



This is the religious right's radical new plan: The very real efforts to create an American theocracy in plain sight

The religious right can't win at the polls. But that will not stop them from pursuing this dangerous, scary path

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In the past several years, as the inevitability of gay marriage has grown clear, the religious right has unceasingly shifted focus to a new field of battle—one that they call the battle for “religious freedom.” “Gay rights will trample Christians' religious liberty!” they claim.

But the worst violations of religious liberty actually came from the anti-gay religious right itself—from a 2012 constitutional amendment in North Carolina, which criminalized the performance of gay marriage. The law was successfully challenged by the United Church of Christ in 2014. “By depriving the Plaintiffs of the freedom to perform religious marriage ceremonies or to marry,” the UCC argued, “North Carolina stigmatizes Plaintiffs and their religious beliefs”—and the court agreed, finding it to be an unconstitutional violation of their rights.

Which is why it's not surprising that UCC's general minister and president, the Rev. John C. Dorhauer, wrote the preface to a major new report, shedding new light on the right's decades-long campaign to redefine religious freedom into a tool for their own theocratic domination. “Removing someone’s civil rights by empowering the government to protect and preserve my religious homophobia is not my idea of religious liberty,” Dorhauer writes. But that's *exactly* how the religious right has tried to stand the idea of religious freedom on its head. **“What they want to call religious freedom is in fact the kind of oppressive religious tyranny that my ancestors left their homeland to escape,” Dorhauer added.**

[“When Exemption is the Rule: The Religious Freedom Strategy of the Christian Right,”](#) published by Political Research Associates on Jan. 12, was written by Frederick Clarkson, PRA's Senior Fellow for Religious Liberty, author of "Eternal Hostility: The Struggle Between Theocracy and Democracy" and co-founder of the blog Talk to Action. The title highlights a key aspect of the religious right's long-term strategy, taking the time-honored principle of religious exemption, intended to protect the *individual* right of conscience, and expanding it recklessly to apply to whole institutions, even for-profit businesses—as seen in the Supreme Court's 2014 Hobby Lobby decision, in a process designed to fragment the common public sphere and carve out vast segments of American life where civil rights, labor law and other core protections simply do not apply.

This strategy was kicked into high gear back in 2009 with the “Manhattan Declaration,” a widely endorsed manifesto linking “freedom of religion” specifically to “sanctity of life” and “dignity of marriage,” which religious progressives are just beginning to effectively counter-organize

against. This report represents a significant beacon, shedding light on that strategy, the battlefield it's waged on, and the kinds of long-term responses needed to counter-organize against it.

Rooted In Discrimination

“When Christian Right leaders talk about religious liberty, they often really mean theocratic supremacism of their own religious beliefs inscribed in government,” Clarkson points out. The report presents a detailed account of how their Orwellian agenda is unfolding, combining up-to-the-minute analysis of recent developments with an historical account dating back to the 1970s and the birth of the modern-day religious right, defending Bob Jones University's “right to discriminate,” based on religion. As noted in the report:

As recently as the 1980s, Christian Right activists defended racial segregation by claiming that restrictions on their ability to discriminate violated their First Amendment right to religious freedom....

Instead of African Americans being discriminated against by Bob Jones, the university argued it was the party being discriminated against in being prevented from executing its First Amendment rights. The Supreme Court disagreed....

Two things are worth noting here: first, the primacy of discrimination as a political motivation, and second, the “envious reversal” of victim and victimizer that lies at the heart of the conservative victimhood shtick. Elaborating on the first point, the report also notes:

The case, which began during the Nixon administration, became a cause célèbre of the then-budding Christian Right as it advanced over the course of a decade. The late conservative strategist Paul Weyrich and historian Randall Balmer, among others, credited *Bob Jones* as the catalyst that politicized a wide range of conservative evangelicals....

