

‘Religious Liberty’

AND THE

Anti-LGBT Right

THE HARDLINE GROUPS PROMOTING ‘RELIGIOUS FREEDOM
RESTORATION ACTS’ TO JUSTIFY ANTI-GAY DISCRIMINATION

About the Southern Poverty Law Center

THE SOUTHERN POVERTY LAW CENTER is a nonprofit organization that combats hate, intolerance and discrimination through education and litigation. Its Intelligence Project, which prepared this report and also produces the investigative magazine *Intelligence Report*, tracks the activities of hate groups and the nativist movement and monitors militia and other extremist antigovernment activity. Its Teaching Tolerance project helps foster respect and understanding in the classroom. Its litigation arm files lawsuits against hate groups for the violent acts of their members.

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SPRING 2016



INTRODUCTION

IN RECENT YEARS, THE LGBT RIGHTS MOVEMENT HAS WITNESSED A SEA CHANGE in American attitudes toward the gay community and, along with it, a series of dramatic policy and legal victories — most notably marriage equality — that would have seemed unthinkable just a decade ago.

Yet, while the majority of Americans support LGBT rights, these gains have produced a strong backlash.

The hardline religious-right groups that have long relied on the use of demonizing falsehoods to justify discrimination against LGBT people have not simply folded their tents and walked away.

Rather, they have used their large megaphone to create a dangerous new narrative that portrays Christians who object to homosexuality on biblical grounds as victims of religious persecution. This idea is particularly compelling to millions of evangelicals who see themselves and their values as being under siege in a rapidly changing society.

Across the country, these opponents of LGBT equality are working to persuade state legislatures to pass laws known as Religious Freedom Restoration

Acts (RFRA) — statutes that ostensibly allow individuals to deny goods and services to LGBT people on the basis of their religious beliefs.

They are named and loosely modeled after the federal Religious Freedom Restoration Act of 1993.

But that law was intended as a shield to protect religious liberty. These new laws, such as the one enacted and then modified under intense public pressure in Indiana last year, are intended as a sword to promote discrimination against the LGBT community in the public sphere.

The U.S. Supreme Court's 2014 decision in *Burwell v. Hobby Lobby* added a powerful tailwind to the RFRA movement. The 5-4 ruling allowed a large, family-owned corporation to opt out of a requirement under the Affordable Care Act to provide its employees with insurance coverage for contraceptives because of the owners' religious beliefs.

The new RFRA is being championed by extreme religious-right groups that — as these profiles reveal — want to reverse the recent progress toward equal protection under the law for the LGBT community. If they had their way, the country would return to the era when gay people remained in the closet and the government claimed the right to say what could go on between consenting adults in their bedrooms.

These groups are clever — and cynical.

They know that, as Americans have grown more accepting of LGBT people, they can no longer rely on discredited stereotypes to stymie the march toward full equality. So they have wrapped their bigotry in the cloak of religious freedom.

The public should not be fooled.

Religious liberty is a cherished constitutional value, enshrined in the First Amendment. But, as earlier efforts to offer biblical justification for slavery and Jim Crow segregation have taught us, religious liberty should not be used as an excuse to discriminate.

The danger of these laws goes far beyond the way in which courts may ultimately balance them with statutory and constitutional protections against discrimination. The peril also lies in the atmosphere of bigotry and discrimination that will be created by legitimizing the very idea that LGBT rights threaten religious liberty.

The reality is that few cases of discrimination will ever find the ear of a sympathetic lawyer, and even fewer will find their way into a courtroom.

Most people who face discrimination on a daily basis have nowhere to turn.

That's why we must push back against these laws and this false narrative. It's why we must expose them for what they are — excuses to discriminate against other Americans for who they are and who they love.

And, it's why we must expose the groups behind these laws as extremists that despise the LGBT community.



