

## **Religion, Lockdowns, and Rights: the COVID-19 Pandemic and the First Amendment**

The spread of the COVID-19 has forced mass lockdowns in the name of public health. Schools, theaters, universities, bars, and restaurants have all been forced to close their doors and transition to the virtual world for an indefinite period of time. Churches, synagogues, mosques, and other places of worship are not exempt from stay-at-home orders and their closures have proved to be much more contentious. The forced closure of places has prompted legal debates and moral considerations. However, despite the controversy surrounding the closure of religious gathering places, the virus will not differentiate between secular and religious gatherings and, consequently, restrictions are likely to remain in place.

To first explore the public health considerations of religious gatherings during the COVID-19 pandemic, it is worth acknowledging that religious gatherings are hotbeds for spreading the coronavirus. Familiarity and friendships between congregation members lead to easy violations of social distancing; likewise singing as a part of worship leads to greater expulsion of virus particles. Most dangerous of all, as Dr. William Schaffer notes, “congregations are over-represented by older persons.” Vulnerable groups of those who are age 60 or over represent eight in ten coronavirus deaths in the United States. Cases connected to religious gatherings support epidemiologists’ concerns. According to Healthline, “Massachusetts epidemiologists have tied 36 COVID-19 clusters and 316 confirmed cases to places of worship in that state since the beginning of the pandemic.” And, often, hundreds of cases are connected to a single religious gathering.

Naturally, places of worship have been subjected to lockdowns imposed by states, meaning that they may have to transition to Zoom meetings or small in-person gatherings. The CDC offers explicit guidance to churches but, reflecting concerns, proffers the disclaimer that: “The federal government may not prescribe standards for interactions of faith communities...and, in accordance with the First Amendment, no faith community should be asked to adopt any mitigation strategies that are more stringent than the mitigation strategies asked of similarly situated entities or activities.” This comes as a response to lawsuits and public outcry about lockdowns and their impact on the right to freely practice one’s religion. Currently, the majority of states have exemptions in place for religious worship, with a number allowing complete exemptions to any restrictions that are in place. In some states where gatherings are forbidden, churches have filed contentious lawsuits, including the high-profile Supreme Court Case which overturned New York’s strict restrictions on religious gatherings. In response, Americans United, an organization which supports the separation of church and state, has filed almost 50 amicus briefs urging courts not to grant exemptions solely on the basis of religion and instead respect health concerns.

Ultimately, religious exemptions will likely follow the course of the pandemic. For the millions of Americans that regard worshipping in person as essential, Zoom must seem a poor substitute. Thus, finding an equilibrium between public health and First Amendment rights presents a difficult dilemma for policymakers.

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Information gathered from Virginia Villa's "Most States Have Religious Exemptions to COVID-19 Social Distancing Rules," Pew Research Center ([pewresearch.org](http://pewresearch.org)); "Older Adults--COVID-19," CDC ([cdc.gov](http://cdc.gov)); "Indoor Church Services Are COVID-19 Hot Spots: Here's Why," *Healthline*; Adam Liptak's "Splitting 5 to 4, Supreme Court Backs Religious Challenge to Cuomo's Virus Shutdown Order," *The New York Times*, Nov. 26, 2020; and "Protecting Religious Freedom During the Coronavirus Pandemic," Americans United For Separation of Church and State ([au.org](http://au.org)).