



Written by [Selwyn Duke](#) on September 26, 2016

Should Non-discrimination Policies Trump the Constitution?

Ah, that pesky First Amendment. It limits the power of government, [notes](#) the U.S. Commission on Civil Rights (USCCR), “to impede individuals from practicing their religious beliefs.” This and other such laments permeate a recent USCCR report that, [writes](#) WND.com, “made the stunning claim that the nation should codify into law the Obama administration’s longtime belief that Christians and others of faith can be forced to violate their beliefs to accommodate pro-homosexual or pro-transgender ‘nondiscrimination’ laws.” It’s all part of an effort to further empower a movement that has already led to the persecution of bakers, florists, photographers, calligraphers, and other businessmen who refused to service faux weddings.



Not surprisingly, many are aghast at the commission’s constitutional contempt. For example, Senator Orrin Hatch (R-Utah) has just weighed in, writing, [reports](#) WND:

“A majority of the commission appears to believe that, in all but the narrowest of circumstances, the civil right to freedom from discrimination trumps the constitutional right to freely exercise religion,” he charged on Friday.

... “The report also fails properly to account for the primacy of religious liberty in our nation’s history, founding principles, and legal commitments. Remarkably, the report’s title does not even mention the term ‘religious liberty,’ but rather subsumes it as one of a number of ‘civil liberties’ that, one supposes, are of varying significance.”

... “Finally, I am troubled by the anti-religious sentiments in several of the supplementary statements in the report. In one statement, you say that religious liberty has become a ‘code word’ for ‘discrimination, intolerance, racism, sexism, homophobia, Islamophobia, Christian supremacy,’ and other forms of ‘intolerance.’ You then tie contemporary religious liberty claims to the shameful legacy of slavery and Jim Crow.”

Moreover, paving the way for this new constitutional misinterpretation with language manipulation, Obama and his fellow travelers have now discarded the phrase “freedom of religion” in favor of “freedom of worship,” WND also informs. But the two are not at all the same. As Rafael Cruz, who grew up in Cuba and is the father of Senator Ted Cruz, explained, “Every communist country around the world has freedom of worship. What freedom of worship means is you can worship inside a house of worship.”



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In other words, you're free to adhere to and live Christian doctrine (for now) one hour a week during worship services, but beyond that you're subject to government regulation. Of course, following this logic, the government could force you to have premarital sexual relations outside of church and still claim it was granting you freedom of worship. After all, it didn't force you to have premarital sexual relations inside of church.

As to another fallacy underpinning the USCCR position, there simply is no "right" to not be discriminated against. How could there be? Discrimination simply means to choose one or some from among many, and we all, by necessity, do it continually. We discriminate when choosing the qualified over the unqualified, and when choosing what criteria will constitute being "qualified"; when making only men register for selective service, having women-only gyms, choosing primarily female day-care workers, or having athletic competitions limited to women; when choosing one babysitter, auto mechanic, tutor, doctor, or lawyer over another; when hiring the job candidate with the sunny disposition over the dour one; when not doing business with someone simply because you don't like his face; and in innumerable other ways.

"But wait," says the civil-rights activist, "that's not unjust discrimination." Of course, discrimination based on "not liking someone's face" certainly would be. But the bigger issue is that to separate just from unjust discrimination is to discriminate, and a prerequisite for doing so properly is that these judgments themselves are just. There's the rub.

Consider: There is supposedly an obsession today with protecting "sexual minorities" (read: deviants). Yet if I refuse to hire someone because he's an adulterer, philanderer, fornicator, or engages in bestiality, will anyone prosecute me? Moreover, countless "paraphilias" (obsessive fetishes) exist, including the truly bizarre, such as deriving sexual excitement from vomit, being an amputee, drinking blood, being robbed, and stuffed toy animals. Will every single paraphiliac group ever be "protected" from discrimination?

The point is that the Left doesn't "protect" so-called sexual minorities but only a minuscule minority of sexual minorities; *it discriminates among them*, labeling some "protected classes" and leaving the rest, apparently, unprotected. Equality?

This brings us to the crux of the matter: When we subordinate constitutionally protected rights to anti-discrimination fashions, we're not guaranteeing the "right to not to be discriminated against." We're just trading some actual rights for no rights at all.

The knowledge that government-discrimination laws are just that — merely reflecting another model for discrimination — makes something else clear: They also are an example of transferring decisions regarding discrimination from the people to the government. For most of American history, how you'd discriminate in your own business, created with your own money, was your business.

Now you can still discriminate — only the government tells you how.

This in addition effects another private-public transfer, eliminating society's self-regulation for government regulation. For example, if businesses would generally be reluctant to hire or in certain cases even serve open cross-dressers, this acts as a disincentive against exhibiting that behavior. A government mandate prohibiting that decision, however, helps to bring cross-dressing out in the open, thus sending the message that such behavior is acceptable. Given this, it's no wonder that now even children [sometimes masquerade](#) as the opposite sex.

Of course, whether or not we agree with a given prohibition isn't the point here. The question is, who



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should decide, the people with their social laws, or the state with its governmental laws? Most citizens today accept government-discrimination law because it has been with us for so long, but consider: Every sane person recognizes your right to include in or exclude from your home whomever you wish. And it doesn't matter if your reason for exclusion is that an individual is Catholic, Jewish, black, white, conservative, fat, ugly, homosexual, or likes Fig Newtons. Now, question: Why should you lose this right simply because you erect a few more tables and sell food or engage in some other form of commerce?

It's still your property, paid for with your own cash and created by the sweat of your own brow. Why should you lose your freedom of association just because you want to make a living? Is the message, submit or starve?

If you cannot exercise choices relating to association and religion on your own property, do you really have the freedoms of association and religion at all? As Dr. Walter Williams has pointed out, our commitment to a "liberty" isn't evidenced by a willingness to let people exercise it in ways we like; even tyrants do that. Commitment to a liberty is only evidenced when we tolerate exercise of it we dislike.

Speaking of dislike, what of this assumption that all Christian opposition to homosexual behavior is based on hatred? It's about as silly as supposing that Christian opposition to fornication, adultery, and other behaviors contrary to the virtue of chastity is likewise motivated. And this illogical accusation is driven by two main factors. First there's projection: Since leftists are disconnected from Truth and tend to make decisions on emotional bases — with a primary animating emotion being hatred — they often ascribe the same motivations to others.

Second, insofar as the accusation is calculated, it reflects Saul "the Red" Alinsky's [rule](#), "Pick the target, freeze it, personalize it, and polarize it." If you want to strip away a group's rights and persecute it, you first must sufficiently demonize it. So today's Left has simply decided to echo the ancient pagan Romans, who called Christians "haters of humanity" — and threw them to the lions.

The truth is that this illogical USCCR agenda is illogical because *it* is based largely on emotion, on hatred. The secularists now holding sway in academia, the media, entertainment, and government simply don't like Christians and their standards — and they're rolling out the lions and the lyn' to turn their hate into policy.



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