THE GROUPS

KEY ANTI-LGBT GROUPS ADVOCATING RELIGIOUS FREEDOM RESTORATION LAWS (RFRA)

There are many religious-right organizations and individuals involved in supporting, funding, lobbying and litigating on behalf of so-called RFRA. What follows are profiles of the most active national groups, all of which have long track records of working furiously against LGBT equality. In many cases, these groups have networks of state and local allies who work at that level to push RFRA bills. An asterisk denotes that the group has been designated an anti-LGBT hate group by the Southern Poverty Law Center (SPLC). The SPLC does not list these groups as hate groups because of their opposition to same-sex marriage or homosexuality; rather, they are listed for their propagation of known falsehoods — demonizing claims about LGBT people that have been thoroughly discredited by scientific authorities — and repeated, ugly name-calling.

Alliance Defending Freedom

American Family Association*

The Becket Fund for Religious Liberty

Family Research Council*

Focus on the Family

Liberty Counsel*

** designated an anti-LGBT hate group by the Southern Poverty Law Center*

Alliance Defending Freedom (ADF)

SCOTTSDALE, ARIZ.

FOUNDED 1994 CURRENT PRESIDENT ALAN SEARS



Alliance Defending Freedom, formerly known as the Alliance Defense Fund, was founded over 20 years ago by more than 30 influential conservative Christians, including the late Campus Crusade for Christ founder Bill Bright; the late International Christian Media president Marlin Maddoux; Focus on the Family founder James Dobson; the late Coral Ridge Ministries founder D. James Kennedy; and American Family Association founder Don Wildmon. Over the course of two decades, ADF has become one of the most powerful and best-funded organizations on the Christian Right, pulling in some \$40 million annually. In recent years, ADF, which claims over 3,000 affiliated attorneys and over 200 allied organizations, has increasingly billed itself as “defending religious freedom.” The organization says it fights against the “concocted” constitutional right to abortion, laws that protect LGBT people, and the “myth” of separation of church and state.

Anti-LGBT and anti-choice, ADF funds cases, trains attorneys in its legal academies, and brings lawsuits where it claims religious liberty is under threat. It currently represents former Atlanta Fire Chief Kelvin Cochran, who was terminated by that city’s mayor after allegedly failing to clear his self-publication of a book, which describes homosexual acts as “vile, vulgar and inappropriate, with the city’s Board of Ethics as mandated by the city code. And although ADF claims on its website that it does not promote legislation or lobby government officials, it was involved in drafting and promoting SB 1062, the 2015 Arizona RFRA bill that was vetoed by Gov. Jan Brewer after a backlash following its passage. Numerous ADF attorneys have also testified before legislative bodies against laws that would grant same-sex couples marriage or civil unions.

ADF has long rejected extending equal rights to the LGBT community. Its founder and president, Alan Sears, is a culture war veteran who served in the administrations of Ronald Reagan and George H.W. Bush (including on

Edwin Meese's Commission on Pornography). He also is the co-author of a 2003 book called *The Homosexual Agenda: The Principal Threat to Religious Freedom Today*, an anti-LGBT call to arms that links homosexuality to pedophilia and other "disordered sexual behavior."

ADF has been active on issues including what it calls "marriage protection" and exposing the "homosexual agenda." The group opposes anti-bullying efforts in public schools, calling for exceptions for speech or actions based on religious views and decrying "tolerance training" and "special protection" for LGBT students. It has actively fought bans on discredited and harmful "ex-gay" therapy, which claims to turn gay people straight and has been declared fraudulent by a New Jersey court. The organization filed an amicus brief on behalf of far-right medical organizations in *Lawrence v. Texas*, the 2003 case in which the Supreme Court threw out so-called sodomy laws, arguing that sodomy should remain illegal because same-sex sodomy is far more dangerous to public health than opposite-sex sodomy.

In recent years, ADF has expanded overseas, where it has been involved in some of its most discriminatory work, including efforts to back anti-LGBT legislation and the continued criminalization of homosexuality. In 2014, it dispatched chief counsel Benjamin Bull to Russia to meet with Yelena Mizulina, the legislative leader of that country's crackdown on LGBT people. Support for the criminalization of gay sex has been a continuing activity for the group since the *Lawrence* ruling. In 2012, Piero Tozzi, an ADF senior legal counsel, argued in Jamaica that the country should keep its sodomy law because "the pressure to revise the penal law is part of a larger [homosexual] agenda." He added: "Retention of the legislation prohibiting sodomy is a bulwark against this agenda: remove it and I guarantee the rest of the agenda will follow within a matter of years." Tozzi also provided input on a case related to the retention of Belize's criminalization statute, which is still under review by that country's highest court.

