

Business Ethics in the Marketplace

Exploring Transgenderism

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Proponents of transgenderism offer a competing story of reality, epistemology, and anthropology vis-à-vis Scripture's teaching that God made humanity in his image either male or female. If the transgender argument continues to take root in culture as it has begun to do so in the courts and legislatures, it will have devastating effects in both the church and the marketplace where Christians will be subjected to public criticism and further legal battles. This essay argues from a conservative Evangelical perspective, augmented by a biblically informed natural law moral point of view, that it is permissible for Christian employers to terminate employees on the basis of transgender identity, and that this perspective should be protected, rather than persecuted, by the state.

Introduction

On October 8, 2019, the Supreme Court heard a landmark case regarding transgenderism and Christians in the marketplace.¹ At issue was how Christian business owners ought to respond to the burgeoning demand of sexual orientation and gender identity issues (SOGI) in the workplace. On October 1, 2007, R. G. & G. R. Harris Funeral Homes hired Anthony Stephens as an apprentice and later promoted him to funeral director and embalmer in 2008.² Subsequently, while being treated for depression, Stephens reported that he came to understand his true identity, by which Stephens meant that he was authentically female.³

Although for some time Stephens had been living as a male at work and as a female at home, he eventually disclosed his struggles with gender identity issues to his employer, Thomas Rost. In a letter to Rost, Stephens wrote that he

“decided to become the person that [his] mind already is,” which included having sex reassignment surgery. Stephens further noted in his letter that he would begin living life at work as his “true self, Aimee Australia Stephens,” which included appropriate business attire.⁴

Thomas Rost, who in depositions presented himself as a “devout Christian,” argued that he believes that the Bible teaches that a person’s sex is “an immutable God-given gift,” and that he would be “violating God’s commands if [he] were to permit one of [the Funeral Home’s] funeral directors to deny their sex while acting as a representative of the organization.”⁵ Consequently, Rost fired Stephens.

After being fired, Stephens filed a complaint with the Equal Employment Opportunity Commission (EEOC), which eventually filed suit after investigating Stephens’ claims. Originally, the district court granted summary judgment to the funeral home, stating that the funeral home’s actions were protected under the federal Religious Freedom Restoration Act (RFRA), which was passed in 1992. On March 7, 2018, however, the Sixth Circuit reversed the district court’s ruling and granted summary judgment to the EEOC. The court’s decision affirmed that Title VII of the 1964 Civil Rights Act, which prohibited discrimination based on sex, included protections for LGBTQ individuals. In her written opinion, Circuit Judge Karen Nelson Moore chastised the funeral home for its position and wrote that “the funeral home fired the employee because she refused to abide by her employer’s stereotypical conception of her sex.”⁶ On June 15, 2020, the Supreme Court of the United States upheld the appellate court ruling affirming that when Title VII of the 1964 Civil Rights Act prohibited discrimination based on sex, it included protections for gender identity.

The R. G. & G. R. Harris Funeral Homes case presents Christians operating in the marketplace with several important questions. Is Judge Moore correct concerning a Christian’s understanding of gender—that this understanding is nothing more than one person’s stereotypical conception of how one expresses biological sex—or is gender itself grounded in God’s creation? How should Christians respond to increasing government regulation and legislation regarding SOGI issues? Are Christian business owners morally permitted to fire an employee who seeks to live a transgender lifestyle and demands to be called by a name and pronoun of a gender other than the one corresponding to his or her biological sex despite recent court decisions? What limits should be placed on one’s religious liberty as Christians seek to obey their governing authorities while being true to their consciences regarding biblical morality?

In this article, we will argue that gender—and its related cultural expression—must correspond to biological sex. Since God created only two sexes to

which gender can correspond, then there are only two moral gender expressions and one's gender expression must correspond to biological sex in such a way that society can accurately recognize one's biological sex. We will then examine the nature of Christian stewardship as it relates to employers. We will focus primarily on the question: Are Christian business owners morally permitted to terminate working relations with an employee who seeks to live a transgender lifestyle and demands to be called by a name and pronoun of a gender other than the one corresponding to his or her biological sex; and if so, how must it affect the way one understands the moral boundaries surrounding an employer's relationship to governing authorities? The thesis guiding this research is that God, at creation, established the connection between biological sex and gender and further outlined stewardship responsibilities that apply to Christian business owners, and that understanding the nature of these responsibilities will shed light on the significance of moral standards God says should govern important employer relations.

One cannot stress enough the importance of this issue for contemporary Christians seeking to live rightly in the marketplace. In the first place, statistics show a marked increase among US citizens for the acceptance of transgenderism. According to a recent PRRI report, more than six in ten (62 percent) Americans say that they have become more supportive toward transgender rights compared to their views five years ago.⁷ While these increased rights might apply to any number of areas, such as the right to serve in the military or to use a particular bathroom, what is clear is that views about transgenderism are shifting.

