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## Religion in the Public Square

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### 3. The Evolving (and Dangerous) Development of the United States Conference of Catholic Bishops' Use of the Doctrine of Religious Liberty

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#### Abstract

Religious Freedom has become a highly politicized and prioritized principle in the public square and in the USCCB's doctrinal teaching, replacing another more foundational doctrine, the authority and inviolability of a well-formed conscience. The bishops in the United States have "pioneered a self-serving invocation of 'religious liberty.'" This self-serving invocation in understanding and prioritizing religious liberty in relation to conscience and magisterial norms is a distortion of Catholic teaching in three ways. First, the USCCB prioritizes its understanding of religious liberty over a well-formed conscience, which is a distortion of the Second Vatican Council's understanding of the interrelationship between the two. Second, it distorts the relationship between objective norms, such as religious liberty and same-sex relationships, and conscience. Finally, the gravest distortion is the dangerous development of the USCCB's use of religious liberty to misinform consciences to defend its doctrinal teaching against same-sex relationships.

Keywords: Conscience; *Dignitatis Humanae*; *Gaudium et Spes*; Religious Liberty; Same-Sex Parenting

## Introduction

On January 16, 2023, the United States celebrated Religious Freedom Day. In anticipation of that event the United States Conference of Catholic Bishops (USCCB) published a statement by Cardinal Timothy Dolan, Chairman of the USCCB's Committee for Religious Liberty, entitled "There is no Freedom without the Truth" (2023). The statement distinguishes between the role of Catholics to "engage political life in various ways" and the role of bishops and clerics to "seek primarily to form consciences, both of lay voters and officials" (USCCB 2023). This task of forming consciences, but not replacing them, Pope Francis argues, is a grave and traditional task of bishops (2016, 37). The USCCB, unfortunately, has chosen to replace consciences, not to form them, by distorting the relationship between religious liberty and conscience and prioritizing its understanding of religious liberty over many other doctrinal norms.

Religious Freedom has become a highly politicized and prioritized principle in the public square and in the USCCB's doctrinal teaching, replacing another more foundational doctrine, the authority and inviolability of a well-formed conscience. Daniel Horan (2022) asserts that the bishops in the United States have "pioneered a self-serving invocation of 'religious liberty.'" This self-serving invocation is manifested in the public square in the USCCB's attempt to impose its own authority, interpretation, and prioritization of doctrinal moral teaching, both *ad intra*, among the Catholic faithful, and *ad extra*, in the public square, on those whose consciences lead them to different moral conclusions on ethical issues such as abortion and LGBTQ+ issues. In doing so, the USCCB violates the Catholic doctrine of the authority of a well-formed conscience and imposes its interpretation and application of religious liberty on consciences. For instance, the newly elected president of the USCCB, Timothy Broglio (2021), asserts "the sanctity of conscience" and that "individuals possess the 'civil right not to be hindered in leading their lives in accordance with their consciences.'" He extols the sanctity of conscience and religious liberty to defend military personnel who do not want to receive the COVID vaccine and cites *Dignitatis humanae*, the Declaration on Religious Freedom (Vatican II 1965a) and *Gaudium et spes*, the Pastoral Constitution on the Church in the Modern World (Vatican II 1965b) on religious liberty and conscience to justify his statement. Although religious liberty and freedom of conscience are paramount for Broglio when it comes to refusing the COVID vaccine, neither he nor the USCCB extends that importance to conscience and religious liberty when it comes to disagreements with church sexual and other teachings that it promotes in the public square.

This inconsistency in understanding and prioritizing religious liberty in relation to conscience and magisterial norms is a distortion of Catholic teaching in three ways. First, the USCCB prioritizes its understanding of religious liberty over a well-formed conscience, which is a distortion of the Second Vatican Council's understanding of the interrelationship between the two. Second, it distorts the relationship between objective norms, such as religious liberty and same-sex relationships, and conscience. Finally, the gravest distortion is the dangerous

development of the USCCB's use of religious liberty to misinform consciences to defend its doctrinal teaching against same-sex relationships. We consider each in turn.

