

Religion and the Public Square

The Equality Act and the Rise of the Anti-Theological State

March 15, 2021 By [R. Albert Mohler, Jr.](#)

The passage of the Equality Act would mean the death of religious liberty. It would force all religious institutions and citizens to prove to the government's satisfaction that their convictions merit constitutional protection.



Will America sacrifice religious freedom for the sake of newly constructed sexual and gender identity liberties? We will know the answer to that question in short order, and the prospects for preserving religious liberty hang in a dangerous political balance.

The legislation known as the “Equality Act” represents the greatest present threat to religious liberty in the United States. The House of Representatives has passed the legislation twice—in 2019 and again in February of this year. The Democratic majority in that chamber has forwarded the bill to the Senate, which is soon to begin debate over the bill. President Joe Biden campaigned on a promise to sign the bill, and his administration is working hard to see the bill approved by the Senate and sent to his desk for signature.

The Equality Act represents a defining issue for the entire nation. The act would amend the Civil Rights Act to add sex, sexual orientation, and gender identity to protected classes covered by the bill. The scope of the bill is vast, covering housing, employment, public accommodations, education, credit, and all programs receiving federal funding. No aspect of American public life would be unchanged, and the bill would invade the private sphere as well.

Beyond the direct legislative reach of the bill, the Equality Act would send a clear moral message throughout the culture, with both national and international consequences. The forces pushing for the passage of the Equality Act clearly intend these consequences. A moral message will be telegraphed throughout society, normalizing virtually everything comprehended within the ever-expanding categories of LGBTQ.

Yet the Equality Act is not merely a message. It is a draconian threat of legal, political, financial, and cultural coercion, and the coercive powers of

SHARES

against any resistance. Make no mistake about it: That coercion will be brought against religious schools, ministries, non-profits, and all religious institutions. The bill does not even acknowledge the sacred rights of religious congregations and denominations. Individual believers too will be coerced into compliance with the new moral regime, which is coming with a vengeance.

The Equality Act is not merely a message. It is a draconian threat of legal, political, financial, and cultural coercion, and the coercive powers of the new moral order will be directed—as the Equality Act makes clear—against any resistance.



“It Will Be an Issue”

During the oral arguments for the *Obergefell* case before the Supreme Court, Solicitor General Donald Verrilli, arguing for same-sex marriage, was asked by Justice Samuel Alito if religious colleges and universities would eventually be forced to allow same-sex couples to live in student housing. Verrilli, without skipping a beat, honestly responded, “It will be an issue.”

You can bet it will be an issue. Student housing for married couples is but one in an apparently endless list of other accommodations that the LGBTQ

SHARES

pointedly defined with regard to the coercion of a *religious* college or university. The Solicitor General did not hesitate to affirm the threat against religious schools. As soon as the Supreme Court mandated the legalization of same-sex marriage in that very case, the coercion of Christians and other citizens of religious conviction became an issue.

The *Obergefell* decision was handed down in 2015, but arguments for the curtailment of religious liberty as the cost of newly declared LGBTQ rights were already widely circulated. Chai Feldblum, then a professor of law at Yale University, was asked years ago if she could think of any case in which religious liberty interests should take priority over the interests of LGBTQ liberation. Professor Feldblum [responded](#) that she could not think of a single case in which religious liberty should win. Not one.

In clear-minded dissents to the *Obergefell* majority, Chief Justice John G. Roberts, Jr., Justice Antonin Scalia, and Justice Clarence Thomas joined Alito in warning of the threat to religious liberty posed by the decision.

Then, five years later, the Supreme Court handed down its decision in *Bostock v. Clayton County*, extending federal employment nondiscrimination rights to citizens claiming LGBTQ identity. The decision turned mostly on the sexual orientation and transgender issues, but the effects will cover the entire array of LGBTQ identity. Sadly, the majority opinion was written by Justice Neil Gorsuch, who went so far as to acknowledge that the decision would pose legal vulnerabilities for religious believers and that the questions would “merit careful consideration.” In his dissent in this case, Justice Alito argued that the Court’s majority had created a threat to the religious liberties of religious Americans and their religious institutions. He was clearly right.

The Equality Act would not only establish *Bostock* as federal law; it would also expand the reach of the law far beyond the text of the Court’s

SHARES

right of Christian colleges and schools, for example, to hire teachers in accord with the school's stated religious convictions. The same would be extended to all other dimensions of operation covered by the bill—and almost nothing would escape that coverage. Individual believers and their private businesses would be covered, as would any institutional entity.

Furthermore, the text of the Equality Act specifically precludes any claims of religious liberty based on the Religious Freedom Restoration Act, which was adopted by Congress in 1993 with overwhelming bipartisan support. This bill would actually put Congress in the position of denying *in advance* defenses made on the basis of its own previous action. The audacity is breathtaking, and the threat to America's first liberty is all too real.

Put plainly, the Equality Act includes no acknowledgement of the right of Christian colleges and schools, for example, to hire teachers in accord with the school's stated religious convictions.



“The Determination Will Have to Be Made”

The lead sponsor of the Equality Act in the House of Representatives is Rep. David Cicilline [D-RI], an openly gay congressman who is confident of ultimate victory in the current Congress: “This is going to be a vote that’s

SHARES

to want to be on the right side of history.”

When he was asked about the threat the Act would present to religious institutions and their right to operate by their own religious convictions, Cicilline offered [these chilling words](#): “The determination would have to be made as to whether or not the decisions they are making are connected to their religious teachings and to their core functions as a religious organization,” he explained, “or is it a pretext to discriminate?”

The determination will have to be made. With those words, every religious congregation, denomination, and institution is put on notice: The government will determine if your hiring and housing and student conduct and employee policies are truly “connected” to your religious teachings, or if you are merely using a claim of religious conviction as a “pretext to discriminate.”

These words mean the effective death of religious liberty, for the burden of proof will now fall to each religious institution to prove *to the government's satisfaction* that its convictions are authentic.

Furthermore, the United States government would be effectively transformed into an anti-theological state. Note carefully that the specific forms of religion that are targeted by the Equality Act share one major theological distinctive. Each, in its own way, makes a claim to written revelation. Each of those religious texts defines sexuality, marriage, and gender in explicitly theological terms. The Torah, the Bible, the Quran, the Book of Mormon, and other religious texts are recognized as divinely inspired by American citizens and their religious bodies ranging, according to theological convictions, from Orthodox Judaism to Roman Catholicism to Evangelical Protestantism to Islam and Mormons and Seventh-Day Adventists and more.

Adventists and Mormons all understand the radical theological differences that separate us. But the factor common to all is the claim of an authoritative scripture. That is actually the central fact that explains the antipathy of the moral revolutionaries and their willingness to deploy the coercive powers of the state against believers. Those religious texts are incompatible with the normalization of LGBTQ identities, behaviors, relationships, and gender confusions.

The Equality Act, therefore, represents the threat of government coercion against a certain structure of theology, doctrine, and morality. This means the threat of the state directed against any claim of divine revelation that contradicts the new morality, the newly minted definition of marriage, and the newly constructed “rights” of the LGBTQ revolution.

Visible before our eyes is the threat of an anti-theological state and the end of authentic religious liberty in America. Don’t take my word for it—just take Congressman Cicilline at his.

About the Author



[R. ALBERT MOHLER, JR.](#)

Dr. R. Albert Mohler Jr. serves as president of The Southern Baptist Theological Seminary. Dr. Mohler has been recognized by such influential publications as *Time* and *Christianity Today* as a leader among American evangelicals. In fact, *Time.com* called him the “reigning intel...” [READ MORE](#)