Verdict

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The One-Religious-World-View Public Policy of the Conservative Christians and the Way Out

From the beginning of the first Religious Freedom Restoration Act ("RFRA"), it was nearly impossible for most of us to predict what claim would land in our laps next, or what claims would dominate. Except for the conservative Christians, whose agenda keeps popping up through the policy and RFRA thicket.

When RFRA began its journey through our society in 1993, the conservative Christian agenda was so deeply buried that the "Coalition for the Free Exercise of Religion" included the ACLU, Americans United for Separation of Church and State, and People for the American Way. President Clinton **proudly signed it (http://www.gpo.gov/fdsys/pkg/WCPD-1993-11-22/pdf/WCPD-1993-11-22-Pg2377.pdf)** .

To this day, conservative Christians like to describe the RFRAs as "bipartisan" as they point to Clinton's and the ACLU's support, because that gives them cover for their extreme conservative agendas. No more. The anti-progressive agendas slowly leaked out, and now all of those liberal groups have some explaining to do, but more importantly, battles to wage, and to their credit they have stepped up.

But the real folks at fault are the legislators who have been willing to accept faith and faith alone as a reason to pass laws.

The Recent Parade of Conservative Christian Agendas Transformed into Law

From the late 20th century to now, major public policy has been shaped to fit one religious world view, that of the conservative Christians. I am not a political scientist and so won't venture to say why this is, other than to note that lobbying takes a lot of money.

They have heavily invested to make public policy reflect their beliefs in the following categories: reproductive health care, housing discrimination law, sexual orientation anti-discrimination law, same-sex marriage, and parental control over their children.

Reproductive health care. Since the Supreme Court recognized the right to reproductive privacy in ***Griswold v. Connecticut (https://supreme.justia.com/cases/federal/us/381/479/case.html)***, there have been lobbyists operating to regulate and reduce the availability of contraception. After ***Roe v. Wade (https://supreme.justia.com/cases/federal/us/410/113/case.html)***, there was a similar response, on steroids. Abortion has been regulated every which way to Sunday, including mandatory delays, "educational" materials to be shown by doctors, and exclusion of government welfare support for poor women. Who fought for these restrictions? Conservative Christians.

More recently, the federal government and some states have enacted so-called "conscience clauses," which authorize health care professionals from pharmacists to emergency room doctors to refuse to provide prescriptions or other medical treatment if doing so conflicts with their religious faith, as Professor Leslie Griffin discusses **here (http://hamilton-griffin.com/crazy-conscience/)**. They are worded broadly, but the goal was to reduce the availability of contraception, miscarriage medications, and abortifacients even in cases of rape or incest. Who demanded and succeeded in obtaining these laws? Conservative Christians.

Even though the vast majority of Americans approve and use contraception, the drive to reduce availability continues. Look at the anti-contraceptive agenda revealed when Hobby Lobby raised the RFRA sword to fight off the Affordable Care Act's contraceptive mandate for its employees in arts and crafts stores in ***Burwell v. Hobby Lobby (https://supreme.justia.com/cases/federal/us/573/13-354/)***. Again: conservative Christians at work.

Housing Discrimination. Behind the apparently ecumenical RFRA drive in the early 1990s, there was an intent to undermine housing discrimination based on familial or marital status (a fact unintentionally disclosed during the first unsuccessful drive to enact a California RFRA). There was significant success because marital status never became a category under the federal fair housing law, and it is only recognized in a handful of states. Who was against the fair housing laws (actually from the beginning)? Conservative Christians.

LGBT Discrimination. Once Massachusetts recognized a right to same-sex marriage, state constitutional amendments and laws to ban gay marriage appeared in state after state. There was serious determination: after California recognized same-sex marriage, a

referendum was passed to invalidate it. Who again? Conservative Christians.

Then there were demands for LGBTQ anti-discrimination laws, and the backlash began. Some cities and states did, but far from all, and the federal government never has. When some Colorado cities extended such protection, a Colorado referendum prohibited such civil rights. Source: Conservative Christians.

The Supreme Court in ***Romer v. Evans (https://supreme.justia.com/cases/federal/us/517/620/case.html)*** invalidated the Colorado law, because it was nothing but animus. So now there was a "need" for laws that would permit believers to avoid those anti-discrimination laws. RFRA advocates started to argue that the RFRAs apply between private entities so that business owners could reject same-sex couples and the LGBTQ community as customers. Such bills were introduced in Arizona, Mississippi, Arkansas, and Indiana, as I discuss **here (https://verdict.justia.com/2014/05/15/lessons-new-mississippi-rfra-shed-light-hobby-lobby-conestoga-wood-cases-pending-supreme-court)** and **here (https://verdict.justia.com/2015/04/01/the-rfra-gauntlet-the-indiana-rfra-may-be-bad-but-the-arkansas-rfra-is-even-worse)** . One more time: conservative Christians.

Some might believe that the Indiana RFRA was the Waterloo for the conservative Christian agenda. Not so fast.

Family values. What is left? Well, family values, and in particular, parental rights to control their children.

The original version of the Georgia RFRA introduced this year contained the following language:

> Nothing in this Chapter shall be construed to . . . Impair the fundamental right of every parent to control the care and custody of such parent's minor children, including but not limited to control over education, discipline, religious and moral instruction, health, medical care, welfare, place of habitation, counseling, and psychological and emotional well-being of such minor children as provided for under the laws of this state and of the United States . . . .

This was an odd parental rights provision in that it was being carved out of the RFRA with its extraordinary protection for religiously motivated conduct. Yet, what was more remarkable is that this language appeared in a RFRA at all. While the Georgia RFRA went nowhere, this revealed that the RFRAs are becoming vehicles for explicit agendas, which were originally kept under the radar to get the first RFRA enacted.

Later in 2015, Idaho considered and enacted a stand-alone **parental rights law (http://www.legislature.idaho.gov/legislation/2015/H0113.pdf)** that now co-exists with the state RFRA. It grants parents a "fundamental right" to control their children's upbringing in all categories, whether or not the state or federal constitutions accord parents a "fundamental" right of control. Again, this is straight out of the conservative Christian playbook. No doubt, it will be pushed in state after state. By whom? Conservative Christians.

Why does this matter? Because children die in homes where the parents choose faith over medical care; herd immunity is on the wane with the failure to vaccinate arising from religious exceptions; children are given to men in religious polygamist communities; children in deeply religious schools are often shortchanged on educational content; and children are disproportionately sexually abused in the home as compared to any other venue. Children need rights and more protection, not religious parents who can hide behind a "fundamental right" and a RFRA to martyr their children.

The Way Out of a One-Religious-World-View Public Policy

While the RFRA movement started with a remarkable even if utterly misguided bipartisan coalition, it is increasingly clear that one religious cohort in the United States has stood to benefit, and that the RFRA push is really just an integral part of the larger goal of imposing one religious world view on national and state public policy. The result is that the claim to a *generic* religious liberty now rings hollow. More importantly, it is time for our elected representatives to be reminded that, under the Constitution, they are required to represent all Americans, regardless of faith or creed.

When a lobbyist demands a law simply due to faith, or God, or Jesus, that's not enough. If you need proof, you might want to give Indiana's Gov. Mike Pence a call, as he has some valuable recent experience with thoughtlessly backing a law with no other justification than faith. In lieu of a call, though, you could simply read the **polls (http://wbaa.org/post/poll-rfra-sinks-pence-approval-rating)**.

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