In many ways, society's shifting opinions about morality and gender appear to coincide with the increase of local, state, and federal regulations on these issues. To be sure, a significant fraction of society's shifting beliefs about gender issues flow from an intentional strategy from within these governing bodies; namely, through legislation and regulation, these authorities seek to transform society and how people think about a number of issues related to sexuality and gender. Far from some fringe conspiracy theory, leading political philosopher and professor of jurisprudence at Princeton University, Robert George, argues that a key way that societies inculcate and teach ethics is through its legislation, despite popular statements that one cannot legislate morality.⁸ To be sure, all laws are inherently and inescapably moral in nature. Consider the state of California's decision on May 8, 2019, to augment the Health Education Framework. It is precisely because the California lawmakers have certain moral conclusions about the nature of transgenderism and gender identity that it codified these beliefs into law.⁹ Similarly, the United States Commission on Civil Rights published the document, "A Peaceful Coexistence: Reconciling Nondiscrimination Principles

with Civil Liberties” in which it explicitly seeks to address “religious” practitioners and the application of religious freedom.¹⁰

Finally, this topic is important at this time because it represents a major clash between competing worldviews. This essay argues from a conservative Evangelical perspective, augmented by a biblically informed natural law moral point of view, that it is permissible for Christian employers to terminate employees on the basis of transgender identity, and that this perspective should be protected, rather than persecuted, by the state.¹¹ Proponents of transgenderism offer a competing story of reality, epistemology, and anthropology. In contrast to Scripture’s teaching that God made humanity in his image either male or female, the LGBTQ community argues that gender is “fluid”—that reality (i.e., gender) is something individuals can create. If the transgender argument continues to take root in culture as it has begun to do so in the courts and legislatures, it will have devastating effects in both the church and the marketplace where Christians will be subjected to public criticism and further legal battles.

God’s Moral Standards for Business Owners

God’s Moral Standards Regarding Gender

Our response to the moral question at hand begins with how God’s moral standards speak to the nature of gender. Part of the difficulty in approaching the topic in contemporary society is that the traditional understanding of the terms has begun to shift. We refer to both sex and gender in this essay, but they deserve further clarification. By sex, we mean biological sex, which is the identification of male or female based on distinct biological markers. Mark Yarhouse notes, “When we refer to a person’s sex, we are commonly making reference to the physical, biological and anatomic dimensions of being male or female.”¹² Identification of biological sex can be accomplished by noting the presence of male or female genitalia or chromosomal markers of a male (XY) or female (XX). Liederbach and Lenow assert,

Biological and genetic evidence gives us the binary categories of male and female by which individuals have been classified since the creation of mankind. In fact, we are first introduced to these binary categories in Genesis 1:27 as we read, “God created man in His own image, in the image of God He created him; male and female He created them.” From the very first description of the creation of mankind, God made it clear that there are two sexes—male and female.¹³

The second term that warrants defining for this article is *gender*. Gender relates to “the psychological, social and cultural aspects of being male or female.”¹⁴ While gender and biological sex have generally been equated with one another, they are not identical. Biological sex primarily concerns the physical and genetic aspects of maleness and femaleness while gender relates to the psychological and social expression of maleness and femaleness. But as Liederbach and Lenow note, “Most would agree, however, that the traditional understanding of gender is that one’s biological sex and gender align and that the descriptor of male or female refers to both biological sex and gender.”¹⁵ Therefore, we believe that gender is the psychological and social expression of one’s biological sex and cannot be changed.

Historically then, the terms *gender* and *sex* were often used interchangeably. If one were a male biologically, then one’s gender was understood to be male. But this traditional understanding of gender and biological sex is no longer ubiquitous. According to the World Health Organization (WHO), for instance, “Gender refers to the socially constructed characteristics of women and men—such as norms, roles and relationships of and between groups of women and men. It varies from society to society and can be changed.”¹⁶ Note the difference between WHO’s definition of gender and our own. WHO considers gender to be a socially constructed category of characteristics. Therefore, by WHO’s definition, gender is subjective; it is not necessarily connected to biological sex; and gender may change, which means that it potentially breaks with stereotypes and historic norms.

The first mention of gendered language in Scripture occurs when the author of Genesis states, “So God created man in his own image, in the image of God he created him; male and female he created them” (Gen. 1:27). While no distinction is made between biological sex and gender at this point in Scripture, it does seem evident from the continued revelation in the Old Testament that the language of male and female implies not only biology but also gender expression. For example, Deuteronomy 22:5 prohibits a biological female from presenting herself as a male through the use of gendered customs and vice versa. According to the Mosaic Law, “A woman shall not wear a man’s garment, nor shall a man put on a woman’s cloak, for whoever does these things is an abomination to the LORD your God” (Deut. 22:5). Our intention in this article or even with this point is not to argue that the Old Testament Law is directly applicable to the New Testament Church (though some may believe this). Rather, we simply want to highlight that from Scripture’s perspective, one’s biological sex was determinative for how one expressed one’s gender. Old Testament scholar and theologian, Jason DeRouchie, powerfully summarizes this point: “At a deeper level, however, the law assumes

a more fundamental rule—that there are only two biological sexes—male and female—and that what is gender normative in God’s world is that one’s biological sex should govern both one’s gender identity and expression. Before divine wrath is poured out, this text provides a kind corrective to gender confusion and transgender identity.”¹⁷ Thus, the first truth is that God establishes the connection between biological sex and gender.

