

## **The Importance of Religious Liberty and Freedom Of Speech to the Family: International Legal Issues**

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The redefinition of marriage to include same-sex unions—which has occurred in several countries and in several states of the U.S.—has resulted in significant threats to the religious liberties of those who believe that marriage is a union between a man and a woman. Western society and virtually every great world religion have traditionally considered marriage to be an exclusive relationship between men and women based on the understanding that marriage is a fundamental social institution ordered to the common good through the bearing and raising of children. Many advocates of same-sex “marriage”, however, consider such views to be forms of irrational prejudices that stand in the way of “equality” and societal acceptance of persons who engage in homosexual behavior. Many advocates of such behavior and same sex “marriage” have committed themselves to an agenda that would eliminate—through law or intimidation—the expression or manifestation of traditional views on marriage in any form, and in any forum—including within the Church itself.

It is virtually accepted dogma among homosexual activists that religion and the Church pose a final obstacle that must be surmounted in order to achieve full “recognition.” Cathy Renna, the former

spokeswoman for the Gay and Lesbian Alliance against Defamation (GLAAD) has stated, "People often get their views [about homosexual behavior] from their religion, so we don't want the pulpit saying that being gay is wrong." Indeed, radical advocates of homosexual behavior will seek to censor or shut up any voice that disagrees with their views. Even newspapers are not immune. An official with the Legal Marriage Alliance in the state of Washington told a reporter that, "if a newspaper writes that a given same-sex marriage wasn't really a marriage, 'it is certainly in the realm of possibility for someone to bring a (libel) suit, and quite possibly to be successful.'"

In short, extremist homosexual activists have embraced an aggressive and radical agenda that promotes same sex "marriage" and homosexual behavior above all else. Their goal is the destruction of any objective standard of sexual morality, attacking all institutions that reflect traditional religious views on these topics, and the censoring of any persons or institutions that express disagreement with their views. As prominent lesbian activist and Georgetown law professor Chai Feldbloom has stated, where there is conflict between the assertion of homosexual demands and religious liberty, "I'm having a hard time coming up with any case in which religious liberty should win."

Indeed, it is important to recognize that marriage itself—as a recognizable institution-- is under direct attack by these radical activists

and their allies. At a conference several years ago at the University of London called “Legal Recognition of Same-Sex Marriage: A Conference on National European and International Law,” one of the main themes of discussion was whether marriage should exist at all. The attendees laid out strategies to circumvent each nation’s democratic process via the judicial system to force their governments to sanction and accept same-sex “marriage.” There was also discussion about ultimately abolishing marriage so adults could be free to pursue any sexual relationship they want with no legal restrictions whatsoever while also receiving the benefits of marriage.

The attacks against any expression or manifestation of religious beliefs opposing this agenda have taken on many forms. In recent years Alliance Defense Fund has been involved in numerous cases in which protected expressive rights and the exercise of religious beliefs and freedom have been assaulted and violated by proponents of same sex “marriage” and homosexual behavior. There are two particular categories of violations that must be mentioned as especially problematic: (1) those arising from the abuse of so-called “non-discrimination” laws; and (2) those arising from the abuse of “hate speech” laws. We have seen an ever-increasing and intentional application of “hate speech” laws to religion-based expression and free exercise of religion. We have also seen a similar substantial increase in

the intentional application of “anti-discrimination” regulations to Christian ministerial organizations and associations that espouse traditional views on marriage and sexual morality.

Assuming that there are valid societal justifications for “nondiscrimination” and “hate speech” laws, it is essential to recognize that such laws must not be applied against protected religious expression and Christian ministry organizations. If such laws are left unchecked, the result—as we shall see—is the criminalization of traditional orthodox Christian expression and moral teaching—including within the Church. And when “nondiscrimination” regulations are misapplied to Christian ministries and associations, they threaten the very existence of such organizations. Several cases I am involved in illustrate these problems.

In the state of Washington in the U.S., we represent a Christian student club named the Truth Club, which was established to promote Christian virtues and moral behavior. Incredibly, the club was banned from its public school campus because it required that its officers and voting members be professing Christians and live a sexually moral lifestyle. The case has been in litigation for almost five years.

In the UK, the University of Exeter banned the Christian Student Union, which was established over 50 years ago as a student Christian

ministry for prayer, devotion, and fellowship. The group was banned because the Christian Union limited voting rights and leadership positions to students who were professing Christians and whose lifestyles reflected Christian moral values. After lengthy administrative and legal proceedings, the university finally relented and allowed the Christian Union to return to campus.

