

Why Do LGBT Rights Outweigh Our Religious Rights?

As America becomes more secular, religious liberty is facing ever harsher attacks. Opponents have, what they feel, are reasonable objections to that liberty, some going so far as to say religious liberty does damage and leads to discrimination.

This has led people like constitutional law professor Michael Paulsen of Minneapolis' St. Thomas University to study those objections and then answer them one by one. He's even trying to reach way out beyond his law classes to spread his message that there's a strong defense for religious rights.

Before a crowd at Washington, D.C.'s Family Research Council, he explained that, when America became a constitutional republic, most of its founders had a strong belief in God and a sacred sense about people's religious rights. That's why it makes so much sense for them to protect religion with the First Amendment.

God's Commands Beat Government's Demands

"Religious liberty is our collective sense or intuition that, if God exists and makes commands on people, those commands really are more important than what the state requires," Paulsen told the FRC audience.

But he worries that, in an increasingly secular society, that sense is decaying. "It's kind of a lost perspective in the modern era," he said.

Paulsen's concerned about a growing hostility to people practicing their faith in areas like their businesses. There are those with objections to religious liberty who actually fear what such unfettered liberty in the hands of business-owners might do to harm others.

He said of such objectors who look down their nose at religion, "You sort of shed the idea that religious liberty is generally a good thing, and it becomes a view that religion is an affirmatively harmful thing. And protecting what you don't think corresponds to any objective truth is kind of like protecting kookiness."

If You Believe Religion Is a Delusion

"Imagine if there were a constitutional right that afforded special status for delusional people, which is the way that many secularists view religion," he continued. "You would not want to protect delusions of delusional people very strongly, and you would find that just about anything that the state or society imposes as its rule should prevail over religious truth."

It's why, these days, those who believe in same-sex marriage and gay rights are going after cake-bakers and florists and photographers who don't want to serve gay weddings. These gay rights supporters find biblical objections outdated or ludicrous and think actions like refusing to serve same-sex weddings should be forbidden because they see them as active discrimination.

But Paulsen pointed out, "You can, as a cake maker, decline to make a Ku Klux Klan cake or a Nazi cake or an anti-Muslim cake."

Same-Sex Marriage Ruling a Turning Point

The thing is, the U.S. Supreme Court with the 2015 *Obergefell vs. Hedges* 5-to-4 ruling has now made same-sex marriage a constitutional right.

"By making it a constitutional right, the Supreme Court has given fuel to the forces who wish to override the claims of religious conscience," Paulsen told CBN News. "Most Christians, I think, share a variety of views that entail

empathy for the neighbor and are not hostile to homosexuals themselves. Nonetheless, there are very many who would wish to preserve the ability to act in accordance with what they think are scriptural commands, not to affirm propositions with which they disagree.”

But now the law may force compliance, leading Paulsen to say, “The most important and dangerous aspect of Obergefell is its threat to religious liberty.”

Still, the law professor pointed out that those insisting religious believers are wrong to oppose activities like abortion or same-sex marriage face a huge barrier.

“An Objection to the Constitution Itself”

Paulsen stated, “It is the view of some that religious liberty should not be protected and that every exercise of religious liberty basically is an impairment of the rights of others.”

“Now if you take that argument seriously, you never protect religious liberty,” he said. “But it’s basically an objection to the Constitution itself. The Constitution protects religious liberty and protects it in a special way.”

One thing about America’s federal system is that federal law trumps state or local statutes. Paulsen believes that should be true, even when it comes to state laws against some discrimination.

“The Constitution prevails over statutes. If there’s a constitutional right weighed against a statutory assertion, you’re basically weighing the constitutional freedom of religion against a claim of government power to enforce civil rights laws,” Paulsen explained.

“I think that as a matter of starting points as first principles, you should say, ‘Wait a minute. We don’t start with civil rights laws and say, well, can we really justify a

religious exemption from it?’ I think we start with the First Amendment free exercise right,” he said.

Faith Is Not Irrational

As society becomes more secular, Paulsen suggests believers will have to learn to defend their faith in a way that makes logical sense to others.

“It is not irrational for people to believe in a Creator God,” he explained. “And I think it is important in defending and explaining religious freedom to be able to explain the premises that underlie religious faith in a way that’s coherent to people who have competing philosophical systems.”

It’s why he’s out there defending it himself in an era where such liberty may soon be threatened like never before in America. He’s also written about it extensively in the article, “The Priority of God (a Theory of Religious Liberty).”

“Christians have lived in secular and oppressive ages throughout all history. America is probably one of the least bad places for that. We enjoy these tremendous constitutional freedoms, and they’re protected by a very strong social structure,” Paulsen told CBN News.

But he warned, “Nonetheless, It is obviously true that the more society becomes secularized, the less strongly it will value and protect religious liberty. And I’d like to keep religious liberty strong for all Christians, Muslims, Jews and all religious believers of good faith.” {eo}

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