Second, notice that there were only two options: male and female. Rhiannon Williams, a reporter for *The Telegraph*, revealed that Facebook users have at least seventy-one options for gender, such as agender, bigender, cis male, intersex, trans, and two-spirit, to name a few.¹⁸ But Facebook is not alone. By August of 2019, at least fourteen states, as well as Washington, DC, and New York City, offered more than two options for gender on driver’s licenses.¹⁹ In contrast to Facebook and various government agencies, Scripture teaches that biological sex is established by God at conception, and one’s gender is intended to correspond to biological sex. Since gender is connected to biological sex that is established by God, it is fixed; it cannot be changed, contrary to WHO’s definition. Evangelical pastor and author Kevin DeYoung notes,

The biblical understanding of male and female is more than just an assumption writ large on the pages of Scripture. We know from Genesis 1 and 2 that the categories of male and female are a part of God’s design for humanity.... Dividing the human race into two genders, male and female—one or the other, not both, and not one then the other—is not the invention of Victorian pruders or patriarchal oafs. It was God’s idea.²⁰

In addition, from a natural law perspective, debates over biological sex and gender should focus on normal biological development beginning from conception that demonstrates two options—male and female.²¹ Despite what Facebook and many in contemporary society refuse to acknowledge, we assert that there are only two options for gender and each option is fixed, being established by God at conception through the connection to biological sex.

Third, because gender corresponds with one’s biological sex, others in society should be able to recognize gender differences. Hence, the Bible is replete with examples of differing instructions for men and women (c.f., Eph. 5:22–33; 1 Tim. 2:8–15). Such instructions inform us that God has designed gender differences into his creation that correspond to biological sex. And as noted earlier, these gender differences should not be intentionally obscured by presenting oneself as a gender not corresponding to one’s biological sex (see Deut. 22:5). Furthermore, these simple truths—that God establishes the connection between biological sex and gender; that there are only two gender options (male and female); and that

society should be able to recognize gender—collectively point to a final observation: namely, one’s gender should be determinative for how persons ought to act.²²

What we are addressing in this part of the discussion is the contemporary issue of gender expression—what behavior is normative for one’s gender. WHO spoke of “socially constructed characteristics” and rules that are often associated with a particular gender. Therefore, WHO would say that certain societal gender norms are typical for men and women, but these expressions of men and women are not fixed. In fact, it would seem that WHO considers gender expression as determinative of gender no matter what one’s biological sex. By contrast, we assert that Scripture teaches that God establishes the connection between biological sex and gender, and that these are fixed and determinative for normative gender expression. Therefore, our conclusions on matters related to gender expression by employees is based upon the connection between biological sex and gender.

God’s Moral Standards Regarding Stewardship

Now that we have established the foundation for God’s moral standards regarding gender, we need to explore God’s moral standards for stewardship so that we can reach a conclusion regarding ethical ramifications for Christian business owners. We begin with the idea that ultimately all property belongs to God. David records in the Psalms, “The earth is the Lord’s and the fullness thereof, the world and those who dwell therein” (Ps. 24:1).²³ Similarly, God himself declares, “For every beast of the forest is mine, the cattle on a thousand hills. I know all the birds of the hills, and all that moves in the field is mine” (Ps. 50:10–11). Because God is the true owner of everything, business owners (and all of humanity) are simply God’s stewards—those responsible for God’s creation. It is God who richly provides business owners (and all humanity) with all the things that they enjoy (see 1 Tim. 6:17).

Because all of life is lived *coram Deo*, before the righteous Lord of the universe, moreover, these stewardship responsibilities are necessarily moral and accountable to God.²⁴ Business owners are morally responsible for how they use the resources entrusted unto them. Thus, the Apostle Paul avers, “This is how one should regard us, as servants of Christ and stewards of the mysteries of God. Moreover, it is required of stewards that they be found faithful” (1 Cor. 4:1–2). This stewardship responsibility appears to lay behind the parable of the talents in Matthew’s Gospel (Matt. 25:14–30). It did not matter how many talents were entrusted to each servant; to the contrary, the first two servants received the same commendation of having been found “faithful” and consequently receiving a reward.

Not only has God entrusted business owners with resources over which they have stewardship responsibilities, these resources also provide virtually endless opportunities for glorifying God. To be sure, the theological basis for the doctrine of stewardship is creation in God's image: "Then God said, 'Let us make man in our image, after our likeness. And let them have dominion over the fish of the sea and over the birds of the heavens and over the livestock and over all the earth and over every creeping thing that creeps on the earth'" (Gen. 1:26). Clearly, the creation narrative in Genesis conveys God's sovereignty over everything. God merely spoke, and things came into existence (1:3, 6–7, 9, 11, 14–15, 20–21, and 24). God named things (1:5, 8, and 10). Finally, God evaluated his creation as "good" and "very good" (1:4, 9, 12, 18, 21, 25, and 31).²⁵

But the creation narrative does more than announce God's absolute sovereignty; it further communicates that God made a creature similar to himself. Men and women share the likeness of their Creator.²⁶ Creation in God's image refers to God creating humanity as a moral creature and charging him to "be fruitful ... subdue ... and have dominion" (1:28). As an image bearer, God charged humanity to be like him. Just as God created, ordered, and named, so also was humanity to practice these things.²⁷ As stewards, therefore, Christian business owners have a moral responsibility to use their resources—their property, their wisdom, their capital, their skills, et al.—in a manner that imitates God. That is, they "subdue" the resources entrusted to them.

