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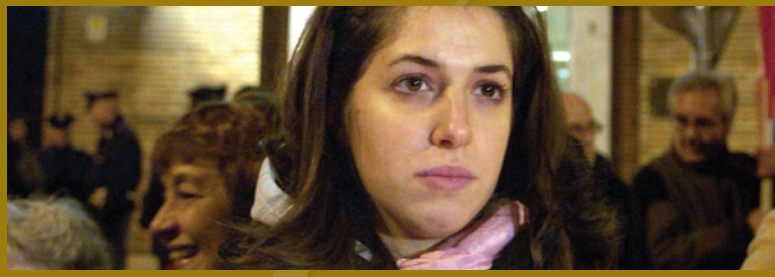
The Other Side of Tolerance

How Homosexual Activism Threatens Liberty



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The Other Side of Tolerance:

How Homosexual Activism Threatens Liberty

BY TIMOTHY J. DAILEY

Picture a country where you could lose your job for expressing moral reservations about homosexuality—or even worse, where the public voicing of such opposition could be a crime. You do not have to imagine such an Orwellian land: it is increasingly becoming a reality in the United States of America.

This has long been the goal of radical gay activists. In the mid-1980s, National Gay Task Force staff members Marshall Kirk and Erastes Pill (Hunter Madsen) described a step-by-step master plan for achieving the full acceptance of homosexuality in American culture. In discussing how to manipulate the media for their aims, the authors write: "At a latter stage of the media campaign for gay rights it will be time to get tough with remaining opponents. To be blunt, they must be vilified … The public must be shown images of ranting homophobes whose secondary traits and beliefs disgust Middle America."[1]

In their book, *After the Ball: How America Will Conquer Its Fear and Hatred of Gays in the '90s*, Kirk and Madsen describe those who persist in their belief that homosexuality is unnatural and morally wrong as "Intransigents" who "feel compelled to adhere rigidly to an authoritarian belief structure (e.g., an orthodox religion) that condemns homo-

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sexuality," and who may be fighting "desperately to suppress their own homosexual proclivities."[2]

During the past two decades the strategy of gay activists to "vilify" those who oppose their lifestyle has met with a troubling degree of success. "The age of "tolerance" and "multiculturalism" increasingly is not seen as applying to one particular group of religious practitioners. Under the guise of "preventing discrimination," Christians and others who hold traditional values are being subjected to blatant prejudice with little regard for the open-mindedness their opponents claim to champion.

Those who have assumed that "gay rights" is about extending basic civil rights to disenfranchised homosexuals are in for a rude awakening. As columnist Ben Shapiro writes, radical homosexuals are "not looking for passive tolerance. They're looking for active acceptance. Now, ignoring homosexuality is no longer allowable; we must instead champion it, equating it with heterosexuality. In fact, homosexuality must be prized over heterosexuality."[3]

R. Albert Mohler, president of the Southern Baptist Theological Seminary, describes how radical homosexual activists seek to demonize those who oppose their agenda: "Those who oppose the normalization of homosexuality have been presented as backwoods, antiquated, and dangerous people, while those advancing the cause are presented as forces for light, progress, and acceptance. Conservative Christians have been presented as proponents of hatred rather than as individuals driven by biblical conviction."[4] These stereotypes have been used to justify denying people basic rights to freedom of speech and of religion.

If this sound too alarmist—something that could never happen in our United States, where freedom and liberty are the cornerstone of our democratic way of life—then please read on. In some of the following cases, the courts and government agencies have protected religious freedom; in other troubling cases, however, activist judges have refused to uphold the right of people of faith to express their beliefs.

Intolerance toward Christians in Public Schools and Universities

Michigan

At Pioneer High School in Ann Arbor, Michigan, a student was forbidden to offer a traditional viewpoint on homosexuality during a panel addressing "Homosexuality and Religion." The one-sided "diversity" program, held in 2002, presented homosexuality as normal and healthy.

Apparently the "separation of church and state" argument—usually invoked to prevent religious expression in public places—did not trouble school officials, who invited only pro-homosexual religious leaders to participate.[5] The student felt she had no other recourse but to bring a lawsuit after her request that the invited panel include a reli-

gious representative who believed that homosexual behavior was immoral was denied.