The threat posed by such “non-discrimination” requirements to religious associations cannot be overstated. Indeed, such requirements are an existential threat to their very existence. Religious organizations exist for the very purpose of advancing and promoting their religious views, including views on marriage and sexual behavior. Requiring that non-adherents be permitted to lead or vote for leadership of such religious entities necessarily pre-stages their complete loss of identity and utter destruction. Indeed, it seems completely absurd that ANY group could be coerced by government action to allow people to join their group when those people want to defeat that group's mission or destroy the religious group itself. Such requirements seem especially absurd when applied to certain religious creeds such as Orthodox Judaism or to the Quakers. What possible governmental interest could be served by requiring Orthodox Jews to admit non-Jews—whether atheist, Hindu, or Muslim, to their leadership, unless the goal is

destruction of the religious group? The same could be said of almost any religious denomination.

As already noted, “hate speech” laws are equally pernicious. I was involved in the defense of Swedish Pastor Ake Green. As you may know, Pastor Green was sentenced to 30 days in jail for engaging in “hate speech” when he preached a Sunday sermon in his church from the Bible on the biblical position on immoral sexual behavior. Pastor Green was prosecuted under Sweden’s “hate crimes” law for “causing offense” to the “homosexual community.” After three years in the courts, his conviction was finally overturned by the Supreme Court of Sweden.

In another ADF case in Alberta, Canada, a human rights tribunal ordered a Christian pastor to renounce his Christian faith tenets against homosexual behavior and never again express moral and religious opposition to such activity, since such opposition was “hate speech.” The pastor, Stephen Boisson, was ordered to pay \$5,000 for “damages for pain and suffering” to an activist who claimed he was “hurt” by Boisson’s comments. The case is presently on appeal.

These cases illustrate that we, as a society, are in grave danger. With the adoption and application of “hate speech” laws, we have re-created the notion of "heresy" and "orthodoxy"; some ideas are

protected, others persecuted, and lives can be destroyed for holding the wrong ideas. Having re-instituted this post-modern brand of heresy, its old friend and companion, inquisition, cannot be far behind. Indeed, rather than allowing thoughts and expression to compete evenly in the free marketplace of ideas, unpopular ideas are not debated, rather they are punished. As in the Green and Boisson cases, religious notions of sexual morality are banned. Tomorrow, the speech that is censored may well be the speech of anyone of us. It's no exaggeration to state that unless formal safe-guards are adopted in the arena of traditional religious teaching and beliefs about sexual morality, we may well usher in a new period of darkness.

We have also seen religious institutions—that serve and support the family-- have impossible burdens imposed on them to obtain valuable government contracts and financial assistance to provide social services and other charitable functions, including helping the poor. For example, the state of California now prohibits state agencies from contracting with religion-based entities that favor traditional marriage over same sex unions. Religious charitable institutions with traditional scriptural views on sexual morality and marriage are now disqualified from obtaining government contracts or any financial assistance for the social services they provide, including feeding the

hungry and helping the poor. Many of these religious-based charities provide extraordinarily valuable social services--like hospitals, half-way houses, and homeless shelters. They are now forced to choose between providing assistance to the poor and the sick on the one hand, and adhering to their religious convictions on the other.

Similarly, the Boy Scouts of America have lost equal access to public after-school facilities, the right to participate in state charitable fundraising programs, and berthing rights at municipal marinas generally available to the public. All of this has occurred because of the group's "unwavering requirement" that members "not advocate for or engage in homosexual conduct."

We have even seen the manipulation of tax laws used against churches that adhere to traditional biblical views on marriage and sexual morality. In New Jersey, lesbian couples sued Ocean Grove Church because the church wouldn't allow its property to be used for a lesbian "civil union ceremony." New Jersey taxing authorities then stripped the church of its tax-exempt status. After litigation the court eventually ordered the tax exemption to be reinstated.

In Massachusetts, public schools have introduced students as young as kindergarten and second grade to books like *Who's in a Family*, which prominently depicts homosexual and lesbian couples,

and *King & King*, which shows two princes marrying each other and engaged in romantic kissing. The state does not allow religious families to remove their children from these lessons. This is being replicated in several states.

In New Mexico, ADF represents a Christian photographer who declined—for religious reasons-- to photograph a lesbian "commitment ceremony" because of her religious belief that marriage is a relationship between a man and a woman. The New Mexico Human Rights Commission prosecuted her and required her to pay thousands of dollars in costs for violating a sexual orientation nondiscrimination law. The case is now on appeal.

In considering the threat to religious liberty associated with same-sex "marriage," it is important to realize that none of the religious liberty cases I have discussed involve a choice between protecting religious beliefs on the one hand, and allowing persons to live in same sex unions on the other. Indeed, they involve no direct threat to such arrangements. Instead, the choice is between protecting the fundamental right to religious freedom and expression, on the one hand, and mandating that all individuals and institutions in society, including the Church, affirm homosexual behavior. Given the profound interest that persons of all faiths and no faiths have in protecting rights of conscience, it is more than remarkable that radical homosexual

activists have succeeded to some degree in censoring and intimidating persons of contrary views into silence. Unfortunately they appear more than willing to sacrifice religious freedom and expression to advance their agenda—and in the end, we are all the loser. Thank you.