### Religious Liberty: The Preeminent Catholic Doctrine?

One of the transformative and transforming documents of the Second Vatican Council is *Dignitatis humanae* on religious liberty. "This Vatican Council declares that the human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs." It continues, "every man has the duty, and therefore the right, to seek the truth in matters religious [and ethical] in order that he may with prudence form for himself right and true judgments of conscience, under use of all suitable means" (Vatican II 1965a, 2, 3). *Dignitatis humanae* is transformative, notwithstanding its claim that it "intends to develop the doctrine of recent popes on the inviolable rights of the human person and the constitutional order of society" (Vatican II 1965a, 1), since earlier doctrines "definitively rejected" the idea of religious freedom. *Dignitatis humanae* developed Catholic doctrine from a condemnation of religious freedom to advancing the authority and inviolability of conscience as a foundational dimension of human dignity that recognizes, supports, and promotes religious freedom as an essential human right (Noonan 2005, 154–58). *Dignitatis humanae* is transforming because it challenged, and continues to challenge, the church's understanding of its own identity in relation to individual consciences, a growing secular society, and cultural and political realities in the public square.

This challenge is evident in an ongoing campaign by the USCCB that opposes same-sex marriage and, most recently, the Respect for Marriage Act (RFMA), and invokes religious liberty to justify its opposition. In his letter to Congress, Archbishop Cordileone, Chairman of the USCCB's Committee on Laity, Marriage, Family Life and Youth, asserts that "governments continue to use marriage redefinition laws to threaten the conscience and religious freedom of individuals . . . who seek to serve their communities without being punished for their longstanding and well-founded beliefs" (USCCB 2022). This official letter of the USCCB prioritizes religious liberty over a well-informed conscience and narrowly defines religious liberty as affirming and supporting Catholic teaching on heterosexual marriage.

Narrowly restricting religious freedom to those who support Catholic teaching and denying the same right to those who do not is a distortion of Catholic teaching on religious freedom and the authority and inviolability of a well-formed conscience. The latter teaching was solemnly promulgated in both *Dignitatis humanae* and *Gaudium et spes*. Those two documents assert the following points regarding religious freedom and conscience. First, conscience is sacred; it is a gift from God. Second, it is an intrinsic dimension of the human person. Third, following one's conscience on *religious* and *moral* matters facilitates human dignity; violating one's conscience on *religious* and *moral* matters frustrates human dignity. Fourth, no one is ever to be forced to act against her/his conscience; such force is a fundamental violation of conscience and of human dignity. Fifth, the authority granted to conscience presumes that it is well-informed (Vatican II 1965a, 3; 1965b, 16).

According to conciliar Catholic teaching, then, religious liberty is subservient to and must protect the dictates of an informed conscience; it does not supersede the judgement of an

informed conscience on matters religious or moral. Instead of representing this official teaching on religious liberty accurately, the USCCB's letter to Congress narrowly defines religious liberty to defend Catholic teaching against same-sex marriage. Religious liberty, the letter argues, applies only to those who espouse and support this teaching. It does not apply to those who disagree with the teaching on the basis of religious liberty, a well-formed conscience, and well-established theological challenges to it (see Salzman and Lawler 2008). As Rev. Paulikas (2022) points out in a *New York Times* opinion piece, however, "same-sex marriage is a religious freedom" for many Christians. As an Episcopal pastor and married gay man, Paulikas' religious freedom supports his conscience judgment that same-sex marriage is ethical and facilitates human dignity and the common good when it is free and just. We will argue that a correct reading of *Dignitatis humanae* and *Gaudium et spes* on the interrelationship between conscience and religious freedom supports Paulikas' reasoned judgment of conscience.

Although the bishops in the United States, led by Cardinal Spellman, were staunch proponents of the drafting, promulgation, and implementation of *Dignitatis humanae* (Routhier 2006, 66–67), there has been a gradual, disturbing, and even dangerous interpretation of religious freedom by the USCCB that distorts *Dignitatis humanae* and threatens to undermine its recognition of the authority of conscience as an essential aspect of human dignity. In opposing the Affordable Care Act (ACA) and the so-called contraceptive mandate, the focus of the USCCB is on religious liberty that should prevent government policy from forcing religious institutions from violating "deeply held religious convictions" (Mena 2013). Nowhere in its opposition to the ACA did the USCCB acknowledge the 86 percent of Catholics who overwhelmingly reject church teaching condemning artificial contraception and affirm the authority of conscience to disagree with that teaching. It relied upon religious liberty, narrowly defined as institutional religious liberty, that denies the authority of individual consciences, both Catholic and non-Catholic, who work in and are served by Catholic institutions and come to a different conscience judgment on the "truth" of Catholic teaching against artificial contraception. The USCCB recognizes religious liberty and the authority of conscience when they serve its agenda, but reject them when they challenge that agenda and the USCCB's authority. In so doing, it distorts Catholic teaching on religious freedom and the inviolable authority of an informed conscience. It also distorts the relationship between norms such as religious liberty and Catholic sexual teaching and conscience.

