civil and legal rights exist only in the absence of a neighbor's religious objection, then they are not rights but empty promises.

The ability to freely and fully exercise sincerely-held religious beliefs in this country is a liberty we cherish. Across the nation, religious principle inspires countless families, organizations and communities to champion economic justice, human dignity and common decency.

But there is a difference between exercising religious beliefs and imposing them on others. Our Constitution fiercely protects the former and expressly prohibits the latter.

With civil liberties under constant attack, now is the time to affirm that the religious beliefs of one person do not supersede the civil rights of another and that there are NO religious exceptions to equal protection. It is time to restore RFRA to what it was originally intended to be.