The school also prevented the student from expressing her views against homosexuality during the "Homosexuality and Religion" panel discussion, claiming that the student's beliefs were a "negative" message that would "water down" the "positive" religious message they wished to convey about homosexuality.[6]

Fortunately, in this case a Michigan court ruled that Pioneer High School violated the establishment clause of the U.S. Constitution by censuring the student for attempting to have a traditional viewpoint represented. The school was ordered to pay more than $100,000 in attorney fees to the Thomas More Law Center, which represented the student. The presiding judge issued a blistering rebuke of Ann Arbor's so-called "diversity" program: "This case presents the ironic, and unfortunate, paradox of a public high school celebrating 'diversity' by refusing to permit the presentation to students of an 'unwelcome' viewpoint on the topic of homosexuality and religion, while actively promoting the competing view."

North Carolina

A student at the University of North Carolina at Chapel Hill was verbally harassed by an instructor for voicing his moral opposition to homosexuality. During a class session about whether heterosexual men felt "threatened" by homosexual men, the student cited the example of "a friend in California who is a Christian and who was propositioned by a gay man. He got a love letter from this man, and he felt dirty and disgusted, not threatened."

Following the class the instructor emailed the class participants in which she railed against the student by name: "I will not tolerate any racist, sexist, and/or heterosexist comments in my class. What we heard Thursday at the end of class constitutes 'hate speech' and is completely unacceptable; it has created a hostile environment. … I will do my best to counter those feelings and protect that space from further violence."

The instructor also appeared to justify the use of bullying tactics against the student, claiming that he had no right to "make violent, heterosexist comments and not feel marked or threatened or vulnerable." Indeed, the verbal attack led to personal threats against the student, and his car was vandalized.

The student appealed the incident to the U.S. Education Department's Office of Civil Rights, which ruled that the student has been illegally subjected to "intentional discrimination and harassment" because he was "a white, heterosexual Christian male" who expressed disapproval of homosexuality.

The Office of Civil Rights ruling stated: "The email message not only subjected the student to intentional discrimination and harassment, but also

discouraged the robust exchange of ideas that is intrinsic to higher education, and is at the very heart of the Constitutional protection of free speech."

Apparently the university did not learn that it must respect the rights of Christians, and sought to shut down a Christian fraternity, Alpha Iota Omega, on the grounds that the fraternity violates the university's anti-discrimination policy by excluding non-Christians and open, practicing homosexuals from membership. The fraternity sued, claiming that the university violated their constitutional rights to free speech, free assembly, and free exercise of religion.

A U.S. District Court issued a preliminary injunction preventing the university from shutting down the fraternity. According to the judge issuing the injunction, it was necessary to put the Christian fraternity "on the same footing as nonreligious organizations which select their members on the basis of commitment."[7]

The *Washington Times* reports that similar efforts have been made to close down Christian student groups at other schools, including Gonzaga University in Spokane, Wash., Pennsylvania State University, the University of Minnesota, the University of Oklahoma, and Southwest Missouri State University.[8]

Christians Denied the Right of Peaceful Protest

Philadelphia

In Philadelphia, a group of Christians was arrested on felony counts for peacefully protesting at a gay pride event. The "Philadelphia 11," ranging in age from 17 to 72, were arrested in October 2004 near the entrance to a homosexual Coming Out Day celebration. According to reports, the group was set upon by gay activists calling themselves "Pink Angels," who physically accosted the protesters.

None of the homosexual activists faced any charges, even though video of the incident shows them acting in a hostile manner towards the peaceful protesters. However, the city was determined to throw the book at the protesters. The counts against the Christian group included "ethnic intimidation" (second-degree felony "hate crime"), "criminal conspiracy" (first-degree felony), "possession of instruments of crime" (first-degree misdemeanor), "reckless endangerment of another person" (second-degree felony), "riot" (third-degree felony), "failure to disperse" (second-degree misdemeanor), "obstructing a highway" (third-degree misdemeanor) and "disorderly conduct" (second-degree misdemeanor).[9]

A federal judge refused to halt the prosecution of the 11 Christians, even when presented with evidence that they had been lawfully and peacefully protesting at the gay pride event. The combined charges could have brought prison sentences of up to 47 years. After viewing a videotape of the incident, a judge in December dismissed charges against six of the defendants, but four adults and one juvenile still faced prosecution. The case dragged on until late February 2005, when a Court of Common Pleas judge put an end to efforts by

the city to prosecute the Christian protesters by dismissing all charges against them.