### The Authority of Conscience

Already in the thirteenth century, Thomas Aquinas established the authority and inviolability of conscience. "Anyone upon whom the ecclesiastical authorities, in ignorance of the true facts, impose a demand that offends against his clear conscience, should perish in excommunication rather than violate his conscience" (2018, 38.2.4). He goes further and insists that the dictate of a mistaken conscience must be followed and that to act against such a dictate is immoral and sinful (1920–42, I-II.19.5). Seven hundred years after Aquinas, *Gaudium et spes* issued a clarion cry with respect to conscience: "Conscience is the most secret core and sanctuary of man. There he is alone with God whose voice echoes in his depth. In a wonderful manner conscience reveals that law which is fulfilled by love of God and neighbor" (Vatican II 1965b, 16). *Dignitatis humanae* went further to assert the inviolability of conscience:

“In all his activity a man is bound to follow his conscience faithfully, in order that he may come to God for whom he was created. It follows that he is not to be forced to act contrary to his conscience. Nor, on the other hand, is he to be restrained from acting in accordance with his conscience, especially in matters religious” (Vatican II 1965a, 3) and, we add, moral. Despite these church affirmations of the authority of conscience, theological and pastoral debates continue over the nature of conscience and its inviolability in relation to objective norms taught by the magisterium on religious liberty and human sexuality.

These debates are due to different interpretations of, and emphases on, tradition and the documents of the Second Vatican Council. It is common knowledge that there is a general tension in the documents of the Second Vatican Council represented by differing ideological and theological perspectives. James Gaffney comments that the term “conscience” in the documents is used “in a combination of senses which not even the most benign exegetical subtlety can rescue from incoherence” (1987, 125). This incoherence is reflected in various tensions with respect to the nature of conscience, its inviolability, and relationship to the magisterium’s objective norms. Those who emphasize the authority and inviolability of conscience over the magisterium’s objective norms prioritize Aquinas’ view. Those who emphasize the obedience and submission of conscience to the magisterium’s objective norms prioritize Pope John Paul II’s encyclical, *Veritatis splendor* (1993, 54–64).

The USCCB’s prioritization of religious liberty over the authority and inviolability of conscience raises the issue of the relationship between norms and conscience. In *Dignitatis humanae* and *Gaudium et spes* there is a tension in how conscience is understood, which leads to two different interpretations of the nature of the relationship between norms and conscience. We consider each in turn.

### Conscience in *Dignitatis humanae* and *Gaudium et spes*

*Dignitatis humanae* and *Gaudium et spes* describe two levels of conscience, the process leading to practical judgment and *synderesis*. To explore these two levels we return to Aquinas, where we see immediately that conscience is related to reason, and its understanding is situated in Aquinas’ anthropology. Closely following Aristotle, he considers the human person to be a unitary being endowed with a body and a rational soul that vivifies it. Reason distinguishes humans from all other animals, and the rational soul has two powers, intellect and will, intimately related and involved in the process of knowledge. All knowledge begins with experience (1920–2, I.79.2; Schmitz 1992) and proceeds through understanding, judgment, decision, and action. Conscience is the intellectual act of practical judgment that something is right or wrong, moral or immoral, to be done or not done. It binds us to do or not to do some action and, when an action has been done, “conscience is said to accuse or worry us if what has occurred is found to be out of accord with the knowledge by which it was tested, and to defend or excuse us if what has occurred is found to have turned out to be in accord with that knowledge” (Aquinas 1920–42, ST I, 79, 2; Schmitz 1992). Conscience is, as Robert Smith defines it, “the act of practical judgment on a particular moral issue . . . that commands us to do this or not to do that” (1998, 12).