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American Family Association (AFA)*

TUPELO, MISS.

FOUNDED 1994 CURRENT PRESIDENT TIM WILDMON



Methodist minister Don Wildmon, father of the current president, originally founded AFA as the National Federation for Decency, focusing on television programming and pornography. Over the years, the group expanded its mission and reach to include "combating the homosexual agenda" through various means, such as publicizing companies with pro-LGBT policies and boycotting them. The crudest of the groups described here in terms of its bigotry, AFA has long equated homosexuality with pedophilia and claimed that the "homosexual agenda" will bring the downfall of American (and, ultimately, Western) civilization. Typical of its gutter language, a 2004 *AFA Journal* article claimed gay influences are leading to a "grotesque culture" that will include "quick encounters in the middle school boys' restroom."

AFA spreads its message through its website and various projects — the American Family Radio Network (almost 200 stations broadcast its programming), its online One News Now, and the monthly *AFA Journal*. It currently lists 10 state affiliates, all of which are involved in state-level policymaking. AFA is also stridently anti-choice and has a history of its leadership making racist statements about Muslims, immigrants and others. This is particularly true of AFA radio host Bryan Fischer and President Tim Wildmon. Among other things, Fischer has argued that "[h]omosexuality gave us Adolph Hitler, and homosexuals in the military gave us the Brown Shirts, the Nazi war machine and six million dead Jews." A year earlier, he blamed welfare for "destroying" the African-American family by rewarding people who "rut like rabbits." In 2012, Wildmon asserted that Islam "is, in fact, a religion of war, violence, intolerance, and physical persecution of non-Muslims."

AFA closed its "law center" in 2007, but it still files amicus briefs and involves itself in messaging and framing of "religious freedom" through its Action Alerts, website and radio programming. It also exhorts its supporters to contact state legislators to "stop threats to religious liberty." Its Indiana chapter was heavily involved with the early 2015 passage of that state's RFRA (later amended), and is currently just as heavily involved with legislation in that state that would deny protections to transgender people.

* designated a hate group by the Southern Poverty Law Center in 2010

The Becket Fund for Religious Liberty

WASHINGTON, D.C.

FOUNDED 1994 CURRENT PRESIDENT WILLIAM MUMMA



Founded by attorney Kevin “Seamus” Hasson, the Becket Fund is a public interest law firm that was named for the Archbishop of Canterbury, Thomas Becket, who was martyred in 1170. Though it was originally nonpartisan and took on a variety of “religious liberty” cases, under the current leadership of President William Mumma it has become more conservative and is seen as the intellectual leader of right-wing religious liberty campaigns. In 2012, it won the landmark *Hosanna-Tabor Evangelical Lutheran Church and School vs. EEOC*, a ruling that allows religious organizations to hire and fire clergy without regard to employment discrimination law.

The fund is at the center of a small group of Roman Catholic-dominated religious liberty activists funded by conservative Roman Catholics. Ideologically, the fund works to continue a longstanding Roman Catholic campaign to create a separate space for religious people removed from public scrutiny and laws (though while still receiving public funds and subsidies). Becket falsely argues that Roman Catholics will be forced to perform same-sex marriages with the passage of marriage equality. In 2008, the fund ran a full-page ad in *The New York Times* in support of California’s Proposition 8, which outlawed same-sex marriage but was ultimately found unconstitutional. The ad charged that anti-Prop 8 protesters were “thugs” engaged in a “religious war” of violence and intimidation against the Church of Latter Day Saints. Hasson responded to criticism of the ad by comparing “radical secularist” Prop 8 protesters to Islamist terrorists.

Becket has also been active in adoption cases in Massachusetts and Illinois, where Catholic Charities abandoned its longstanding adoption work rather than place children with same-sex couples. Becket has called the Affordable Care Act one of the top religious freedom issues facing America and has filed several lawsuits against it. Becket also has ties to the National Organization for Marriage (NOM), an anti-LGBT group whose sole purpose has been to stop same-sex marriage.