Lawyers for the arrested Christians called for a federal investigation against the police officers

and the city of Philadelphia, alleging that "the city clearly continued to prosecute the Christians with a vengeance during the hearing with bad faith arguments, further demonstrating that the charges represent nothing more than an abuse of power."[10]

Discrimination in the Workplace

Eastman Kodak

A shocking and disturbing new trend is emerging in corporate America: employees who object to the aggressive tactics by company-sponsored homosexual organizations are paying for their principled stands with their jobs.

In one recent case, an employee at Eastman Kodak was summarily fired for voicing objection to pro-homosexual memos being sent over company email.

In October 2002, a 23-year veteran at Kodak's world headquarters in Rochester, NY, received a memo promoting an event organized by the homosexual activist organization Human Rights Campaign (HRC). The memo instructed employees to observe HRC's 15th annual National Coming Out Day, and assist gay, lesbian, bisexual, and transgendered employees to "feel comfortable in sharing his/her orientation in the workplace" in the following ways:

- Be supportive of the individual who wishes to share this information.
- Acknowledge his/her courage to publicly share this personal information.
- Respect the individual's privacy. Understand how broadly he/she wishes the information to be shared.
- Acknowledge your level of awareness of this topic, and share your personal willingness to understand.

After warning that "anti-gay humor" or "negative comments" violate company policy, the memo concluded with a thinly veiled threat: "Reported violations of this policy are to be thoroughly investigated. If verified, disciplinary action is to be taken."

The employee sent the following succinct reply to the email, which was also copied to all recipients of the email, some 1,000 Kodak employees:

"Please do not send this type of information to me anymore, as I find it disgusting and offensive. Thank you."

Shortly afterwards, another memo was sent to all employees criticizing the employee, stating that "(his) comments are hurtful to our employees, friends and family members who are gay, lesbian, bisexual or transgendered. This behavior is not

aligned with the Kodak Values and, therefore, is not acceptable." The employee was ordered to sign a document admitting he was wrong for holding such opinions, and when he refused, he was fired.

An unnamed message poster to a local radio station stated: "I work in the same division as (the employee). Kodak is constantly trying to cram this diversity/inclusive culture c**p down our throats. We are told by management that all beliefs are welcome. Well, as (he) found out, if your opinions and fundamental beliefs go against the Kodak party line, you will be gone."

The employee is pursuing legal options, including a lawsuit.[11]

AT&T

A Denver-area man was fired by AT&T for refusing to sign a controversial diversity policy that required him to "value" homosexuality. The employee, who had worked for AT&T for two years, was fired in 2001 after refusing to sign a "certificate of understanding" included in a new employee handbook issued in January 2001. The handbook stated that "each person at AT&T Broadband is charged with the responsibility to fully recognize, respect and value the differences among all of us," including sexual orientation.

The employee said that while he was willing to pledge not to discriminate or harass anyone, his religious beliefs prevented him from "valuing" behavior that he considers to be immoral. He said that "AT&T should be able to expect certain behavior from people but not force their beliefs on people."

Fortunately in this case, the U.S. District Court for the District of Colorado awarded the employee $146,000 for lost salary, benefits, and compensation for emotional distress. The presiding judge found that although there was no direct religious discrimination against the employee, AT&T Broadband failed to show it could not have accommodated his beliefs "without undue hardship" to the company.

John W. Whitehead, president of the Rutherford Institute, which represented the employee, applauded the ruling: "This issue is about more than an objection to homosexuality. It concerns the freedom of conscience—the right of individuals to object to something they believe is wrong, especially when it contradicts their religious beliefs, whether it is war, abortion, homosexuality, or a number of other issues."[12]

Hewlett-Packard

A Christian employee lost his job at Hewlett-Packard for posting Bible quotes critical of homosexuality on his desk. The employee displayed the verses in response to a company sponsored "Diversity is Our Strength" campaign that featured homosexual employees.

HP claimed that the employee was fired for "insubordination" after refusing to remove the quotes when managers determined they were offensive. The employee's attorney said that no one complained about the posted Bible verses, nor did his client confront any co-workers in a hostile manner.