.....even before the issues of abortion and homosexuality became the policy priorities of a newly politicized Christian Right, its leaders fought the perceived threat of racial equality at conservative Christian academies by claiming their religious freedom to discriminate. This legacy should remind us that the Right's religious liberty campaigns mobilize old arguments around new targets, and that their agenda extends beyond questions of contraception coverage, or marriage and nondiscrimination in the LGBTQ context.

In short, Bob Jones University is not just an old case, irrelevant to what's happening today. It represents, at its core, the exact same argument that conservatives are making today. As Faulkner wrote, “The past isn't dead. It isn't even the past.”

We see this as well with regard to the second point, the “envious reversal” of victim and victimizer. Portraying themselves as victims, uniquely, if not solely threatened with the loss of religious liberty, is the central premise of the right's “religious liberty” crusade, even though, as

the UCC case shows, their phony claims of victimhood can lead to *actually* victimizing others instead.

As the UCC case underscores, the cause they are actually advancing is neither religion nor freedom, but the antithesis of both: theocratic political control. No church, minister or priest anywhere in America has ever been forced to perform a gay marriage against their will—the kind of scenario that so-called “religious freedom” advocates supposedly fear. Yet, for almost two years, UCC ministers in North Carolina faced *criminal charges* if they dared to perform a same-sex marriage ceremony. UCC's case made it stunningly clear which side was *really* interested in religious liberty, and which side was deceptively hijacking the concept to force its own narrow-minded religious views onto the rest of society—the exact opposite of what most Americans instinctively know religious freedom to be.

The Struggle Intensifies

In the 30-plus years since the Bob Jones decision, the religious right's basic argument hasn't changed, but they've put enormous effort into changing the cultural and political environment, particularly by building organizational infrastructure—think tanks, law schools (like Pat Robertson's Regent University School of Law and Jerry Falwell's law school at his Liberty University), and legal advocacy groups. Over the same period, they've advanced anti-gay and anti-reproductive choice agendas which have been much easier to defend in terms of a moral high ground based on traditional hierarchies of power. But ever since the ground began clearly shifting on gay rights, a new phase has been entered.

“The evangelical Protestant Christian Right and U.S. Roman Catholic bishops are intensifying their campaign to carve out arenas of public life where religious institutions, individuals, and even businesses may evade civil rights and labor laws in the name of religious liberty,” Clarkson writes in the executive summary. “By creating zones of legal exemption, the Christian Right seeks to shrink the public sphere and the arenas within which the government has legitimacy to defend people’s rights, including reproductive, labor, and LGBTQ rights.”

These efforts have powerful outside allies as well, Clarkson notes. “In this, it is often aligned with the antigovernment strategy of free market libertarians and some business interests, who for a variety of reasons also seek to restrict arenas where government can legally act.” And while their actions are largely fueled by recent developments, particularly the sudden dramatic shift toward acceptance of gay marriage, and LGBTQ rights in general, the scope of their reaction is vastly more far-reaching:

This conservative Christian alliance is challenging a century or more of social advances and many of the premises of the Enlightenment underlying the very definition of religious liberty in the United States. Its long-range goal is to impose a conservative Christian social order inspired by religious law, in part by eroding pillars of undergirding religious pluralism that are integral to our constitutional democracy.

In the end, he explains:

Their goal is to impose a conservative Christian social order inspired by religious law. To achieve this goal, they seek to remove religious freedom as an integral part of religious pluralism and constitutional democracy, and redefine it in Orwellian fashion to justify discrimination by an ever wider array of “religified” institutions and businesses.

Clarkson describes religification as “a tactic ... by which an organization rewrites mission statements, contracts, and job descriptions in an attempt to exempt institutions from the law in as many ways a possible,” and he points out that “The groups promoting this tactic, such as Alliance Defending Freedom and Liberty Institute, have issued handbooks to help organizations protect against 'dangerous antireligious attacks.’”