Becket Fund board members include J. Kenneth Blackwell, a senior fellow at the anti-LGBT hate group Family Research Council; Princeton law professor and NOM founder Robert George, an architect of the modern

campaigns against same-sex marriage who has called for a “national rebellion” against marriage equality; and Mary Ann Glendon, a former U.S. ambassador to the Holy See and leading anti-choice theorist. Glendon has called marriage equality a “radical social experiment” and warned that “children will have to be taught about homosexual sex” in “marriage-preparation” classes. She was the first to sign a 2014 letter defending Arizona’s expanded “religious freedom” law.

Family Research Council (FRC)*

WASHINGTON, D.C.

FOUNDED 1983 CURRENT PRESIDENT TONY PERKINS



FRC was the brainchild of evangelical activist and psychologist James Dobson, founder of Focus on the Family (FOTF). It was created in 1983 under the direction of Gerald Regnier, a former top official with the U.S. Department of Health and Human Services, and then became a project of FOTF under Christian Right activist Gary Bauer in 1988. Four years later, in 1992, FRC was spun off from FOTF as an independent entity. But it continued its work against abortion and LGBT rights and in favor of “the Judeo-Christian worldview as the basis for a just, free, and stable society.” FRC today is one of the most powerful of the far right’s advocacy groups, with contacts throughout federal and state governments.

Incendiary rhetoric about the LGBT community from the group is common. In 2012, Perkins told a gathering of the far-right Oak Initiative: “Those who understand the homosexual community – the activists – they’re very aggressive... They’re intolerant, they’re hateful, vile, they’re spiteful ... engaged in activity, behavior, and an agenda that will destroy them and our nation.” Perkins and FRC have consistently portrayed LGBT people as sick, evil, perverted and incestuous. Perkins has even gone after the “It Gets Better” campaign, an initiative meant to give LGBT students hope for a better future, describing the program as “disgusting,” part of a “concerted effort” to “recruit” children into the gay “lifestyle.” The group also

* designated a hate group by the Southern Poverty Law Center in 2010

has published proven falsehoods about gay people. In 2010, for instance, the FRC website said, “While activists like to claim that pedophilia is a completely distinct orientation from homosexuality, evidence shows a disproportionate overlap between the two. ... It is a homosexual problem.”

FRC employs a number of “policy experts” whose “research” has allowed the group to be extremely active politically in shaping public debate on issues like abortion and LGBT rights. Its research fellows and leaders often testify before Congress and appear in the mainstream media. FRC also works at the grassroots level, conducting outreach to pastors in an effort to “transform the culture.” FRC filed an amicus brief, along with Focus on the Family, in *Lawrence v. Texas*, supporting Texas’ sodomy law. Its legal counsel on the brief was Robert George, who has called for “national rebellion” against the legalization of same-sex marriage.

The group is also heavily involved and invested in the current right-wing battle over “religious liberty.” It has filed numerous amicus briefs in various cases, published articles, written op-eds, and sponsored the Center for Religious Liberty, which is currently headed by attorney and Navy veteran Travis Weber. In 2012, FRC hosted an hour-long webcast called “The Threat to Religious Liberty Around the World.”

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Focus on the Family (FOTF)

COLORADO SPRINGS, COLO.

FOUNDED 1977 CURRENT PRESIDENT JIM DALY



FOTF was founded almost 40 years ago by psychologist James Dobson, who also helped found ADF and FRC and is one of the most influential figures on the modern Christian Right, having spent his life working tirelessly against rights for LGBT people and reproductive rights for women. As a result of Dobson’s work, FOTF has become one of the most important evangelical organizations in the country, with a massive web presence, radio programs that air around the world, and its very own ZIP code.

Dobson stepped down as president of FOTF in 2003 but remains as chairman emeritus. The group’s current president, Jim Daly, oversaw the launch of Focus on the Family Action — now CitizenLink — as the group’s political arm, which donates to political leaders and engages in policy advocacy. Currently, there are 38 state-based family policy councils with ties to CitizenLink. With CitizenLink’s help, these state organizations work on a variety of issues, such as eliminating access to abortion, enforcing abstinence-only sex education programs, restricting marriage to heterosexual couples, and promoting creationism in schools. FOTF remains active in its promotion of harmful and pseudoscientific “ex-gay” therapy, and has partnered for years with other purveyors of the therapy at its “Love Won Out” conferences.

