**U.S. Supreme Court**

**Obergefell v. Hodges, 576 U.S. \_\_\_ (2015)**

[ομόφυλα ζευγάρια δεν μπορούν να αποκλεισθούν από την άσκηση του δικαιώματος στο γάμο]

Syllabus [περίληψη]

Michigan, Kentucky, Ohio, and Tennessee define marriage as a union between one man and one woman. The petitioners, 14 same-sex couples and two men whose same-sex partners are deceased, filed suits in Federal District Courts in their home States, claiming that respondent state officials violate the Fourteenth Amendment by denying them the right to marry or to have marriages lawfully performed in another State given full recognition. Each District Court ruled in petitioners’ favor, but the Sixth Circuit consolidated the cases and reversed.

*Held*: The Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-State. Pp. 3–28.

(a) Before turning to the governing principles and precedents, it is appropriate to note the history of the subject now before the Court. Pp. 3–10.

(1) The history of marriage as a union between two persons of the opposite sex marks the beginning of these cases. To the respondents, it would demean a timeless institution if marriage were extended to same-sex couples. But the petitioners, far from seeking to devalue marriage, seek it for themselves because of their respect—and need—for its privileges and responsibilities, as illustrated by the petitioners’ own experiences. Pp. 3–6.

(2) The history of marriage is one of both continuity and change. Changes, such as the decline of arranged marriages and the abandonment of the law of coverture, have worked deep transformations in the structure of marriage, affecting aspects of marriage once viewed as essential. These new insights have strengthened, not weakened, the institution. Changed understandings of marriage are characteristic of a Nation where new dimensions of freedom become apparent to new generations.

This dynamic can be seen in the Nation’s experience with gay and lesbian rights. Well into the 20th century, many States condemned same-sex intimacy as immoral, and homosexuality was treated as an illness. Later in the century, cultural and political developments allowed same-sex couples to lead more open and public lives. Extensive public and private dialogue followed, along with shifts in public attitudes. Questions about the legal treatment of gays and lesbians soon reached the courts, where they could be discussed in the formal discourse of the law. In 2003, this Court overruled its 1986 decision in *Bowers* v. *Hardwick*, 478 U. S. 186 , which upheld a Georgia law that criminalized certain homosexual acts, concluding laws making same-sex intimacy a crime “demea[n] the lives of homosexual persons.” *Lawrence* v. *Texas*, 539 U. S. 558 . In 2012, the federal Defense of Marriage Act was also struck down. *United States* v. *Windsor*, 570 U. S. \_\_\_. Numerous same-sex marriage cases reaching the federal courts and state supreme courts have added to the dialogue. Pp. 6–10.

(b) The Fourteenth Amendment requires a State to license a marriage between two people of the same sex. Pp. 10–27.

(1) The fundamental liberties protected by the Fourteenth Amendment’s Due Process Clause extend to certain personal choices central to individual dignity and autonomy, including intimate choices defining personal identity and beliefs. See, *e.g.,* *Eisenstadt* v. *Baird*, 405 U. S. 438 ; *Griswold* v. *Connecticut*, 381 U. S. 479 –486. Courts must exercise reasoned judgment in identifying interests of the person so fundamental that the State must accord them its respect. History and tradition guide and discipline the inquiry but do not set its outer boundaries. When new insight reveals discord between the Constitution’s central protections and a received legal stricture, a claim to liberty must be addressed.

Applying these tenets, the Court has long held the right to marry is protected by the Constitution. For example, *Loving*v. *Virginia*, 388 U. S. 1 , invalidated bans on interracial unions, and *Turner*v. *Safley*, 482 U. S. 78 , held that prisoners could not be denied the right to marry. To be sure, these cases presumed a relationship involving opposite-sex partners, as did *Baker* v. *Nelson*, 409 U. S. 810 , a one-line summary decision issued in 1972, holding that the exclusion of same-sex couples from marriage did not present a substantial federal question. But other, more instructive precedents have expressed broader principles. See, *e.g.,* *Lawrence*, *supra,* at 574. In assessing whether the force and rationale of its cases apply to same-sex couples, the Court must respect the basic reasons why the right to marry has been long protected. See, *e.g.,* *Eisenstadt*, *supra*, at 453–454. This analysis compels the conclusion that same-sex couples may exercise the right to marry. Pp. 10–12.

(2) Four principles and traditions demonstrate that the reasons marriage is fundamental under the Constitution apply with equal force to same-sex couples. The first premise of this Court’s relevant precedents is that the right to personal choice regarding marriage is inherent in the concept of individual autonomy. This abiding connection between marriage and liberty is why *Loving* invalidated interracial marriage bans under the Due Process Clause. See 388 U. S., at 12. Decisions about marriage are among the most intimate that an individual can make. See *Lawrence*, *supra*, at 574. This is true for all persons, whatever their sexual orientation.