One such “dangerous antireligious attack” involved 2,800 employees of the St. Peter’s Healthcare System of New Brunswick, New Jersey, whom the hospital tried to cheat out of their pension benefits under the guise of “religious freedom.” The hospital had underfunded its pension plan by \$30 million, claiming a religious exemption from the Employee Retirement Income Security Act of 1974 (ERISA), which protects individuals in most private pensions by setting minimum standards, including mandatory fiduciary and funding requirements. “Pensioner Laurence Kaplan was concerned that the plan was underfunded and his lawsuit showed that indeed it was,” Clarkson reports:

For more than 30 years it operated the plan according to ERISA standards. But in 2006, St. Peter’s stopped fully funding the plan, seeking—and eventually receiving—a determination from the IRS that it was eligible for the church exemption under ERISA. But the federal courts disagree. St. Peter’s must now comply with ERISA’s protections including full funding of the plan.

“Religification”

Clarkson uses the term “religification” in a fairly narrow, carefully constrained sense. “The usage for my purposes is not in making the secular religious,” he told Salon, “but in making religious institutions and more of their employees and functions subject to doctrine for purposes of inoculation against societal laws and regulations.” There have been tendencies heading this way for some time, but they got a tremendous shot in the arm in 2012, with the Hosanna-Tabor Supreme Court decision, which found that a teacher was exempt from normal firing protections because she served in a ministerial capacity, having led students in prayer three times a day and taught religion four times a week. The ruling greatly intensified religification pressures, which in turn is why it matters so much to be clear about the lines. “For example, a church receptionist is not exactly a secular job,” Clarkson said. “But it is usually a stretch to call it a ministry by any reasonable standard.”

Along these same lines, in the report, he wrote:

The Southern Baptist manual suggests assigning “... employees duties that involve ministerial, teaching, or other spiritual qualifications—duties that directly further the religious mission. For example, if a church receptionist answers the phone, the job description might detail how the

receptionist is required to answer basic questions about the church's faith, provide religious resources, or pray with callers."

While the courts may not buy the idea that a receptionist can be reasonably construed as a minister in the legal sense, this is the kind of thinking that is permeating the conservative Christian world in the wake of Hosanna-Tabor.

What we can see going on here is particularly perverse. The receptionist's job ordinarily has nothing ministerial about it, and being protected by labor laws, for example, in no way constitutes a *real* "dangerous antireligious attack." But by seeking to religify itself, the church is effectively trying to roll back the rights of others—both secular employment law protections *and* their own religious freedom. After all, one could even be a good, believing Southern Baptist receptionist and still feel religiously oppressed by being forced to follow someone else's bureaucratic religious script.

Religious Pluralism

This brings us to the very core of the problem: Religious freedom is not about religion vs. irreligion, but about *individual freedom* vs. institutional coercion. Government is not the only institution that can coerce. Over the centuries, churches themselves have proven themselves remarkably adept at it, which is why the freedom to leave one church and join another—or no church at all—lies so close to the heart of true religious freedom. True religious freedom for the individual is intimately intertwined with the pluralistic diversity of the society in which they live, and is clearly reflected in our own history.

The actual origins of religious freedom in America don't jibe at all with the religious right's attempt to hijack the term, especially with their myth of America being founded as a "Christian nation." It traces back to the Virginia Statute for Religious Freedom, drafted by Thomas Jefferson in 1777, but not passed into law until 1786, thanks to the efforts of James Madison in 1786, just before he began his work on the U.S. Constitution. Its date of enactment, January 16, has been recognized every year since 1992 as Religious Freedom Day, and last year a coalition of 60 groups supporting religious pluralism adopted the day as an occasion for celebration and public education, via op-eds and social media. Even greater activity is expected this year.

The report notes that "before his death, Jefferson sought to get the last word on what it meant," specifically:

The Statute, he wrote, contained "within the mantle of its protection, the Jew and the Gentile, the Christian and Mohametan, the Hindoo and Infidel of every denomination"....