This cultural mandate²⁸ plays out differently for each business owner depending on the resources one has been given. A carpenter might imitate God's creativity and sovereignty with his resources in the construction or remodeling of a new house. A successful business owner might imitate God's compassion and graciousness with the profits that he has earned from subduing his resources well. What is important for this discussion is that the cultural mandate connotes a moral responsibility to imitate God with the resources one has been given, and in doing this, one glorifies God.

Application of the Moral Standards

To this point, we have argued that gender, despite one's self-perception, is determined by one's biological sex, which is fixed by God. Any attempt to change one's gender is futile. Moreover, it is sinful to express one's gender contrary to what is normative for one's biological sex. In addition, we have argued that business owners are stewards of the resources that God has entrusted unto them, and that they can use these resources to glorify him. This conclusion brings us to the crux of our moral question: How should Christian business owners respond

to an employee who expresses the desire to change his/her gender and expects to be addressed by pronouns different than those which correspond to his/her biological sex? Are Christian business owners morally permitted to sever working relations with such an individual?

For R. G. & G. R. Harris Funeral Homes, it is instructive that the owner, Thomas Rost, not only claimed that he was a devout Christian and held certain beliefs about gender based upon his understanding of Scripture, but also that he asserted in his company's mission statement that "its highest priority is to honor God in all that we do as a company and as individuals."²⁹ The moral question hinges on the intersection of how one rightly stewards the resources one has and what God's Word says about gender. If Scripture is right and gender is fixed, then no surgery is able to change Anthony Stephens (a male) into Aimee Stephens (a female), although one may choose to legally change one's name. Additionally, because Aimee Stephens is in fact still a biological male with the accompanying chromosomal patterns, and one's sex determines one's gender, then Rost would not be acting truthfully to refer to him with female pronouns, which would be affirming a non-truth. In other words, it is impossible to rightly image God (and thus bring him glory) while simultaneously affirming a non-truth, something contrary to God's expressed moral standards.

In addition, employees are resources of the business owner, though they certainly fall into a category that is ontologically distinct from other business resources, such as land and capital. Economists have long recognized two categories of productive inputs: nonhuman resources, such as physical capital and land, and human resources, which refers to the skills and knowledge of the workers. Thus, business owners are encouraged to invest in human capital.³⁰ It would not be difficult to imagine a university president saying to her faculty, "You are the university's most important resource."

To be sure, employees are humans made in the image of God. Nevertheless, they still represent additional resources that a business owner can utilize to glorify God. If an employee willfully chooses to live in a manner contrary to God's moral standards, then it would be difficult for the owner to use that resource in a God-glorifying manner. By using the phrase "live in a manner contrary to God's moral standards," we are attempting to avoid the conclusion that one can rightly terminate an employee for merely committing a single sin, although in some extreme cases such would be a legitimate outcome. The idea being presented here is with regard to a conscious decision to maintain a lifestyle through one's gender expression that is contrary to God's moral standards and design for human flourishing. Such a lifestyle creates uncertainty for the employer to be able to trust the integrity of an employee's expressions

in all areas (e.g., verbal and written communication, actions). If an employee cannot be trusted to express one's gender in a manner consistent with his/her God-designed nature, then the employer may rightfully question that employee's ability to fulfill work responsibilities in a trustworthy manner. This may be especially crucial in an organization such as R. G. & G. R. Harris Funeral Homes, which explicitly claims to be built upon and operating by Christian values. In this instance, consequently, such an employer would be just in discontinuing this working relationship.

At this juncture, it is important to make two statements regarding the moral conclusion, one regarding the nature of the moral question and one regarding the three parts of morality:

First, regarding the moral question, we have been addressing specifically the question of "moral permissibility" and not "moral obligation." While one may be morally permitted, one is not obligated to fire such an employee. Indeed, one may have many reasons for not terminating the relationship, not the least of which may be "love of neighbor."

Second, Christianity has a long history of viewing a moral event from three perspectives: the rightness of one's actions, the rightness of one's heart, and the rightness of one's purpose.³¹ For example, in his classic text *Mere Christianity*, C. S. Lewis speaks of these same three parts of morality by referring to the relations between man and man, the things inside each man, and the relations between man and the power that made him.³² By the statement "relations between man and man," Lewis refers to one's actions and how they affect others, what we might call right conduct. What is clear from Scripture is that right conduct alone—keeping God's moral standard—is not sufficient by itself for moral praise. Paul's command to speak "the truth in love" indicates that there is a way to speak truth wrongly, and thus, suggests that moral evaluation involves more than conduct alone. It also involves one's motives and one's goals. Ultimately, ethical evaluation involves all three perspectives.

The primary concern of this article is to elucidate how God's moral standards speak to right conduct with regard to this issue. However, this conduct cannot be divorced from a right heart. If one does seek to terminate a working relationship, it must be from a heart that loves God and loves neighbor rightly, and not from the product of one's own prejudices.