A second principle in this Court’s jurisprudence is that the right to marry is fundamental because it supports a two-person union unlike any other in its importance to the committed individuals. The intimate association protected by this right was central to *Griswold*v.*Connecticut*, which held the Constitution protects the right of married couples to use contraception, 381 U. S., at 485, and was acknowledged in *Turner*, *supra,* at 95. Same-sex couples have the same right as opposite-sex couples to enjoy intimate association, a right extending beyond mere freedom from laws making same-sex intimacy a criminal offense. See *Lawrence,* *supra*, at 567.

A third basis for protecting the right to marry is that it safeguards children and families and thus draws meaning from related rights of childrearing, procreation, and education. See, *e.g.,* *Pierce* v. *Society of Sisters*, 268 U. S. 510 . Without the recognition, stability, and predictability marriage offers, children suffer the stigma of knowing their families are somehow lesser. They also suffer the significant material costs of being raised by unmarried parents, relegated to a more difficult and uncertain family life. The marriage laws at issue thus harm and humiliate the children of same-sex couples. See *Windsor*, *supra,* at \_\_\_. This does not mean that the right to marry is less meaningful for those who do not or cannot have children. Precedent protects the right of a married couple not to procreate, so the right to marry cannot be conditioned on the capacity or commitment to procreate.

Finally, this Court’s cases and the Nation’s traditions make clear that marriage is a keystone of the Nation’s social order. See *Maynard* v. *Hill*, 125 U. S. 190 . States have contributed to the fundamental character of marriage by placing it at the center of many facets of the legal and social order. There is no difference between same- and opposite-sex couples with respect to this principle, yet same-sex couples are denied the constellation of benefits that the States have linked to marriage and are consigned to an instability many opposite-sex couples would find intolerable. It is demeaning to lock same-sex couples out of a central institution of the Nation’s society, for they too may aspire to the transcendent purposes of marriage.

The limitation of marriage to opposite-sex couples may long have seemed natural and just, but its inconsistency with the central meaning of the fundamental right to marry is now manifest. Pp. 12–18.

(3) The right of same-sex couples to marry is also derived from the Fourteenth Amendment’s guarantee of equal protection. The Due Process Clause and the Equal Protection Clause are connected in a profound way. Rights implicit in liberty and rights secured by equal protection may rest on different precepts and are not always co-extensive, yet each may be instructive as to the meaning and reach of the other. This dynamic is reflected in *Loving,*where the Court invoked both the Equal Protection Clause and the Due Process Clause; and in *Zablocki* v. *Redhail*, 434 U. S. 374 , where the Court invalidated a law barring fathers delinquent on child-support payments from marrying. Indeed, recognizing that new insights and societal understandings can reveal unjustified inequality within fundamental institutions that once passed unnoticed and unchallenged, this Court has invoked equal protection principles to invalidate laws imposing sex-based inequality on marriage, see, *e.g., Kirchberg* v. *Feenstra*, 450 U. S. 455 –461, and confirmed the relation between liberty and equality, see, *e.g., M. L. B.* v. *S. L. J.*, 519 U. S. 102 –121.

The Court has acknowledged the interlocking nature of these constitutional safeguards in the context of the legal treatment of gays and lesbians. See *Lawrence*, 539 U. S., at 575. This dynamic also applies to same-sex marriage. The challenged laws burden the liberty of same-sex couples, and they abridge central precepts of equality. The marriage laws at issue are in essence unequal: Same-sex couples are denied benefits afforded opposite-sex couples and are barred from exercising a fundamental right. Especially against a long history of disapproval of their relationships, this denial works a grave and continuing harm, serving to disrespect and subordinate gays and lesbians. Pp. 18–22.

(4) The right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. Same-sex couples may exercise the fundamental right to marry. *Baker* v. *Nelson* is overruled. The State laws challenged by the petitioners in these cases are held invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples. Pp. 22–23.

(5) There may be an initial inclination to await further legislation, litigation, and debate, but referenda, legislative debates, and grassroots campaigns; studies and other writings; and extensive litigation in state and federal courts have led to an enhanced understanding of the issue. While the Constitution contemplates that democracy is the appropriate process for change, individuals who are harmed need not await legislative action before asserting a fundamental right. *Bowers,*in effect, upheld state action that denied gays and lesbians a fundamental right. Though it was eventually repudiated, men and women suffered pain and humiliation in the interim, and the effects of these injuries no doubt lingered long after *Bowers* was overruled. A ruling against same-sex couples would have the same effect and would be unjustified under the Fourteenth Amendment. The petitioners’ stories show the urgency of the issue they present to the Court, which has a duty to address these claims and answer these questions. Respondents’ argument that allowing same-sex couples to wed will harm marriage as an institution rests on a counterintuitive view of opposite-sex couples’ decisions about marriage and parenthood. Finally, the First Amendment ensures that religions, those who adhere to religious doctrines, and others have protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths. Pp. 23–27.

(c) The Fourteenth Amendment requires States to recognize same-sex marriages validly performed out of State. Since same-sex couples may now exercise the fundamental right to marry in all States, there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character. Pp. 27–28.

772 F. 3d 388, reversed.

Kennedy, J., delivered the opinion of the Court.