Jefferson further explained that the legislature had rejected proposed language that would have described "Jesus Christ" as "the holy author of our religion." This was rejected, he reported, "by the great majority."

The intention of religious pluralism could not be clearer, much to the religious right's chagrin. That pluralism, in turn, is key to effective long-term organizing on behalf of true religious freedom as Clarkson sees it.

Clarkson lays out a set of recommendations, all of which are based on a relatively simple idea: the need to counter the right's long-term, multifaceted organizing strategy with a similarly long-term, multifaceted strategy firmly grounded in a pluralistic commitment to true religious freedom. Some of the specifics Clarkson recommends include:

- “Resourcing a network of strategists, scholars, and think tanks over the long term,” as well as strengthening existing alliances and refreshing historical ones. This includes everyone to the left of the religious right, including “liberal business owners, libertarians, and moderate Republicans,” as well as pro-choice and pro-LGBTQ forces who are most directly targeted and other affected communities, including labor and traditional civil rights and religious groups like UCC, which embrace true religious liberty.
- “Reclaim religious freedom as a fundamental democratic value.”
- “Avoid reinforcing the dualistic narrative that pits civil rights concerns against religion.”
- “Actively collaborate with and elevate religious communities.”
- “Create high-profile religious freedom events to offer a clear and consistent positive alternative to the Christian Right’s redefinition of religious liberty,” such as expanding celebrations of Religious Freedom Day.

Other significant developments—or lack thereof—cited in the report may serve to highlight the often unrecognized scope of the right-wing organizing that progressives are up against:

- The Hobby Lobby decision not only extended religious exemptions to private businesses for the first time in U.S. history, it gave private business owners the power to override scientific truth. In a little-noticed echo of Galileo's confrontation with the Catholic Church, the Supreme Court came down firmly against science, as it "allowed the religious views of the owners of these companies to trump medical science in claiming that the four contraceptives at issue—two kinds of birth control pills and two kinds of intrauterine devices—were abortifacients," despite an amicus brief submitted by medical associations, including the American College of Obstetricians and Gynecologists, refuting the claim.
- In addition to its own infrastructure of law schools, the religious right is now invading the mainstream legal establishment. The report notes, “In an important mainstreaming move, the conservative John Templeton Foundation funneled \$1.6 million through the Becket Fund to establish a religious liberty clinic at Stanford University Law School. It opened in January 2013.”
- Although the right generally demonizes international law, it's actively engaged in trying to change its understanding of “religious freedom,” and to reimport those changes back into the U.S. The Alliance Defending Freedom is a national legal network with a budget of almost \$40 million in 2012. The report notes that “an international dimension to the struggle has emerged, with ADF launching a Global Initiative in 2010.... ADF’s 2013 annual report states:

"ADF works with our allies to develop effective approaches to legal cases that could result in important state, federal, and U.S. Supreme Court and foreign court precedents...."

It goes on to note, "this strategy of gaining precedents in international courts is working, with U.S. courts noting the cases in their decisions."

Obama has let stand a Bush administration executive decision (known as "the OLC memo") allowing hiring discrimination by federal contractors and grantees under the protection of the Religious Freedom Restoration Act, despite a campaign promise to reverse it. "Despite saying the right things about religious and gender equality—and vowing to repeal the Memo as a candidate—President Obama is dragging his feet on the matter," the report notes, despite ongoing lobbying efforts for him to act as promised. Obama recently recognized both his executive authority over such businesses, and the importance of protecting their workers, when he ordered them to pay a higher minimum wage in 2014 and to provide paid sick leave in 2015. So his continued inaction is a serious signal of larger forces at work, which need to be much more effectively countered.

There can be no quick-fix solution to such a sweeping, deeply rooted, and well-funded organizing effort as this. The report's call-to-arms for a long-term organizing response is certainly warranted. But there is a quick fix for being puzzled, misled, disoriented, or confused on the subject of religious freedom. Read the [report](#) for yourself. And then do something about it.