Conscience comes at the end of a rational process that is a process of experience, understanding, judgment, and decision. This process includes an innate natural grasp of moral principles that Aquinas calls *synderesis*. “Though the habits which inform conscience are many,”

he argues, “nevertheless they all take effect through one chief habit, the grasp of principles called *synderesis*” (1920-42, I.9.13). Aquinas never makes these principles clear anywhere because, as Jean Porter correctly argues, his “general theory of goodness requires him to hold that the first principle of practical reasoning is self-evident to all” (Porter 1990, 85–86). In a 1991 speech, Cardinal Joseph Ratzinger interpreted the medieval tradition as offering two levels to the concept of conscience, *synteresis* (which he suggests is better rendered as *anamnesis*) and conscience. *Synteresis* or *anamnesis* is “an inner repugnance to evil and an attraction to the good. The act of conscience applies this basic knowledge to the particular situation” (1991, 8). To make a practical judgment of conscience, then, involves both a grasp of the first principles of practical reason (*synderesis/synteresis*) and a gathering of evidence, a conscious weighing and understanding of the evidence and its implications, and finally making as honest a judgment as possible that this action is to be done and that action is not. A *moral* action is one that comes as the right outcome of such a process and an *immoral* action is one that is contrary to that right outcome. It is commonplace theologically to insist that, in order to be right and moral, conscience must be informed, and that formation is precisely the process we have just outlined. The failure to distinguish between the two levels of conscience and the ambiguity on what constitutes a well-informed conscience are central questions that divide interpreters of *Gaudium et spes* and *Dignitatis humanae* on the nature of conscience and its inviolability.

The two levels of conscience, namely, *synderesis* and the process leading to practical judgment, moral theologian Joseph Fuchs names the subject-orientation and the object-orientation of conscience respectively. Conscience as subject-orientation is “having inner knowledge of the moral goodness of the Christian, and as standing before God, and Christ, and in the Holy Spirit” (1987, 123). This is where God’s voice echoes in the depths of the human heart (Vatican II 1965b, 16), “the highest norm of human life” (Vatican II 1965a, 3), and draws a person to the absolute where the first principles of practical reason are self-evident in the very nature of that moral knowledge that summons him “to love good and avoid evil” (Vatican II 1965b, 16). This is the “upright norm of one’s own conscience” (Vatican II 1965b, 26). Conscience as subject-orientation is the ontological affirmation of the intrinsic goodness of the human person created in the image and likeness of God and an invitation to enter into profound relationship with God and neighbor (Vatican II 1965b, 16).

Conscience as subject-orientation affirms who we are, created in God’s image and conscience as object-orientation “concerns the material content of the function of conscience” and indicates how we are to relate in the world (Fuchs 1987, 128). Conscience as object-orientation can “see that divine law is inscribed in the life of the earthly city” (Vatican II 1965b, 43). We respond to this world by acknowledging “the imperatives of the divine law through the mediation of conscience” (Vatican II 1965a, 3). Using the first principles of practical reason as a hermeneutical lens for analyzing what our relationship with the world is to be, being “guided by the objective norms of morality” (Vatican II 1965b, 16) and attending “to the sacred and certain doctrine of the Church” (Vatican II 1965a, 14), among other sources of knowledge, conscience as objective-orientation gathers as much evidence as possible, consciously weighs and understands the evidence and its implications, and finally makes as honest a judgment as possible that this action is to be done and that action is to be avoided. In this way, humans exercise conscience as practical judgment. Although both levels of conscience are essential, Fuchs correctly notes that the subject-orientation logically precedes

the object-orientation. This understanding of the nature and primacy of subject-orientation over object-orientation is crucial for understanding the debate over the relationship between objective norms, such as religious liberty and sexual ethical norms, and conscience.