Απόσπασμα ως προς τη σχέση ελευθερίας και ισότητας στην υπόθεση

Objecting that this does not reflect an appropriate framing of the issue, the respondents refer to Washington v. Glucksberg, [521 U. S. 702](https://www.law.cornell.edu/supremecourt/text/521/702), 721 (1997), which called for a “ ‘careful description’ ” of fundamental rights. They assert the petitioners do not seek to exercise the right to marry but rather a new and nonexistent “right to same-sex marriage.” Brief for Respondent in No. 14–556, p. 8. Glucksberg did insist that liberty under the Due Process Clause must be defined in a most circumscribed manner, with central reference to specific historical practices. Yet while that approach may have been appropriate for the asserted right there involved (physician-assisted suicide), it is inconsistent with the approach this Court has used in discussing other fundamental rights, including marriage and intimacy. Loving did not ask about a “right to interracial marriage”; Turner did not ask about a “right of inmates to marry”; and Zablocki did not ask about a “right of fathers with unpaid child support duties to marry.” Rather, each case inquired about the right to marry in its comprehensive sense, asking if there was a sufficient justification for excluding the relevant class from the right. See also Glucksberg, 521 U. S., at 752–773 (Souter, J., concurring in judgment); id., at 789–792 (Breyer, J., concurring in judgments).

 That principle applies here. If rights were defined by who exercised them in the past, then received practices could serve as their own continued justification and new groups could not invoke rights once denied. This Court has rejected that approach, both with respect to the right to marry and the rights of gays and lesbians. See Loving 388 U. S., at 12; Lawrence, 539 U. S., at 566–567.

 The right to marry is fundamental as a matter of history and tradition, but rights come not from ancient sources  alone. They rise, too, from a better informed understanding of how constitutional imperatives define a liberty that remains urgent in our own era. Many who deem same-sex marriage to be wrong reach that conclusion based on decent and honorable religious or philosophical premises, and neither they nor their beliefs are disparaged here. But when that sincere, personal opposition becomes enacted law and public policy, the necessary consequence is to put the imprimatur of the State itself on an exclusion that soon demeans or stigmatizes those whose own liberty is then denied. Under the Constitution, same-sex couples seek in marriage the same legal treatment as opposite-sex couples, and it would disparage their choices and diminish their personhood to deny them this right.

 The right of same-sex couples to marry that is part of the liberty promised by the [Fourteenth Amendment](https://www.law.cornell.edu/constitution/amendmentxiv) is derived, too, from that Amendment’s guarantee of the equal protection of the laws. The Due Process Clause and the Equal Protection Clause are connected in a profound way, though they set forth independent principles. Rights implicit in liberty and rights secured by equal protection may rest on different precepts and are not always co-extensive, yet in some instances each may be instructive as to the meaning and reach of the other. In any particular case one Clause may be thought to capture the essence of the right in a more accurate and comprehensive way, even as the two Clauses may converge in the identification and definition of the right. See M. L. B., 519 U. S., at 120–121; id., at 128–129 (Kennedy, J., concurring in judgment); Bearden v. Georgia, [461 U. S. 660](https://www.law.cornell.edu/supremecourt/text/461/660), 665 (1983). This interrelation of the two principles furthers our understanding of what freedom is and must become.

 The Court’s cases touching upon the right to marry reflect this dynamic. In Loving the Court invalidated a prohibition on interracial marriage under both the Equal Protection Clause and the Due Process Clause. The Court  first declared the prohibition invalid because of its un-equal treatment of interracial couples. It stated: “There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause.” 388 U. S., at 12. With this link to equal protection the Court proceeded to hold the prohibition offended central precepts of liberty: “To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the [Fourteenth Amendment](https://www.law.cornell.edu/constitution/amendmentxiv), is surely to deprive all the State’s citizens of liberty without due process of law.” Ibid. The reasons why marriage is a fundamental right became more clear and compelling from a full awareness and understanding of the hurt that resulted from laws barring interracial unions.

 The synergy between the two protections is illustrated further in Zablocki. There the Court invoked the Equal Protection Clause as its basis for invalidating the challenged law, which, as already noted, barred fathers who were behind on child-support payments from marrying without judicial approval. The equal protection analysis depended in central part on the Court’s holding that the law burdened a right “of fundamental importance.” 434 U. S., at 383. It was the essential nature of the marriage right, discussed at length in Zablocki, see id., at 383–387, that made apparent the law’s incompatibility with requirements of equality. Each concept—liberty and equal protection—leads to a stronger understanding of the other.