Limits to Religious Liberty

Our primary moral question has a second part. If a Christian business owner is morally justified in severing such a relationship, as we have just argued, how must this understanding affect the way one understands the moral boundaries surrounding an employer's relationship to governing authorities? For many Christians, this situation has been the state of affairs in the United States regarding abortion since the Supreme Court's decision in *Roe v. Wade* in 1973. Scripture, nevertheless, clearly teaches that we ought to submit to those who are in authority (Rom. 13:1–7; 1 Peter 2:13–14), with the history of the church claiming that these verses rightly apply to multiple relationships (government/citizen, employer/employee, and so on).³³ Moreover, the church has taught that as a general rule Christians are not exempt from obeying these governing authorities even when the authorities are morally evil, as was the case for Christians under Roman rule during the time of the New Testament.

Nevertheless, Scripture has some examples where individuals justifiably disobeyed authorities, such as Shadrach, Meshach, and Abednego (Dan. 3:13–20) and Peter and John (Acts 4:18). What are the limits, therefore, for religious liberty—the limits for how one might rightly disagree with those in authority?

Legal Limits Regarding Submission to Authority

In the United States, the First Amendment to the Constitution guarantees one's right to free speech and the free exercise of one's faith. The First Amendment reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."³⁴ That is, the governing authority has granted its citizens a freedom not to submit based on one's religiously held convictions about a particular issue.

Historically, the free-speech clause included its contrapositive, the right to not affirm something contrary to one's conscience. Indeed, this right to not say things contrary to one's conscience has on multiple occasions been affirmed in US courts.³⁵ On January 9, 1942, for instance, the Board of Education for the Minersville School District in West Virginia passed a resolution requiring students salute the flag and recite the Pledge of Allegiance as a regular part of each day's activities. Although some concessions were permitted as a result of objections by particular groups, such as the Red Cross and the Federation of Women's Clubs, no such concession was made for Jehovah's Witnesses. As a result, the local school district expelled Marie and Gathie Barnett, two practicing Jehovah's Witnesses,

for their refusal to salute the flag and pledge allegiance to it. In Justice Jackson's opinion to the court's decision regarding religious liberty, he wrote, "It is not open to public authorities to compel [one] to utter what is not in his mind."³⁶ That is, public authorities could not compel others to say that they pledge allegiance to something or somebody if in fact no allegiance was truly pledged.

In the current milieu and contemporary discussions of the free exercise clause, many fail to understand what it means to exercise one's faith. For some, the phrase "freedom of religion" refers simply to what one does on a particular day of the week, such as Sunday, at a specific location, such as a church building. For this group, one is "free to worship" on Sundays at his/her church; but no such freedom is granted outside of these parameters. In contrast to such a limited understanding of freedom, Pope Francis rightly notes, "Religious freedom certainly means the right to worship God, individually and in community, as our consciences dictate. But religious liberty, by its nature, transcends places of worship and the private sphere of individuals and families. Because religion itself, the religious dimension, is not a subculture; it is part of the culture of every people and every nation."³⁷ When one's faith is all-encompassing (as many Christians believe), religious liberty correspondingly touches every facet of life.³⁸

In recent years, however, this liberty of conscience has been under serious attack, especially for those who hold to a traditional, biblical understanding of gender. Consider, for example, the story of Dr. David Mackereth, an employee of the British National Health Service. He was fired from his post at which he had worked for more than thirty years for refusing to use a feminine pronoun to refer to a biological male who identified as a female. Mackereth stated he believes that "gender is defined by biology and genetics" and that the "Bible teaches us that God made humans male or female."³⁹ Similarly, Peter Vlaming, a high school French teacher in Virginia, was fired and charged with discrimination after he refused to use a male pronoun to address a biologically female student. Like Mackereth, Vlaming claimed such usage went against his Christian faith.⁴⁰

As stewards of God, therefore, Christian employees and business owners correctly recognize that their actions at work may express well or poorly the faith that they confess at their places of worship. Because Christian faith requires one to be a faithful steward of one's resources and not to "bear false witness," it is wrong for the government to require a business owner to call a person by a pronoun other than that which corresponds to his/her biological sex. Otherwise, one would be forced by law to espouse a non-truth, a truth contrary to one's conscience. Not only would such a law violate a Christian's conscience and expression of religious liberty, it would violate established law.⁴¹ Indeed, this forced violation of one's faith is exactly what is being promulgated by the places

that terminated employment with Mackereth and Vlaming, and is exemplified in New York City's own Human Rights Law.⁴²

Biblical Limits Regarding Submission to Authority

Finally, a Christian's submission to authority must be understood within the context of creation in God's image. Previously we noted that creation in God's image provides the foundation for the Christian's moral duty to imitate God. In addition, creation in the image of God also supplies the basis for a Christian to be wary of going against his or her conscience. By creation in God's image, humanity was endowed with an innate concern for morality and truth. Carl Henry pointedly wrote, "Man possessed an ability to discern the will of God concerning all the duties required of him. He had a disposition to perform those duties. And he was eager to translate that disposition into ready compliance and performance."⁴³ Accordingly, Adam and Eve were not only capable of moral choice, but equally were they culpable for their choices. Reformed theologian Albert Wolters drives home this point when he writes,

