

November 19, 2020

Dear Transition Team:

Thank you for the essential work you are doing to prepare for a peaceful and productive transfer of power. We look forward to working with President Biden, Vice President Harris, and their administration to uphold religious freedom in the United States and around the world.

Guaranteed by the United States Constitution's First Amendment, religious freedom both protects the free exercise of religion and bars government-established religion. This core American value touches nearly every area of public policy.

Yet our nation has not always upheld these obligations. The Trump administration has taken many actions that undermine religious freedom. It enacted a Muslim ban. In the name of religious freedom, it has improperly allowed discrimination and dismissed the importance of other human rights. President Trump and some of his appointees have sowed fear and division among religious communities. And the Trump administration has sought to abolish religious liberty protections for beneficiaries of federally funded social services.

The Biden administration must move quickly to correct these actions and reclaim a positive vision of religious freedom that protects all Americans. The following key principles are among those that should guide the Biden administration's work on these issues:

1. America is made up of diverse religious and nonreligious communities, and every American is equal under the law. There is no religious litmus test for being an American. We urge President Biden to demonstrate leadership in protecting the First Amendment rights of all Americans. We also encourage the Biden administration to affirm and celebrate our nation's religious diversity and, whenever possible, use language, hire staff, develop partnerships, and advance policies that are inclusive of all people. The Biden administration must immediately work to undo the harms of the previous four years, starting by repealing the Muslim ban on Day One and prioritizing efforts to prevent and prosecute hate crimes.

2. The separation of church and state is necessary to protect religious freedom and promote a pluralistic society. The Constitution prohibits the government from privileging one religion over another, or religion over non-religion. It also prohibits the government from adopting laws and policies that impose religion on anyone. In particular, the administration must ensure that government-funded services adhere to safeguards that protect beneficiaries, including the bar on the use of direct government funds for religious activities.

3. Religious freedom is intended to serve as a shield, not a sword. Religious freedom is a fundamental constitutional right that protects everyone's right to practice religion, or not to practice religion at all. But free exercise is not without its limits. And over the past four years the federal government has overreached in the name of free exercise, ignoring the harms that certain religious exemptions impose on other rights. For example, these exemptions have been used to undermine LGBTQ nondiscrimination protections and deny access to healthcare, particularly sexual and reproductive healthcare, with disproportionate impacts on people of color. These exemptions have even been used to discriminate against religious minorities and the nonreligious, using inconsistent standards to evaluate free exercise claims. These errors must be corrected. One critical way to do so is to restore the original intent of the

federal Religious Freedom Restoration Act (RFRA) to protect religious freedom and also clarify the Act so that the statute is not misused.

4. Advance religious freedom around the world as a key foreign policy objective and as part of a larger agenda of promoting human rights. The Pew Research Center has reported that, in 2018, the global median level of government restrictions on religion – meaning, laws, policies and official practices impinging on religious beliefs and exercise – continued to rise, reaching an all-time high since the Center began tracking these trends in 2007. We applaud President-elect Biden for calling the Chinese government’s oppression of Uighur Muslims and other ethnic minorities in the northwest region of Xinjiang what it is – genocide. We urge the Biden administration to promote religious freedom as part of a comprehensive human rights agenda that recognizes the equal importance and interdependence of all universal human rights.

Thank you for your consideration of our views. We look forward to working with you and the incoming administration to protect religious freedom for all.

Sincerely*,

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