 Indeed, in interpreting the Equal Protection Clause, the Court has recognized that new insights and societal understandings can reveal unjustified inequality within our most fundamental institutions that once passed unnoticed and unchallenged. To take but one period, this occurred with respect to marriage in the 1970’s and 1980’s. Notwithstanding the gradual erosion of the doctrine of cover ture, see supra, at 6, invidious sex-based classifications in marriage remained common through the mid-20th century. See App. to Brief for Appellant in Reed v. Reed, O. T. 1971, No. 70–4, pp. 69–88 (an extensive reference to laws extant as of 1971 treating women as unequal to men in marriage). These classifications denied the equal dignity of men and women. One State’s law, for example, provided in 1971 that “the husband is the head of the family and the wife is subject to him; her legal civil existence is merged in the husband, except so far as the law recognizes her separately, either for her own protection, or for her benefit.” Ga. Code Ann. §53–501 (1935). Responding to a new awareness, the Court invoked equal protection principles to invalidate laws imposing sex-based inequality on marriage. See, e.g., […]. Like Loving and Zablocki, these precedents show the Equal Protection Clause can help to identify and correct inequalities in the institution of marriage, vindicating precepts of liberty and equality under the Constitution.

 …

 This dynamic also applies to same-sex marriage. It is now clear that the challenged laws burden the liberty of same-sex couples, and it must be further acknowledged that they abridge central precepts of equality. Here the marriage laws enforced by the respondents are in essence unequal: same-sex couples are denied all the benefits afforded to opposite-sex couples and are barred from exercising a fundamental right. Especially against a long history of disapproval of their relationships, this denial to same-sex couples of the right to marry works a grave and continuing harm. The imposition of this disability on gays and lesbians serves to disrespect and subordinate them. And the Equal Protection Clause, like the Due Process Clause, prohibits this unjustified infringement of the fundamental right to marry. See, e.g., Zablocki, supra, at 383–388; Skinner, 316 U. S., at 541.

 These considerations lead to the conclusion that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the [Fourteenth Amendment](https://www.law.cornell.edu/constitution/amendmentxiv) couples of the same-sex may not be deprived of that right and that liberty. The Court now holds that same-sex couples may exercise the fundamental right to marry. No  longer may this liberty be denied to them. Baker v. Nelson must be and now is overruled, and the State laws challenged by Petitioners in these cases are now held invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples.

**….**

[αντίκρουση του ισχυρισμού ότι έτσι προσβάλλεται ο θεσμός του γάμου ή τα θρησκευτικά αισθήματα τρίτων]

The respondents also argue allowing same-sex couples to wed will harm marriage as an institution by leading to fewer opposite-sex marriages. This may occur, the respondents contend, because licensing same-sex marriage severs the connection between natural procreation and marriage. That argument, however, rests on a counterintuitive view of opposite-sex couple’s decisionmaking processes regarding marriage and parenthood. Decisions about whether to marry and raise children are based on many personal, romantic, and practical considerations; and it is unrealistic to conclude that an opposite-sex couple would choose not to marry simply because same-sex couples may do so. See Kitchen v. Herbert, [755 F. 3d 1193](https://www.law.cornell.edu/rio/citation/755_F.3d_1193), 1223 (CA10 2014) (“[I]t is wholly illogical to believe that state recognition of the love and commitment between same-sex couples will alter the most intimate and personal decisions of opposite-sex couples”). The respondents have not shown a foundation for the conclusion that allowing same-sex marriage will cause the harmful outcomes they  describe. Indeed, with respect to this asserted basis for excluding same-sex couples from the right to marry, it is appropriate to observe these cases involve only the rights of two consenting adults whose marriages would pose no risk of harm to themselves or third parties.

 Finally, it must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The [First Amendment](https://www.law.cornell.edu/constitution/first_amendment) ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure they have long revered. The same is true of those who oppose same-sex marriage for other reasons. In turn, those who believe allowing same-sex marriage is proper or indeed essential, whether as a matter of religious conviction or secular belief, may engage those who disagree with their view in an open and searching debate. The Constitution, however, does not permit the State to bar same-sex couples from marriage on the same terms as accorded to couples of the opposite sex.

**U.S. Supreme Court**

**Emplo**y**ment Div. v. Smith., 494 U.S. 872 (1990)**

*(Το ζήτημα που απασχολεί το δικαστήριο είναι ποιο είναι το κριτήριο ελέγχου όταν η θρησκευτική λατρεία εμποδίζεται από κανόνες γενικής εφαρμογής, και δη αν απαιτείται αυστηρός δικαστικός έλεγχος (strict scrutiny) ή χαλαρός και γιατί) - διαβάστε αντιστοίχως το 13 παρ. 4 του ελληνικού συντάγματος*

*Syllabus [περίληψη]*

Respondents Smith and Black were fired by a private drug rehabilitation organization because they ingested peyote, a hallucinogenic drug, for sacramental purposes at a ceremony of their Native American Church. Their applications for unemployment compensation were denied by the State of Oregon under a state law disqualifying employees discharged for work-related "misconduct." Holding that the denials violated respondents' First Amendment free exercise rights, the State Court of Appeals reversed. The State Supreme Court affirmed, but this Court vacated the judgment and remanded for a determination whether sacramental peyote use is proscribed by the State's controlled substance law, which makes it a felony to knowingly or intentionally possess the drug. Pending that determination, the Court refused to decide whether such use is protected by the Constitution. On remand, the State Supreme Court held that sacramental peyote use violated, and was not excepted from, the state law prohibition, but concluded that that prohibition was invalid under the Free Exercise Clause.