Even without God's explicit verbal positivization of the creational norms ... people have an intuitive sense of normative standards for conduct. One word for that intuitive attunement to creational normativity is conscience.... This does not refer to some innate virtue of 'natural man,' unaffected by sin, but to the finger of the sovereign Creator engraving reminders of his norms upon human sensibilities even in the midst of apostasy.⁴⁴

The apostle Paul correspondingly affirms that by creation in the image of God one has access to the moral standards of God. This point was the basis of his argument to the church at Rome. He stated, "For all who have sinned ... will also perish" (Rom. 2:12). Further, he says that this judgment is sure whether one is a Gentile or a Jew. Both have transgressed God's holy law. However, one may object that the Gentiles did not have access to the law like the Jews. Paul argues that while the Gentiles did not have the law written on stone tablets (Ex. 24:12), they nevertheless had the law stamped upon their heart, merely as a result of being created in God's image. "For when Gentiles, who do not have the law, by nature do what the law requires, they are a law to themselves, even though they do not have the law. They show that the work of the law is written on their hearts, while their conscience also bears witness, and their conflicting thoughts accuse or even excuse them" (Rom. 2:14–15).⁴⁵

What God has written on the heart finds a response in man's conscience. Hence, conscience becomes the vehicle for communicating moral content. The

accusers of the woman caught in adultery were convicted of their own sin (John 8:9). In contrast, Paul says that his conscience bears testimony that he acted godly (2 Cor. 1:12). Because it communicates ethical knowledge, Scripture exhorts persons to have a “good conscience” (Acts 23:1; 1 Tim. 1:5, 19; 1 Peter 3:21) and a “clear conscience” (Acts 24:16; 1 Tim. 3:9). Nevertheless, the conscience can also be perverted. Paul speaks of false teachers “whose consciences are seared” (1 Tim. 4:2). Christian ethicist and theologian David Jones rightly concludes, “It is clear that the conscience is a tool God uses to regulate (if not to reveal) his moral standards to all of mankind.”⁴⁶

Thus, Christians have an ethical responsibility to obey God’s moral standards, which not only are revealed in Scripture (the locus of God’s revelation), but also via humanity’s conscience. Due to the effects of sin on humanity, extreme caution must be exercised here. One may be easily blinded by one’s own sinful prejudices. This is why Scripture is the primary source for understanding and applying the moral standards. Nevertheless, it is clear that conscience is a valid source. In the particular case of R. G. & G. R. Harris Funeral Homes, the government is compelling the owner of the company to violate both his biblically held beliefs and his conscience. Even though Scripture instructs its readers to submit to those in authority, U.S. courts traditionally have allowed its citizens the freedom not to comply with some of its laws when following them would necessarily result in going against one’s conscience on religious grounds.

Conclusion

Sexual orientation and gender identity are two major issues that will continue to confront Christians in the marketplace over the foreseeable future. Numerous government agencies and many corporations, as we have previously noted, already allow for more than two options for gender identification. In addition, various regulatory and legislative bodies have instituted policies requiring employers and others associated with the business not to discriminate against members of the LGBTQ community, which also includes using pronouns not corresponding to biological sex. These policies and laws put Christians in a moral predicament.

On the one hand, Christians desperately desire to live in a manner that expresses love and grace to their transgendered colleagues, and they want to submit fully to the governing authorities under whom they work. On the other hand, Christians likewise recognize that they live *coram Deo*—before the face of God—and consequently their decisions regarding gender identity and expression are moral in nature. Subsequently, Christians live in tension as they sort out the degree to which they should tolerate their neighbor’s sinful lifestyle while truth-

fully expressing God's moral standards. Recognition of God's moral standards and a refusal to accept someone's immoral lifestyle may put one at odds with governing authorities, which presents an additional moral dilemma.

What we have argued in this article is that God at creation (and subsequently at conception) established the connection between biological sex and gender, and that the God-designed pattern of binary gender (male or female) provides the basis for normative gender expression. And although one has a moral duty to submit to those in authority (i.e., government officials, employers, et al.), one is morally permitted to disobey that authority when it requires one to violate an explicit moral standard of God, similar to the three Hebrew men in the book of Daniel (Dan. 3) or Peter and John in the New Testament (Acts 4). Because laws requiring one to use a pronoun for a transgendered individual are tantamount to requiring one to express a non-truth and thus violate both one's conscience and one of God's moral standards, one is morally permitted, though not obligated, to disobey this law, cognizant that one might legally have to pay a price for such a decision presently.

By extension, employers are stewards of all that God has given (e.g., time, talents, capital, employees, et al.). As stewards, Christian business owners are required to imitate God and glorify him with their resources. Because it is impossible to "image" God rightly while simultaneously expressing a nontruth, Christian employers are morally permitted to terminate transgendered individuals who demand that employers refer to them by their self-identifying pronoun rather than the one corresponding to one's biological sex.