Several leaders in the group have made anti-LGBT statements over the years. In 2006, the ministry argued that homosexuality is “preventable and treatable.” In 2012, FOTF’s Jeff Johnston pointed to molestation, divorce, fathers who treated their daughters like sons, and rebellion as the causes for being gay. In 2014, the group’s website said that the children of gay and lesbian parents are “human guinea pigs” and that “efforts to advance rights and protections for homosexuals” would threaten “children’s best interests.” The group also filed an amicus brief with the Family Research Council supporting the pro-criminalization position in *Lawrence v. Texas*.

Although FOTF does not have a litigation arm, it files amicus briefs in various lawsuits and provides and promotes information about RFRA and “religious liberty” on its website, which also runs a “Religious Freedom in Danger” series.

Liberty Counsel*

ORLANDO, FLA.

FOUNDED 1989 CURRENT PRESIDENT MATHEW “MAT” STAVER



The Liberty Counsel was founded more than 25 years ago by conservative activists Mathew “Mat” Staver — an attorney and former dean at Liberty University School of Law — and his wife, Anita. The organization, which maintains a close affiliation with Liberty University (founded by the late evangelist Jerry Falwell in Lynchburg, Va.), bills itself as a nonprofit

litigation, education and policy organization that provides legal counsel and pro bono assistance in cases dealing with religious liberty, “the sanctity of human life,” and the family. The group claims 10 lawyers on staff and about 300 volunteer attorneys around the country. Like many of the groups described here, Liberty Counsel filed an amicus brief supporting laws against sodomy in *Lawrence v. Texas*.

Over the years, Liberty Counsel has become known for the virulent anti-LGBT rhetoric of its spokespeople, who have linked homosexuality to pedophilia, claimed that it is a perversion that will destroy Western civilization, and asserted that same-sex marriage will spread disease. Staver’s 2004 book, *Same-Sex Marriage: Putting Every Household at Risk*, is a litany of demonizing anti-LGBT myths that makes similar claims and describes LGBT people as a danger to children. Last year, after the Boy Scouts decided to allow gay Scout leaders, Staver said the organization had become a “playground for pedophiles.” In 2013, staff attorney Steve Crampton said: “When you consider that the life of the average homosexual is not controlled by reason, not controlled by the will, it’s really a life controlled by this lust, this passion, that has kind of overwhelmed them, and so you have kind of the essence of a lack of self control.”

Liberty Counsel has represented opponents of same-sex marriage and those who oppose bans on the pseudoscientific and harmful practice known as “ex-gay” therapy, which claims to “cure” homosexuality (already, four states have banned the therapy for minors). One of Liberty Counsel’s more high-profile current clients is Kentucky county clerk Kim Davis, who refused to issue marriage licenses to same-sex couples after the Supreme Court legalized gay marriage in June 2015. The ACLU sued on behalf of one of the couples Davis denied a license to, and Liberty Counsel took up her case. Davis was found in contempt of court and served a few days in jail. She continues to be

used as a religious freedom rallying cry for the Christian Right.

Another of Liberty Counsel’s high-profile clients is virulently anti-LGBT pastor Scott Lively, who is best known for a book, *The Pink Swastika*, which alleges that gay men orchestrated the Nazi Holocaust. Currently, Lively is being sued in the United States for human rights violations by the Center for Constitutional Rights and Sexual Minorities Uganda, an African LGBT group. The suit alleges that Lively’s speeches in Africa and his meetings with lawmakers who were considering Uganda’s proposed “kill the gays” bill incited criminal violence against Ugandan LGBT people.

Liberty Counsel has also intervened in state disputes over same-sex marriage, claiming that recognizing such bonds or issuing marriage licenses to same-sex couples violates the religious rights of people who object to homosexuality. To that end, the organization has represented magistrates in North Carolina who objected to issuing marriage licenses to same-sex couples. In Alabama, it is working to support probate judges who resist issuing such licenses in defiance of federal law.

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