*Held:* The Free Exercise Clause permits the State to prohibit sacramental peyote use, and thus to deny unemployment benefits to persons discharged for such use. Pp. [494 U. S. 876](https://supreme.justia.com/cases/federal/us/494/872/case.html#876)-890.

(a) Although a State would be "prohibiting the free exercise [of religion]" in violation of the Clause if it sought to ban the performance of (or abstention from) physical acts solely because of their religious motivation, the Clause does not relieve an individual of the obligation to comply with a law that incidentally forbids (or requires) the performance of an act that his religious belief requires (or forbids) if the law is not specifically directed to religious practice and is otherwise constitutional as applied to those who engage in the specified act for nonreligious reasons. *See, e.g., Reynolds v. United States,* [98 U. S. 145](https://supreme.justia.com/cases/federal/us/98/145/case.html), [98 U. S. 166](https://supreme.justia.com/cases/federal/us/98/145/case.html#166)-167. The only decisions in which this Court has held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action are distinguished on the ground that they involved not the Free Exercise Clause alone, but that Clause in conjunction with other constitutional protections. *See, e.g., Cantwell v. Connecticut,* [310 U. S. 296](https://supreme.justia.com/cases/federal/us/310/296/case.html), [310 U. S. 304](https://supreme.justia.com/cases/federal/us/310/296/case.html#304)-307; *Wisconsin v. Yoder,* [406 U. S. 205](https://supreme.justia.com/cases/federal/us/406/205/case.html). Pp. [494 U. S. 876](https://supreme.justia.com/cases/federal/us/494/872/case.html" \l "876)-882.

(b) Respondents' claim for a religious exemption from the Oregon law cannot be evaluated under the balancing test set forth in the line of cases following *Sherbert v. Verner,* [374 U. S. 398](https://supreme.justia.com/cases/federal/us/374/398/case.html), [374 U. S. 402](https://supreme.justia.com/cases/federal/us/374/398/case.html#402)-403, whereby governmental actions that substantially burden a religious practice must be justified by a "compelling governmental interest." That test was developed in a context -- unemployment compensation eligibility rules -- that lent itself to individualized governmental assessment of the reasons for the relevant conduct. The test is inapplicable to an across-the-board criminal prohibition on a particular form of conduct. A holding to the contrary would create an extraordinary right to ignore generally applicable laws that are not supported by "compelling governmental interest" on the basis of religious belief. Nor could such a right be limited to situations in which the conduct prohibited is "central" to the individual's religion, since that would enmesh judges in an impermissible inquiry into the centrality of particular beliefs or practices to a faith. *Cf. Hernandez v. Commissioner,* [490 U. S. 680](https://supreme.justia.com/cases/federal/us/490/680/case.html), [490 U. S. 699](https://supreme.justia.com/cases/federal/us/490/680/case.html#699). Thus, although it is constitutionally permissible to exempt sacramental peyote use from the operation of drug laws, it is not constitutionally required. Pp. [494 U. S. 882](https://supreme.justia.com/cases/federal/us/494/872/case.html#882)-890.

307 Or. 68, [763 P.2d 146](https://supreme.justia.com/cases/oregon/supreme-court/1988/307-or-68.html), reversed.

SCALIA, J., delivered the opinion of the Court.

Απόσπασμα:

The only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved not the Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press, see Cantwell v. Connecticut, 310 U.S. at 304, [310 U. S. 307](https://supreme.justia.com/cases/federal/us/310/296/case.html#307) (invalidating a licensing system for religious and charitable solicitations under which the administrator had discretion to deny a license to any cause he deemed nonreligious); Murdock v. Pennsylvania, [319 U. S. 105](https://supreme.justia.com/cases/federal/us/319/105/case.html) (1943) (invalidating a flat tax on solicitation as applied to the dissemination of religious ideas); Follett v. McCormick, [321 U. S. 573](https://supreme.justia.com/cases/federal/us/321/573/case.html) (1944) (same), or the right of parents, acknowledged in Pierce v. Society of Sisters, [268 U. S. 510](https://supreme.justia.com/cases/federal/us/268/510/case.html) (1925), to direct the education of their children, see Wisconsin v. Yoder, [406 U. S. 205](https://supreme.justia.com/cases/federal/us/406/205/case.html) (1972) (invalidating compulsory school attendance laws as applied to Amish parents who refused on religious grounds to send their children to school). [[Footnote 1](https://supreme.justia.com/cases/federal/us/494/872/" \l "F1)]

Some of our cases prohibiting compelled expression, decided exclusively upon free speech grounds, have also involved freedom of religion, cf. Wooley v. Maynard, [430 U. S. 705](https://supreme.justia.com/cases/federal/us/430/705/case.html) (1977) (invalidating compelled display of a license plate slogan that offended individual religious beliefs); West Virginia Board of Education v. Barnette, [319 U. S. 624](https://supreme.justia.com/cases/federal/us/319/624/case.html) (1943) (invalidating compulsory flag salute statute challenged by religious objectors). And it is easy to envision a case in which a challenge on freedom of association grounds would likewise be reinforced by Free Exercise Clause concerns. Cf. Roberts v. United States Jaycees, [468 U. S. 609](https://supreme.justia.com/cases/federal/us/468/609/case.html), [468 U. S. 622](https://supreme.justia.com/cases/federal/us/468/609/case.html#622) (1983) ("An individual's freedom to speak, to worship, and to petition the government for the redress of grievances could not be vigorously protected from interference by the State [if] a correlative freedom to engage in group effort toward those ends were not also guaranteed.").