The San Francisco-based U.S. Court of Appeals for the 9th Circuit has ruled that Hewlett Packard was justified in firing the employee. In its ruling, the court stated that HP "need not accept the burdens that would result from allowing actions that demean or degrade, or are designed to demean or degrade, members of its work force."[13] The court apparently agreed with HP in putting the business interests of the company above the First Amendment rights of its employees by agreeing that the company would have been put under "undue hardship" to accommodate the religious beliefs of the employee.[14]

Lawyers for the employee said they will petition the U.S. Supreme Court to add the case to the high court's growing docket of religious freedom cases.

City of Oakland, California

The city of Oakland has taken punitive actions against two employees of the city who advertised a meeting of a pro-traditional marriage and family group on a bulletin board used to promote a variety of political and sexually oriented causes.

A federal court ruled that the City of Oakland had a right to bar the employees from posting a flyer that read:

"Good News Employee Association is a forum for people of Faith to express their views on the contemporary issues of the day, with respect for the Natural Family, Marriage, and Family Values."

Despite the positive, pro-family, and seemingly innocuous nature of the flyer, it was removed the same day and the employees were reprimanded for "inappropriately posting materials" which "contained statements of a homophobic nature and were determined to promote sexual orientation-based harassment" in violation of the city's anti-discrimination policy. The state of California and many local jurisdictions have anti-discrimination policies that include sexual orientation as a protected category.

The employee's suit contended that the city took unjust action against the employees "because they did not approve of the Christian beliefs, practices and activities of plaintiffs." Unless the court grants redress, the city will "continue to engage in discriminatory behavior that persecutes, silences, and segregates Christian employees."[15]

However, the court dismissed the suit, ruling that the employees did not have their First Amendment right violated. Lawyers vowed to appeal to the Supreme Court, if necessary: "This case sets a horrible precedent that suggests that the only thoughts and words allowed in a public workplace are those that support the homosexual agenda. The city of Oakland has interpreted this ruling to mean that Christianity has no place in our society and should be subject to punishment."[16]

Discrimination Against Those Who Oppose Same-Sex Marriage

North Truro, Mass., Board of Fire Engineers

A long-time volunteer fireman in North Truro, Mass., was dismissed from his position on the Board of Fire Engineers after signing a petition in favor of putting a traditional marriage amendment on the ballot in Massachusetts. Because the petitions are a matter of public record, pro-homosexual groups have resorted to the tactic of posting online the names of every citizen who has signed—in order to invite retaliation against them. Leo "Skip" Childs was up for reappointment to the Board when an openly-homosexual selectman, Paul

Asher-Best, accused him of harboring discrimination because he had signed the marriage amendment petition.

"Recent action you took, Mr. Childs, indicates to me that you think that gay people are less than fully human," railed Asher-Best at the meeting. Skip attempted to diffuse the situation, explaining that his concern was that a "special interest group with a strong lobby would be able to influence a judge" and thus circumvent the will of the populace. That only infuriated Asher-Best more, who according to one report, "went ballistic."

When the town council approved a new Board of Fire Engineers, Skip Childs had been replaced by another candidate. After nearly a decade spent volunteering in ambulances and repairing fire trucks, Skip had been publicly humiliated as a "bigot" for exercising his constitutional right to petition the government.

Catholic Charities Barred from Offering Adoption Services

Since 1987 Catholic Charities in Massachusetts has managed over 700 adoptions, many involving older children and children with special needs. However, both the Department of Early Education and Care and the Department of Social Services in Massachusetts have regulations forbidding granting licenses to contractors who "discriminate" on the basis of sexual orientation.

The Catholic Church, on the basis of its belief that homosexual practice is sinful, was refused a license because it could not in good conscience place children in homosexual households. Governor Mitt Romney, while opposed to homosexual marriage and sympathetic to Catholic Charities, stated that the issue should be resolved by the legislature, which declined to offer an exemption from the antidiscrimination policies. With no governmental support in this historically Catholic state, the adoption agency has been forced to close its doors.

Catholic Charities received about $1 million out of a $38 million dollar budget from the state of Massachusetts. As noted by John Garvey, dean of Boston College Law School, in the *Boston Globe*, the reason Catholic Charities contracted with the government of Massachusetts "was not to get an additional 3 percent in its budget, but so that it could help with the special-needs adoptions that comprised 80 percent of its caseload. It was not about the money; it was about the Gospel."[17]

As a result of extremist pro-homosexual policies, some needy children in Massachusetts may lose the opportunity to be placed in a traditional home with an adoptive mother and father that they need and deserve.