Notes

1. *R.G. & G.R. Harris Funeral Homes, Inc., v. Equal Employment Opportunity Commission, Et Al., 18-107* (Heritage Reporting Corporation, 2019). This case was subsequently merged with *Bostock v. Clayton County, Georgia* and a decision was issued on June 15, 2020.
2. See court documents related to the Sixth Circuit court. *EEOC v. R.G. & G.R. Funeral Homes, Inc., 884 F. 3d 560* (6th Cir., 2018).
3. H. Alan Scott, “Who Is Aimee Stephens? Landmark Transgender Rights Supreme Court Case Explained,” *Newsweek*, September 20, 2019.
4. The background information is found in Circuit Judge Karen Nelson Moore’s written opinion and supporting documents. See *EEOC V. R.G. & G.R. Funeral Homes, Inc.*
5. This quote is found in the Rost Affidavit, R. 54-2 (Rost Aff. ¶¶ 42–43, 45) (Page ID #1334–35).
6. *Eeoc V. R.G. & G.R. Funeral Homes, Inc.*, 38.
7. Robert Jones et al., *America’s Growing Support for Transgender Rights* (Washington, DC: PRRI, 2019), 7.
8. See Robert P. George, *Making Men Moral: Civil Liberties and Public Morality* (Oxford: Clarendon Press, 1995).
9. See “California Healthy Youth Act,” Californian State Board of Education, accessed December 7, 2020, [https://www.cde.ca.gov/ci/he/cf/cahealthfaq.asp#:~:text=The%20state%20legislation%2C%20originally%20known,and%20once%20in%20high%20school](https://www.cde.ca.gov/ci/he/cf/cahealthfaq.asp#:~:text=The%20state%20legislation%2C%20originally%20known,and%20once%20in%20high%20school.). See also Henry Olsen, “California Wants to Teach Kindergartners about Gender Identity. Seriously,” *Washington Post*, last modified May 13, 2019, accessed November 22, 2019, <https://www.washingtonpost.com/opinions/2019/05/13/california-wants-teach-kindergartners-about-gender-identity-seriously/>.
10. See *Peaceful Coexistence: Reconciling Nondiscrimination Principles with Civil Liberties* (Washington, DC: U.S. Commission on Civil Rights), <https://www.usccr.gov/pubs/docs/Peaceful-Coexistence-09-07-16.pdf>.
11. For a larger discussion of the natural law moral perspective on the transgender discussion that fits with our perspective, see Ryan T. Anderson, *When Harry Became Sally: Responding to the Transgender Moment* (New York: Encounter, 2018) and J. Budziszewski, *On the Meaning of Sex* (Wilmington: ISI, 2012). For a conservative evangelical approach to the topic that addresses relevant biblical passages, see Andrew T. Walker, *God and the Transgender Debate: What Does the Bible Actually Say about Gender Identity?* (Charlotte: The Good Book Company, 2017).

12. Mark A. Yarhouse, *Understanding Gender Dysphoria: Navigating Transgender Issues in a Changing Culture* (Downers Grove: IVP Academic, 2015), 16.
13. Mark D. Liederbach and Evan Lenow, *Ethics as Worship: The Pursuit of Moral Discipleship* (Phillipsburg, NJ: P&R, Forthcoming 2021), chap. 17.
14. Yarhouse, *Understanding Gender Dysphoria*, 16.
15. Liederbach and Lenow, *Ethics as Worship*, chap. 17.
16. Anna Kari and World Health Organization, “Gender,” World Health Organization 2019, <https://www.who.int/gender-equity-rights/understanding/gender-definition/en/>.
17. Jason DeRouchie, “Confronting the Transgender Storm: New Covenant Reflections from Deuteronomy 22:5,” *Journal for Biblical Manhood and Womanhood* 21, no. 1 (2016), <https://cbmw.org/topics/transgenderism/jbmw-21-1-confronting-the-transgender-storm-new-covenant-reflections-from-deuteronomy-225/>. For other excellent treatments of this passage, see P. J. Harland, “Menswear and Womenswear: A Study of Deuteronomy 22:5,” *Expository Times* 110, no. 3 (1998).
18. See Rhiannon Williams, “Facebooks 71 Gender Options Come to UK Users,” *Telegraph*, June 27, 2014, <https://www.telegraph.co.uk/technology/facebook/10930654/Facebooks-71-gender-options-come-to-UK-users.html>. See also Russell Goldman, “Here’s a List of 58 Gender Options for Facebook Users,” *ABC News*, February 13, 2014, <https://abcnews.go.com/blogs/headlines/2014/02/heres-a-list-of-58-gender-options-for-facebook-users>.
19. Hollie Silverman, “2 More States Will Offer a 3rd Gender Option on Driver’s Licenses,” *CNN*, <https://www.cnn.com/2019/08/01/health/washington-pennsylvania-gender-x-id/index.html>.
20. Kevin DeYoung, “What Does the Bible Say about Transgenderism?” *The Gospel Coalition*, September 8, 2016, <https://www.thegospelcoalition.org/blogs/kevin-deyoung/what-does-the-bible-say-about-transgenderism/>.
21. See Anderson, *When Harry Became Sally*, 77–92.
22. We recognize that certain sexual disorders, such as “intersex, hermaphrodite, or chimeras,” exist, but we are not addressing them in this article. For a broader discussion, see Denny Burk, *What Is the Meaning of Sex?* (Wheaton: Crossway, 2013), 157–83. See also Wayne Grudem, *Christian Ethics: An Introduction to Biblical Moral Reasoning* (Wheaton: Crossway, 2018), 871–81; Leonard Sax, “How Common Is Intersex? A Response to Anne Fausto-Sterling,” *Journal of Sex Research* 39, no. 3 (2002); Megan K. de Franza, *Sex Difference in Christian Theology: Male, Female, and Intersex in the Image of God* (Grand Rapids: Eerdmans, 2015).