The present case does not present such a hybrid situation, but a free exercise claim unconnected with any communicative activity or parental right. Respondents urge us to hold, quite simply, that when otherwise prohibitable conduct is accompanied by religious convictions, not only the convictions but the conduct itself must be free from governmental regulation. We have never held that, and decline to do so now. There being no contention that Oregon's drug law represents an attempt to regulate religious beliefs, the communication of religious beliefs, or the raising of one's children in those beliefs, the rule to which we have adhered ever since Reynolds plainly controls.

"Our cases do not at their farthest reach support the proposition that a stance of conscientious opposition relieves an objector from any colliding duty fixed by a democratic government."

Gillette v. United States, supra, 401 U.S. at [401 U. S. 461](https://supreme.justia.com/cases/federal/us/401/437/case.html#461).

B

Respondents argue that, even though exemption from generally applicable criminal laws need not automatically be extended to religiously motivated actors, at least the claim for a religious exemption must be evaluated under the balancing test set forth in Sherbert v. Verner, [374 U. S. 398](https://supreme.justia.com/cases/federal/us/374/398/case.html) (1963). Under the Sherbert test, governmental actions that substantially burden a religious practice must be justified by a compelling governmental interest. See id. at [374 U. S. 402](https://supreme.justia.com/cases/federal/us/374/398/case.html#402)-403; see also Hernandez v. Commissioner, supra, 490 U.S. at [490 U. S. 699](https://supreme.justia.com/cases/federal/us/490/680/case.html#699). Applying that test, we have, on three occasions, invalidated state unemployment compensation rules that conditioned the availability of benefits upon an applicant's willingness to work under conditions forbidden by his religion. See Sherbert v. Verner, supra; Thomas v. Review Board, Indiana Employment Div., [450 U. S. 707](https://supreme.justia.com/cases/federal/us/450/707/case.html) (1981); Hobbie v. Unemployment Appeals Comm'n of Florida, [480 U. S. 136](https://supreme.justia.com/cases/federal/us/480/136/case.html) (1987). We have never invalidated any governmental action on the basis of the Sherbert test except the denial of unemployment compensation. Although we have sometimes purported to apply the Sherbert test in contexts other than that, we have always found the test satisfied, see United States v. Lee, [455 U. S. 252](https://supreme.justia.com/cases/federal/us/455/252/case.html) (1982); Gillette v. United States, [401 U. S. 437](https://supreme.justia.com/cases/federal/us/401/437/case.html) (1971). In recent years we have abstained from applying the Sherbert test (outside the unemployment compensation field) at all. In Bowen v. Roy, [476 U. S. 693](https://supreme.justia.com/cases/federal/us/476/693/case.html) (1986), we declined to apply Sherbert analysis to a federal statutory scheme that required benefit applicants and recipients to provide their Social Security numbers. The plaintiffs in that case asserted that it would violate their religious beliefs to obtain and provide a Social Security number for their daughter. We held the statute's application to the plaintiffs valid regardless of whether it was necessary to effectuate a compelling interest. See id. at [476 U. S. 699](https://supreme.justia.com/cases/federal/us/476/693/case.html#699)-701. In Lyng v. Northwest Indian Cemetery Protective Assn., [485 U. S. 439](https://supreme.justia.com/cases/federal/us/485/439/case.html) (1988), we declined to apply Sherbert analysis to the Government's logging and road construction activities on lands used for religious purposes by several Native American Tribes, even though it was undisputed that the activities "could have devastating effects on traditional Indian religious practices," 485 U.S. at [485 U. S. 451](https://supreme.justia.com/cases/federal/us/485/439/case.html#451).

In Goldman v. Weinberger, [475 U. S. 503](https://supreme.justia.com/cases/federal/us/475/503/case.html) (1986), we rejected application of the Sherbert test to military dress regulations that forbade the wearing of yarmulkes. In O'Lone v. Estate of Shabazz, [482 U. S. 342](https://supreme.justia.com/cases/federal/us/482/342/case.html) (1987), we sustained, without mentioning the Sherbert test, a prison's refusal to excuse inmates from work requirements to attend worship services.