### Conscience and Objective Norms: Two Formulations of the Relationship

Fuchs (1987, 125) states the terms of this debate succinctly: Does a truth exist “in itself” or “in myself”? The first formulation sees the conscience as subjective; there is not an objective role for conscience (John Paul II 1993, 4, 59; Benedict XVI, 2007). Objectivity is consigned to the objective norm “in itself,” “external” to conscience. These objective norms exist outside the subjective conscience and the role of the conscience is to know and apply these norms as a deductive syllogism. That is, *synderesis*, as a property of the intellect, knows the general principles of divine law, namely, do good and avoid evil, and these principles are formulated into objective norms, for instance, do not steal or do not lie. Conscience as practical judgment knows the general principles, the objective norms that are formulated from these principles, and applies those norms in a particular situation (Curran 2004). In this approach, conscience’s freedom is relegated to obedience to external objective norms (or authority) and the dignity of conscience depends on whether or not one’s judgment of conscience coincides or does not coincide with the objective norms. If it coincides with objective norms, the act is right and moral; if it does not coincide with objective norms, the act is wrong and immoral. *Gaudium et spes* recognizes human finitude and sinfulness and their impact on the judgment of conscience, what it describes as an erroneous conscience, a conscience that knows incorrectly and, therefore, chooses a wrong act. If the ignorance is vincible, the person is morally culpable; if the ignorance is invincible, the person is not morally culpable. “Conscience frequently errs from invincible ignorance without losing its dignity. The same cannot be said for a man who cares but little for truth and goodness, or for a conscience which by degrees grows practically sightless as a result of habitual sin” (Vatican II 1965b, 16).

The second formulation sees conscience as both subjective and objective and in this formulation there is a much more complex relationship between the object-orientation of conscience and the objective norm. Since conscience can err from invincible ignorance and not lose its dignity, the emphasis in *Gaudium et spes* (and *Dignitatis humanae*) is on the authority and dignity of conscience, not the authority and dignity of the norm. Objective norms exist externally and are formulated and justified on the basis of the four sources of moral knowledge: scripture, tradition, reason, and experience. These norms, however, “offer basically nothing more than assistance—real assistance, but nonetheless merely assistance—in the assessment of morally correct decisions made in the conscience” (Fuchs 1987, 130–31). External, objective norms must always go through the object-orientation of conscience where the process of understanding, judgment, decision, and action take place. The object-orientation, assisted by the known principles of the subject-orientation of conscience, function as the hermeneutical lens to select, interpret, and apply the appropriate objective norm in a given situation. The norms maintain their objectivity, but so too does the objectivity of the conscience. In this formulation, truth exists “in myself,” not in a relativist sense that denies objective and universal truth, but in the sense of the intrinsic human dignity of the person and the authority of her conscience, which must internalize the values reflected in the norm, see their relevance to the human person in all her particularity, and go through the process of

understanding, judgment, decision, and action. Fuchs summarizes the tension between these two formulations: “the assertions which suggest that the proper source of moral knowledge is the conscience are not sufficiently harmonized with those assertions that make objective norms (found outside the conscience) the source” (Fuchs 1983, 45).

The essential point for conscience as object-orientation is the relevance of the objective norm from the perspective of the enquiring subject in light of the understanding of all the exigencies of the human person in a particular historical, cultural context. The implications of this perspective on the relationship between conscience as object-orientation and objective norms is that conscience should be guided by those norms but the authority of conscience is not identified with whether or not it obeys the objective norm. Otherwise, *Dignitatis humanae* could not advocate for religious freedom, where “every man has the duty, and therefore the right, to seek the truth in matters religious in order that he may with prudence form for himself right and true judgments of conscience, under use of all suitable means” (Vatican II 1965a, 3). If mere obedience to objective norms was the sole role of conscience, then conscience that leads people to follow religious traditions other than the Roman Catholic Church could never be tolerated, since “this Church constituted and organized in the world as a society, subsists in (*subsistit in*) the Catholic Church” (Vatican II 1964, 8). That religious pluralism is recognized and affirmed in *Dignitatis humanae* shifts authority from the objective norm to conscience as object-orientation, informed by objective norms, where the hermeneutical lens of the conscience as subject-orientation facilitates the process of understanding, judging, and deciding to act.

To summarize, in *Gaudium et spes* and *Dignitatis humanae*, even though they clearly prioritize the authority and inviolability of conscience over religious freedom, there is a tension in understanding the two formulations of conscience and their relationship with objective norms. These tensions are illustrated in two different models of conscience.