23. All Scripture quotations come from the English Standard Version.
24. Historically, the church has understood that the things Scripture approves are morally good, and the things Scripture forbids are morally bad. A question arises with respect to those things that Scripture neither approves nor forbids. In theological ethics, the term *adiaphora* is often applied to this category of issues, implying that they are morally indifferent. For a discussion of this issue, see John M. Frame, *The Doctrine of the Christian Life* (Phillipsburg: P&R, 2008), 168–70.
25. David VanDrunen, *A Biblical Case for Natural Law* (Grand Rapids: Acton Institute, 2006), 7–22.
26. For a brief survey of major views on the image of God, see Millard J. Erickson, *Christian Theology*, 3rd ed. (Grand Rapids: Baker Academic, 2013), 460–72.
27. VanDrunen, *A Biblical Case for Natural Law*, 12–13.
28. For discussions on the meaning and significance of the phrase, “cultural mandate,” see Carl F. H. Henry, *Christian Personal Ethics* (Grand Rapids: Eerdmans, 1957), 242–47; Frame, *The Doctrine of the Christian Life*, 307–11, 744–53; John Murray, *Principles of Conduct: Aspects of Biblical Ethics* (Grand Rapids: Eerdmans, 1957), 27–45.
29. “Our Mission,” R. G. & G. R. Harris Funeral Homes, <https://www.rgrrharris.com/about-us/mission-statement>.
30. For a discussion of investments in human capital, see Ronald G. Ehrenberg and Robert S. Smith, *Modern Labor Economics: Theory and Public Policy*, 13th ed. (New York: Routledge, 2018), 311–60.
31. For a discussion of the three parts of morality, see John K. Tarwater, *Business Ethics: A Christian Method for Moral Decision Making* (Cedarville: Coram Deo, 2019), 29–31. For an excellent treatment of various historical authors who have used this approach, see David W. Jones, *An Introduction to Biblical Ethics* (Nashville: B&H Academic, 2013).
32. C. S. Lewis, *Mere Christianity* (New York: Touchstone, 1980), 69–73.
33. For a good discussion of the Christian’s responsibility to the government, see Frame, *The Doctrine of the Christian Life*, 575–683; Grudem, *Christian Ethics*, 426–501; John S. Feinberg and Paul D. Feinberg, *Ethics for a Brave New World*, 2nd ed. (Wheaton: Crossway, 2010), 736.
34. U.S. Const. amend. I.
35. See *Pacific Gas & Electric Co. v. Public Utilities Commission of California*, 475 U.S. 1, 16 (1986); *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 258 (1974); and *Wooley v. Maynard*, 430 U.S. 705 (1977).

36. J. Jackson, *West Virginia State Board of Education v. Barnette* 319 U.S. 624 (1943).
37. See Pope Francis, “Meeting for Religious Liberty with the Hispanic Community and Other Immigrants,” September 26, 2015, http://www.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150926_usa-liberta-religiosa.html.
38. Evan Lenow, “Religious Liberty and the Gospel,” in *First Freedom: The Beginning and End of Religious Liberty*, 2nd ed., ed. Jason G. Duesing, Thomas White, and Malcolm B. Yarnell III (Nashville: B&H, 2016), 123–26.
39. Caleb Parke, “Christian Doctor of 30 Years Loses Job for Refusing to Use Transgender Patient’s Preferred Pronoun,” October 30, 2019, accessed November 20, 2019, <https://www.foxnews.com/faith-values/christian-doctor-fired-gender-pronoun>.
40. Grace Carr, “Christian Teacher Fired for Refusing to Use Transgender Student’s New Pronouns,” *The Daily Signal*, last modified December 7, 2018, <https://www.dailysignal.com/2018/12/07/christian-teacher-fired-for-refusing-to-use-transgender-students-new-pronouns/>.
41. See *Pacific Gas & Electric Co. v. Public Utilities Commission of California*, 475 U.S. 1, 16 (1986); *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 258 (1974); and *Wooley v. Maynard*, 430 U.S. 705 (1977).
42. See *Gender Identity/Gender Expression: Legal Enforcement Guidance*, § 8-102(23) (2002).
43. Henry, *Christian Personal Ethics*, 150.
44. Albert M. Wolters, *Creation Regained: Biblical Basics for a Reformational World-view* (Grand Rapids: Eerdmans, 1985), 25.
45. For a discussion of how God’s revelation through conscience applies to business ethics, see Tarwater, *Business Ethics*, 35–48.
46. David W. Jones, *An Introduction to Biblical Ethics*, 34; Frame, *The Doctrine of the Christian Life*, 362–64; David Clyde Jones, *Biblical Christian Ethics* (Grand Rapids: Baker Books, 1994), 72–76.