Even if we were inclined to breathe into Sherbert some life beyond the unemployment compensation field, we would not apply it to require exemptions from a generally applicable criminal law. The Sherbert test, it must be recalled, was developed in a context that lent itself to individualized governmental assessment of the reasons for the relevant conduct. As a plurality of the Court noted in Roy, a distinctive feature of unemployment compensation programs is that their eligibility criteria invite consideration of the particular circumstances behind an applicant's unemployment:

"The statutory conditions [in Sherbert and Thomas] provided that a person was not eligible for unemployment compensation benefits if, 'without good cause,' he had quit work or refused available work. The 'good cause' standard created a mechanism for individualized exemptions."

Bowen v. Roy, supra, 476 U.S. at [476 U. S. 708](https://supreme.justia.com/cases/federal/us/476/693/case.html#708) (opinion of Burger, C.J., joined by Powell and REHNQUIST, JJ.). See also Sherbert, supra, 374 U.S. at [374 U. S. 401](https://supreme.justia.com/cases/federal/us/374/398/case.html#401) n. 4 (reading state unemployment compensation law as allowing benefits for unemployment caused by at least some "personal reasons"). As the plurality pointed out in Roy, our decisions in the unemployment cases stand for the proposition that where the State has in place a system of individual exemptions, it may not refuse to extend that system to cases of "religious hardship" without compelling reason. Bowen v. Roy, supra, 476 U.S. at [476 U. S. 708](https://supreme.justia.com/cases/federal/us/476/693/case.html#708).

Whether or not the decisions are that limited, they at least have nothing to do with an across-the-board criminal prohibition on a particular form of conduct. Although, as noted earlier, we have sometimes used the Sherbert test to analyze free exercise challenges to such laws, see United States v. Lee, supra, 455 U.S. at [455 U. S. 257](https://supreme.justia.com/cases/federal/us/455/252/case.html#257)-260; Gillette v. United States, supra, 401 U.S. at [401 U. S. 462](https://supreme.justia.com/cases/federal/us/401/437/case.html#462), we have never applied the test to invalidate one. We conclude today that the sounder approach, and the approach in accord with the vast majority of our precedents, is to hold the test inapplicable to such challenges. The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, "cannot depend on measuring the effects of a governmental action on a religious objector's spiritual development." Lyng, supra, 485 U.S. at [485 U. S. 451](https://supreme.justia.com/cases/federal/us/485/439/case.html#451). To make an individual's obligation to obey such a law contingent upon the law's coincidence with his religious beliefs, except where the State's interest is "compelling" -- permitting him, by virtue of his beliefs, "to become a law unto himself," Reynolds v. United States, 98 U.S. at [98 U. S. 167](https://supreme.justia.com/cases/federal/us/98/145/case.html#167) -- contradicts both constitutional tradition and common sense. [[Footnote 2](https://supreme.justia.com/cases/federal/us/494/872/" \l "F2)]

The "compelling government interest" requirement seems benign, because it is familiar from other fields. But using it as the standard that must be met before the government may accord different treatment on the basis of race, see, e.g., Palmore v. Sidoti, [466 U. S. 429](https://supreme.justia.com/cases/federal/us/466/429/case.html), [466 U. S. 432](https://supreme.justia.com/cases/federal/us/466/429/case.html#432) (1984), or before the government may regulate the content of speech, see, e.g., Sable Communications of California v. FCC, [492 U. S. 115](https://supreme.justia.com/cases/federal/us/492/115/case.html) (1989), is not remotely comparable to using it for the purpose asserted here. What it produces in those other fields -- equality of treatment, and an unrestricted flow of contending speech -- are constitutional norms; what it would produce here -- a private right to ignore generally applicable laws -- is a constitutional anomaly. [[Footnote 3](https://supreme.justia.com/cases/federal/us/494/872/" \l "F3)]

Nor is it possible to limit the impact of respondents' proposal by requiring a "compelling state interest" only when the conduct prohibited is "central" to the individual's religion. Cf. Lyng v. Northwest Indian Cemetery Protective Assn., supra, 485 U.S. at [485 U. S. 474](https://supreme.justia.com/cases/federal/us/485/439/case.html#474)-476 (BRENNAN, J., dissenting). It is no more appropriate for judges to determine the "centrality" of religious beliefs before applying a "compelling interest" test in the free exercise field than it would be for them to determine the "importance" of ideas before applying the "compelling interest" test in the free speech field. What principle of law or logic can be brought to bear to contradict a believer's assertion that a particular act is "central" to his personal faith? Judging the centrality of different religious practices is akin to the unacceptable "business of evaluating the relative merits of differing religious claims." United States v. Lee, 455 U.S. at [455 U. S. 263](https://supreme.justia.com/cases/federal/us/455/252/case.html#263) n. 2 (STEVENS, J., concurring). As we reaffirmed only last Term,

"[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretation of those creeds."

