



Mary's Advocates

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On the March 19th Committee for Religious Liberty podcast, I heard Archbishop Kurtz describe the nurse who was given a choice she could not accept: choose between leaving her profession, or voluntarily assisting in the murder of pre-born babies. Because the Committee develops educational materials on critical issues, I bring you a request.

Will you please include unilateral no-fault divorce on the Committee's list of religious liberty issues? We could use a fact sheet describing the coercion felt by the defendant who wants to keep his family together.

Like the nurse that Archbishop Kurtz described, a defendant in no-fault divorce is given a choice he cannot accept: watch a divorce judge deprive him of his ability to practice his parental vocation and marital rights, or voluntarily assist in the permanent mutilation of his own family by signing a divorce agreement. With a parenting schedule and custody order, he and his children are deprived of their right to have everyday access to each other. His right to his spouse' contribution toward the good of the spouses is lost with the court's property split, which results in financial devastation. Moreover, he's often ordered to support the spouse against whom he committed no offenses justifying permanent or temporary separation.

State divorce courts infringe on religious liberty. If legislation is not passed to protect Christian marriage from unilateral no-fault divorce, we can still protect marriages using existing constitutional principles. Can I introduce your Committee to religious liberties legal expert, Whit Brisky, who works for clients defending their constitutional rights against the practices of states' divorce courts?

Catholics have conscience rights in marriage and in cases of separation of spouses (a.k.a., civil divorce). Besides entering a sacrament, bride and groom enter a contract to uphold

the obligations of marriage as described by our Catholic doctrine. Bride and groom promise, for example, to raise children in accord with the laws of Christ and His Church. Parties' agree that each has the right to live with party's children in a common marital home, and the support from the other in the common home, unless a legitimate reason for separation of spouses exists.

Because our Catechism and canon law delimit grounds for separation of spouses, and because our church polity show that competence to judge parties' obligations was never relegated to the civil forum, the obligations and rights of marriage are religious liberties issues.¹ Moreover, the state violates priests' rights when the state forces brides and grooms to contractually accept the obligations of marriage defined by the legislators' no-fault divorce statutes. It is a violation of religious liberty for the states to effectively rewrite the marriage agreement of everyone participating in the Order of Celebrating Matrimony, and, instead, enforce a contract the parties never entered.

Presently, because of unilateral no-fault divorce, the obligations of parties decided in the civil forum are contrary to natural law, divine law, and the common good. The states have never been asked to prove how it serves a compelling public interest to deprive fit parents of the fundamental liberty to have everyday access to one's own children (*strict scrutiny test*) or force him to support an abandoner. Courts have no expectation for the party causing the break-up to reconcile or to repair damage, whether the marriage is valid, or not. There is no interest in preventing the giving of scandal to children who are routinely ordered to live with, or spend overnight visits, with an abandoner or adulterer.

With the non-profit organization Mary's Advocates, I work to reduce unilateral no-fault divorce and support those who are unjustly abandoned. We publicize Catholic magisterial teaching about separation and divorce and constructional principles that could be implemented to serve justice. Please let me know if we could discuss further.

Sincerely Yours in Christ,

Bai Macfarlane
Director, Mary's Advocates

¹ (Ecumenical Council, Magisterium, Plenary Council, and Canon Law) Yr. 1563, Council of Trent, Sess. 24, Can. 8 & 12; Yr. 1840, Sacred Congregation of the Council (*S.C.C.*), *Codicis Iuris Canonici Fontes*. Vol. VI, *Typis Polyglottis Vaticanis*, 1932, page 345-350, Fontes, n. 4069; Yr. 1883 *S. C. de Prop. Fide, instr.* a. 1883. *De processu matrimoniali*. *Codicis Iuris Canonici Fontes*. Vol. VII, *Typis Polyglottis Vaticanis*, 1935, p. 479-492, Fontes, n. 4901; Yr. 1886, Third Plenary Council of Baltimore, no. 123, 126; Yr. 1983 *CIC* can. 47, 1611, 1689 & 1692; Yr. 2015 *Motu Proprio Mitis Iudex* c. 1691.