### Relationship between Conscience and the Objective Norm: Two Models

Following James Halstead’s excellent dissertation on conscience (1986), Smith makes a distinction between what he calls a “man-in-relationship-to law” model of conscience and a “restless-heart-toward-God” model (1998, 65). The former model reflects the truth “in itself” formulation of the relationship between magisterial norms and conscience; the latter model reflects the truth “in myself” formulation. He offers as exemplars of these two models Germain Grisez (and, we add, the USCCB and Popes John Paul II and Benedict XVI) and Bernard Häring (and, we add, Pope Francis) respectively. Grisez holds that the only way to form one’s conscience is to *conform* it to the teaching of the church. “In morals,” he writes, “a faithful Catholic never will permit his or her own opinions, any seemingly cogent deliverances of experience, even supposedly scientific arguments, or the contradictory belief of the whole world outside the faith to override the church’s clear and firm teaching” (1983, 567). Ultimately, though Grisez waxes about human freedom, conscience is about obedience to church teaching and its objective norms. Pope John Paul II’s Apostolic Exhortation, *Familiaris consortio* (1981) follows this same model, being wholly rooted in both the truth of sexuality and marriage *as taught by the church* and the obligation of the laity to obey that truth. Almost nowhere in the document does the church’s teaching on the inviolable primacy of individual conscience, even in sexual matters, appear. Similarly, in USCCB statements on same-sex marriage and



contraception, for example, it is never acknowledged that a Catholic conscience can, and indeed does for the majority of Catholics, disagree with those teachings. Such an absence unjustly ignores the long-standing Catholic tradition fundamentally strengthened at the Second Vatican Council.

Häring has a diametrically opposed stance. In the context of his overall approach to moral theology—namely, God’s call to all women and men and each individual’s response of a moral life—conscience, “man’s innermost yearning toward ‘wholeness’ which manifests itself in openness to neighbor and community in a common searching for goodness and truth” (1970, 65) must be free and inviolable, and “the church must affirm the freedom of conscience *itself*” (1978, 25). Church doctrine is at the service of women and men in their sincere conscience search for goodness, truth, and Christian wholeness; conscience is not at the service of doctrine. “It staggers the imagination,” Häring writes, “to think that an earthly authority or an ecclesiastical Magisterium [including the USCCB] could take away from man his own decision of conscience” (1968, 63). The same applies to woman.

The motivation for such a move on the part of the ecclesiastical Magisterium is tied to ongoing concerns with individual relativism or subjectivism and threats to claims of objective truth. The reasoning is as follows. Those, like Grisez and the USCCB, who hold to the “man-in-relationship-to law” model maintain that conscience is “merely the ‘subjective application’ of ‘objective norms’ to individual cases” (Fuchs 1983, 224). In this model, norms have the epistemological advantage of being objective, and therefore “true,” whereas conscience is “subjective,” and merely learns, knows, and applies the objective norm syllogistically to a situation. In this application, the conscience may apply the norm correctly or incorrectly. If the latter, there is an erroneous judgment of conscience that may or may not be morally culpable (Vatican II 1965b, 16), but the (moral) fault is in the subjective conscience and its application of the norm in the practical judgment, not in the objective norm itself. This model shifts the direction of analysis and authority of conscience *from* God, conscience, objective norm *to* God, objective norm, conscience. The objective norm supersedes the subjective conscience and the role and function of the subjective conscience is to obey the objective norm.

Fuchs raises two questions that apply to such a position. First, why should the judgment of conscience be “only subjective” (1983, 224)? Is there not a sense in which the very process of conscience as judgment is objective? Epistemologically, in Grisez’s analysis, the objective norm is primary and subjective conscience is secondary. Second, why do we give such a place of honor and privilege to objective norms in the epistemological hierarchy? Are not these norms, too, the outcome of the interaction of conscience with the world that begins with experience and proceeds through understanding, judgment, decision, and action? All objective norms, including the Magisterium’s norms, result from this process, and they all are subject to the contingencies of human knowledge and understanding in which norms and the understanding of them, can evolve, be refined, revised, or even reversed in light of that human understanding. The changed norms related to usury, slavery, and religious freedom are historical examples of this evolution. Such evolution in human knowledge and understanding accounts for pluralism in perspectives and claims to objective truth. This pluralism leads to different conclusions on issues such as same-sex relationships. Whereas the USCCB posits a man-in-relation-to-law model of conscience and invokes religious freedom as the preeminent

objective norm to justify its claims that conscience must conform to that norm, an accurate reading of tradition posits a “restless-heart-toward-God” model of conscience that recognizes the authority and inviolability of a well-informed conscience. The dangerous development of the USCCB’s use of religious freedom to substantiate and enforce other magisterial objective norms is to distort the science surrounding same-sex parenting and misinform consciences. To that dangerous distortion we now turn.