Hernandez v. Commissioner, 490 U.S. at [490 U. S. 699](https://supreme.justia.com/cases/federal/us/490/680/case.html#699). Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim. See, e.g., Thomas v. Review Board, Indiana Employment Security Div., 450 U.S. at [450 U. S. 716](https://supreme.justia.com/cases/federal/us/450/707/case.html#716); Presbyterian Church v. Hull Church, 393 U.S. at [393 U. S. 450](https://supreme.justia.com/cases/federal/us/393/440/case.html#450); Jones v. Wolf, [443 U. S. 595](https://supreme.justia.com/cases/federal/us/443/595/case.html), [443 U. S. 602](https://supreme.justia.com/cases/federal/us/443/595/case.html#602)-606 (1979); United States v. Ballard, [322 U. S. 78](https://supreme.justia.com/cases/federal/us/322/78/case.html), [322 U. S. 85](https://supreme.justia.com/cases/federal/us/322/78/case.html#85)-87 (1944). [[Footnote 4](https://supreme.justia.com/cases/federal/us/494/872/" \l "F4)]

If the "compelling interest" test is to be applied at all, then, it must be applied across the board, to all actions thought to be religiously commanded. Moreover, if "compelling interest" really means what it says (and watering it down here would subvert its rigor in the other fields where it is applied), many laws will not meet the test. Any society adopting such a system would be courting anarchy, but that danger increases in direct proportion to the society's diversity of religious beliefs, and its determination to coerce or suppress none of them. Precisely because "we are a cosmopolitan nation made up of people of almost every conceivable religious preference," Braunfeld v. Brown, 366 U.S. at [366 U. S. 606](https://supreme.justia.com/cases/federal/us/366/599/case.html#606), and precisely because we value and protect that religious divergence, we cannot afford the luxury of deeming presumptively invalid, as applied to the religious objector, every regulation of conduct that does not protect an interest of the highest order. The rule respondents favor would open the prospect of constitutionally required religious exemptions from civic obligations of almost every conceivable kind -- ranging from compulsory military service, see, e.g., Gillette v. United States, [401 U. S. 437](https://supreme.justia.com/cases/federal/us/401/437/case.html) (1971), to the payment of taxes, see, e.g., United States v. Lee, supra; to health and safety regulation such as manslaughter and child neglect laws, see, e.g., Funkhouser v. State, [763 P.2d 695](https://supreme.justia.com/cases/oklahoma/court-of-appeals-criminal/1988/10855.html) (Okla.Crim.App.1988), compulsory vaccination laws, see, e.g., Cude v. State, 237 Ark. 927, [377 S.W.2d 816](https://supreme.justia.com/cases/arkansas/supreme-court/1964/5-3239-0.html) (1964), drug laws, see, e.g., Olsen v. Drug Enforcement Administration, 279 U.S.App.D.C. 1, 878 F.2d 1458 (1989), and traffic laws, see Cox v. New Hampshire, [312 U. S. 569](https://supreme.justia.com/cases/federal/us/312/569/case.html) (1941); to social welfare legislation such as minimum wage laws, see Susan and Tony Alamo Foundation v. Secretary of Labor, [471 U. S. 290](https://supreme.justia.com/cases/federal/us/471/290/case.html) (1985), child labor laws, see Prince v. Massachusetts, [321 U. S. 158](https://supreme.justia.com/cases/federal/us/321/158/case.html) (1944), animal cruelty laws, see, e.g., Church of the Lukumi Babalu Aye Inc. v. City of Hialeah, [723 F. Supp. 1467](https://supreme.justia.com/cases/federal/district-courts/FSupp/723/1467/1630570/) (S.D.Fla.1989), cf. State v. Massey, 229 N.C. 734, 51 S.E.2d 179, appeal dism'd, 336 U.S. 942 (1949), environmental protection laws, see United States v. Little, [638 F. Supp. 337](https://supreme.justia.com/cases/federal/district-courts/FSupp/638/337/1489934/) (Mont.1986), and laws providing for equality of opportunity for the races, see, e.g., Bob Jones University v. United States, [461 U. S. 574](https://supreme.justia.com/cases/federal/us/461/574/case.html), [461 U. S. 603](https://supreme.justia.com/cases/federal/us/461/574/case.html#603)-604 (1983). The First Amendment's protection of religious liberty does not require this. [[Footnote 5](https://supreme.justia.com/cases/federal/us/494/872/" \l "F5)]

Values that are protected against government interference through enshrinement in the Bill of Rights are not thereby banished from the political process. Just as a society that believes in the negative protection accorded to the press by the First Amendment is likely to enact laws that affirmatively foster the dissemination of the printed word, so also a society that believes in the negative protection accorded to religious belief can be expected to be solicitous of that value in its legislation as well. It is therefore not surprising that a number of States have made an exception to their drug laws for sacramental peyote use. See, e.g., Ariz.Rev.Stat.Ann. § 13-3402(B)(1) (3) (1989); Colo.Rev.Stat. § 12-22-317(3) (1985); N.M.Stat.Ann. § 30-31-6(D) (Supp.1989). But to say that a nondiscriminatory religious practice exemption is permitted, or even that it is desirable, is not to say that it is constitutionally required, and that the appropriate occasions for its creation can be discerned by the courts. It may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself or in which judges weigh the social importance of all laws against the centrality of all religious beliefs.