Florida Marriage Petition Supporters Harassed by Police

In what has been called a "stunning display of unprofessional conduct," police officers in Sunrise, Florida approached pro-family activists at a Promise Keepers gathering and ordered them to

stop collecting signatures to put a traditional marriage amendment to the state constitution on the November 2008 ballot. The police officers attempted to remove the petitions from public view, disregarding the fact that Promise Keepers had approved the petition effort by the Florida Family Policy Council, which had paid the required fee to have a booth at the event.

The officers ignored questions about what law or ordinance was being violated, and instead lectured the petition volunteers about what Jesus taught about homosexuality, telling those gathered that the petition effort was a waste of time. In a shocking display of contempt towards the pro-family activists, one of the police officers mockingly kissed another officer on the cheek.

According to the Florida Family Policy Council, in the ensuing confrontation the officer in charge "continued to interrupt with abusive and irrelevant personal remarks," and even threatened those present with arrest if the petitions were not removed from the table.

The incident ended when an official with the Bank Atlantic Center arrived and informed the officers that Florida Family Policy Council had permission to circulate the petitions, and that no rules or laws had been violated. The officers then left the scene.

John Stemberger, President and General Council for the Florida Family Policy Council, stated that he had never before seen such "unprofessional and bizarre" behavior on the part of the lead police officer, who he said was "trying to bully law-abiding citizens."[18]

Will Homosexual Rights Trump Religious Liberty?

In December, 2005, the Becket Fund for Religious Liberty brought together ten religious liberty scholars to discuss the impact of gay "marriage" on the freedom of religion. The scholars were unanimous in their belief that a legal conflict over this issue was all but inevitable—and the conference brought little comfort to the supporters of traditional marriage.

Georgetown University Law Professor Chai Feldblum, a prominent expert on gay civil rights, was asked by marriage expert Maggie Gallagher about what she thought should be the outcome in a conflict between gay "marriage" and religious liberty. As Gallagher relates, "And yet when push comes to shove, when religious liberty and sexual liberty conflict, [Feldblum] admits, 'I'm having a hard time coming up with any case in which religious liberty should win.'"[19] Let those words be a wake-up call for all those who cherish their First Amendment right to practice their religious beliefs—including their religiously-based moral convictions about God's will concerning the nature of marriage and human sexuality.

Legal Assistance

Many Christians mistakenly believe that they should not stand up for their constitutional rights. However, the Apostle Paul spoke up for his rights as a Roman citizen. When he was wrongly imprisoned at Philippi in Asia Minor, he did not hesitate to inform the civil authorities of his legal rights as a Roman citizen and to demand redress (Acts 16:37-39). Later, when arrested in Judea, he exercised his legal right to appeal to Caesar in Rome (Acts 22:25-29). Christians who feel that their right of religious freedom and expression under the Constitution has been denied should likewise seek redress. By doing so, you may also help to protect others who are facing or will face similar situations by establishing legal precedent for the protection of such rights.

The Family Research Council does not become directly involved in litigation. The following legal aid organizations may offer information, advice, or assistance to those who have experienced discrimination in the workplace, in the classroom, or elsewhere.

Alliance Defense Fund, Inc.

The nation's largest public interest legal alliance that serves, funds and trains attorneys to defend, protect and reclaim religious freedom, traditional family values and sanctity of life.

(800) 835-5233

American Center for Law and Justice (ACLJ)

ACLJ specializes in constitutional law and is based in Washington, D.C. Through its work in the courts and the legislative arena, the ACLJ is dedicated to protecting religious and constitutional freedoms.

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www.aclj.org

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A national grassroots network of lawyers and law students committed to proclaiming, loving and serving Jesus Christ, through all we do and say in the practice of law, and advocating biblical conflict reconciliation, public justice, religious freedom and the sanctity of human life.

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Christian Legal Fellowship (CLF)

CLF is a registered Canadian charity and association in excess of 350 members, including lawyers, law students, professors, judges, and friends interested in legal affairs in Canada.

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The Rutherford Institute

A non-profit conservative legal organization dedicated to the defense of civil, especially religious, liberties and human rights.

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The Thomas More Law Center

A not-for-profit public interest law firm dedicated to the defense and promotion of the religious freedom of Christians, time-honored family values, and the sanctity of human life.

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Ann Arbor, MI 48106
(734) 827-2001
info@thomasmore.org

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