### The Respect for Marriage Act

An example of the USCCB’s use of religious freedom to justify Catholic teaching by distorting truth is its ongoing opposition to same-sex marriage and misinforming consciences on the “science” concerning same-sex parents, most recently manifested in its opposition to the Respect for Marriage Act (RFMA). In the wake of the United States Supreme Court’s (SCOTUS) ruling in *Dobbs v. Jackson Women’s Health Organization*, which removed federal legal protection of a woman’s right to abortion, in a concurring opinion Justice Thomas argued that the Court “should reconsider” *Obergefell v. Hodges*, the 2015 ruling that required all states to recognize same-sex marriage (Forgey and Gerstein 2022). Fearing that the decision in *Obergefell v. Hodges* might be reversed, and the legal recognition of same-sex marriage in all states would be eliminated, Congress introduced RFMA legislation, which received bipartisan support, passed in both the House and Senate, and was signed into law by President Biden on December 13, 2022. RFMA repeals the Defense of Marriage Act, which defined marriage between a man and a woman, requires the federal government and all states and territories to legally recognize same-sex and interracial marriage, and protects religious liberty.

The USCCB has vehemently opposed RFMA on at least two counts: it violates religious liberty, and it is not good for children who would be parented by same-sex couples. The first claim distorts Catholic teaching on the interrelationship between religious liberty and conscience, which we addressed above. The second claim misinforms consciences on the effect of same-sex parenting on children. We now consider the second claim.

In its letter opposing RFMA, the USCCB (2022) states “Marriage as a lifelong, exclusive union of one man and one woman, and open to new life, is not just a religious ideal—it is, on the whole, what is best for society in a concrete sense, especially for children.” It continues, “the health and socioeconomic benefits of stable family life with a mother and a father are well-established, as are positive outcomes for children raised in such a home.” In a footnote, the USCCB cites two authors of three studies that children raised by same-sex couples suffer negative outcomes compared to children raised by married heterosexuals. These studies were also cited in the USCCB’s 2019 letter to Congress opposing the Equality Act, legislation that opposes employment discrimination on the basis of sex, sexual orientation, and gender identity.

The USCCB’s opposition to RFMA and the Equality Act on the basis that same-sex parenting, adoption, or fostering is detrimental to children goes back to the Congregation for the Doctrine of the Faith’s (CDF) statement that “allowing children to be adopted [or fostered] by persons living in such [homosexual] unions *would actually mean doing violence to these children*, in the sense that their condition of dependency would be used to place them in an environment that is not conducive to their full human development” (2003, 7). The USCCB objection to these two Acts, in part, is that they would require federally funded adoption organizations,

including Catholic organizations, to grant adoption or fostering rights to same-sex couples, which would damage children's development. These Acts also threaten charitable organizations, the USCCB argues, by forcing them either to violate their religious freedom and ethical principles or to shut down due, in part, to lack of public funding. Unlike the CDF's assertion that same-sex parenting is bad for children, which is unsupported by any research evidence, the USCCB letters provide three such references, two from Paul Sullins, a Catholic priest who teaches sociology at the Catholic University of America, and one from Mark Regnerus, a sociologist at the University of Texas.

Although it is true and scientifically verified that children of heterosexual two-parent households benefit emotionally, psychologically, relationally, and developmentally, it is not scientifically verified that children of same-sex two-parent households do not benefit in these ways. The USCCB's claim regarding the negative impact on children of same-sex parents has been undermined by the widespread scholarly rejection of the studies they cite in support of that claim. Even minimal scholarly research would convince the USCCB, which claims to teach the truth, that they are promoting misinformation and falsehood on same-sex parenting.

Sullins (2016) claims that children of same-sex parents are more likely than children of heterosexual parents to suffer from depression, suicidal thoughts, stigma, obesity, abuse, and parental distance. He concludes that households with gay or lesbian parents "*may* be problematic or dangerous" (emphasis added) for the "dignity and security" of their offspring, but he also advises that, based on his limited evidence, his findings should be interpreted with caution and balance, and be "neither exaggerated nor dismissed out of hand on preconceived ideological grounds." The USCCB ignores Sullins' caution and presents his evidence as if it were established scientific fact to substantiate its argument against RFMA and the Equality Act. Regnerus (2012) developed the "New Family Structures Study," which is an epidemiological study of lesbian, gay, bisexual parenting, that surveyed 15,000 people ages 18–39 to reveal the impact of same-sex parents on children. His study concludes that people who had a parent in a same-sex relationship had a greater risk for negative outcomes such as being on public assistance, being unemployed, and having poorer educational attainment.

