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*Executive Evangelism and Regulatory Restraint: The Evolving Role of the President in the Federal Administration of Religion*

Abstract

This piece explores the role of the executive branch in navigating the federal government's relationship with religious organizations and people of faith. Grounded in the historic development of religious liberty and establishment jurisprudence alongside the growth of the Administrative State, this piece engages the evolution of federal agency involvement in interpreting the First Amendment. The natural demands of a complex post-World War II America hastened an increase in the practical exercise of Executive control over government policies embodied by the Administrative State. These developments tested our understanding of the structural limits of the separation of power and the Constitutional flexibility demanded by modern society. These changes also coincided with the heightened focus on the substantive limitations on government policy development as the Supreme Court began to refine the boundaries of the First Amendment relating to the role of the federal government, free exercise, and issues of endorsement and entanglement. The impact of the simultaneous expansion of the role of the Executive with this developing jurisprudence fostered the transformation of the President's relationship with religion, exposing the thorny balance demanded of the Executive tasked with implementing an increasingly broad social agenda while staying within the structural and substantive limits of the office. This piece concludes that while the Executive's Constitutional mandate to faithfully execute and implement laws will undoubtedly require policy development and statutory interpretation, it must also be responsive to the substantive limits of the First Amendment and resist collaboration with religious organizations and specific religious orders.

Key Words

Administrative Law and Practice, Executive Power, Establishment, Separation of Powers

Bio

Professor Robin Maril is a visiting assistant professor teaching Constitutional Law, Administrative Law, and Family Law. Maril will be joining the Willamette faculty permanently as an assistant professor of law in fall 2022. Prior to entering law teaching, Maril served as the associate legal director at the Human Rights Campaign. Her work at HRC focused on federal programs, administrative policies and legislation that impacted the LGBTQ community. Her scholarship explores the intersection of constitutional law and administrative law with a focus on nondiscrimination and religious freedom. Maril began her career as a Presidential Management Fellow at the U.S. Department of Housing and Urban Development focusing on the

deconcentration of poverty, voucher reform and assistance, and housing legislation and regulation.