The scholarship of both these authors has been severely critiqued by the vast majority of sociologists and professional organizations. Regnerus' study was "rebuked" in a letter signed by 200 social scientists on the basis of flawed methodologies (Cohen 2012). The publisher of the journal in which Sullins' article appeared posted an online "Expression of Concern," criticizing the review process that accepted the article for publication and stating that Sullins' article "has been cited to support arguments about same-sex marriage that *Hindawi* believes to be hateful and wrong" (Hindawi 2017).

In a meta-analysis, eminent sociologists, Charlotte Patterson and Richard Redding summarize the evidence from more than 100 scientific studies over 20 years. They conclude that "the scientific literature reveals no evidence suggesting psychosocial development among children of gay men or lesbians is compromised in any significant respect relative to that among offspring of heterosexual parents. *Not a single study* has found children of gay or lesbian parents to be disadvantaged in any important way relative to children of heterosexual parents" (1996, 44–45, emphasis added). In her review of the research, Joan Laird (1993) goes further to suggest that the scientific data indicate that homosexual parents are somewhat more

nurturing and tolerant than heterosexual parents, and their children are, in turn, more tolerant and empathetic. The preponderance of research evidence led the American Psychological Association (APA) in 2020 to approve and disseminate an important resolution. Since “research has shown that the children of lesbian and gay parents are as likely as those of heterosexual parents to flourish,” the APA opposes any, including parental, discrimination based on sexual orientation or gender identity (2020; 2012). The thoroughly child-centered Child Welfare League of America is also convinced by the scientific data that there are no significant differences between the parental attitudes and skills of heterosexual, gay, and lesbian parents. In 1995, the League recommended that factual information about gays and lesbians should be provided “to dispel common myths about gays and lesbians,” such as those propagated by the USCCB (Sullivan 1995, 41). It is not the sexual orientation of gay and lesbian parents that produces negative outcomes in their children but the discrimination towards them generated by misinformation propagated by society, the CDF, and USCCB about their parents.

Several other recent studies have validated the claims of positive outcomes for children parented by same-sex parents (Fedewa, Black, and Ahn 2015; Goldberg and Sweeney 2019; Golombok 2015; Lamb 2012; Patterson 2017). Nathaniel Frank (2016), director of Cornell’s “What We Know Project,” has collected and analyzed over seventy-five studies on same-sex parenting, all of which conclude that same-sex parenting is as effective and healthy emotionally, psychologically, and relationally as heterosexual parenting, and concludes that there are deep methodological flaws in both Sullins’ and Regnerus’ studies. The fact that the USCCB cites two authors whose study methods and results are so widely discredited by the scholarly and professional communities provides evidence that the USCCB, far from forming consciences on truth, is misinforming consciences to further its social and political agenda and to reinforce an ethical teaching against same-sex relationships that has been scientifically and ethically discredited. The USCCB quotes a CDF document on the pastoral care of homosexual persons, which states that “It is deplorable that homosexual persons have been and are the object of *violent malice* in speech and action. Such treatment deserves condemnation from the church’s pastors wherever it occurs” (USCCB, 2006, 2; CDF, 1986, 10, emphasis added). It is deplorable, indeed, and even more deplorable to see the USCCB consistently act contrary to its own teaching through misinformation that promotes so-called not “unjust discrimination” (Catechism 1994, 2358) against same-sex couples who seek to parent.

## Conclusion

It is part of the Catholic tradition that the teaching on the authority and inviolability of conscience is primary and the doctrine of religious freedom should support it. The USCCB violates this teaching when it attempts to prioritize religious liberty over conscience, both *ad intra*, within the church, and *ad extra*, in the public square, suppresses the consciences of those who disagree with Catholic teaching on same-sex relationships, and feeds consciences with false data to reinforce its teaching. We implore the USCCB to remain faithful to the Catholic tradition on conscience and religious freedom and to pursue, and accurately present, the truth it seeks to discover and promote.

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