

Church & State

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## First freedom fraud: Bush administration's religious liberty project draws fire from civil liberties and civil rights leaders.

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U.S. Attorney General Alberto Gonzales sounded an earnest note when championing religious freedom with a friendly audience in Nashville, Tenn.

On Feb. 20, Gonzales unveiled a "First Freedom Project" before a Southern Baptist Convention executive committee meeting as an aggressive effort by the Bush administration to ensure religious liberties for all Americans.

"Nothing," said Gonzales, "defines us more as a nation--and differentiates us more from the extremists who are our enemies--than our respect for religious freedom.... So I would like to talk with you today about what the Department of Justice has done to protect religious freedom and religious liberty, and what we will be doing in the future."

But Gonzales' claims that the Department of Justice (DOJ) is dedicated to protecting religious freedom ring hollow when looked at in context of the administration's record on church-state issues.

Americans United for Separation of Church and State, as well as other public interest groups, noted that the Bush administration, in reality, has proved a stubborn backer of the Religious Right agenda. Regardless of its claims to the contrary, the DOJ has shown more concern for dismantling the wall of separation between church and state than protecting the First Amendment.

"Expecting the Bush administration to defend religious liberty is a little like asking Col. Sanders to babysit your pet chicken," suggested Americans United Executive Director Barry W. Lynn. "This administration has repeatedly worked to destroy true religious freedom by merging church and state."

The Rev. Welton Gaddy, head of the Interfaith Alliance, agreed, calling the Justice Department's religion initiative "hypocritical."

"No administration in our history," said Gaddy, "has trampled the First Amendment more than the Bush administration,"

As a part of the DOJ initiative, Gonzales announced plans to create a department-wide task force on religious liberty law enforcement, hold a series of regional training seminars, launch a new Web site ([www.firstfreedom.gov](http://www.firstfreedom.gov)) and distribute informational literature to religious and other groups about filing religious liberty complaints.

Gonzales also released a "Report on Enforcement of Laws Protecting Religious Freedom." The 43-page document, according to its critics, reveals the administration's cramped views.

For example, the DOJ report notes that federal law prohibits both public and private employers from discriminating against employees based on their religious beliefs.

During his speech before the Baptist leaders, Gonzales pointed out that his department is "charged under the Civil Rights Act to protect against discrimination in public and private employment."

Gonzales continued, "Included in this, of course, is the requirement that employers make an effort to accommodate the religious practices of their employees. And it also embraces the premise that people deserve to be hired or not hired based on their qualifications, not on their faith."

The DOJ report, however, trumpets the Civil Rights Division's defense of the Salvation Army's supposed right to take taxpayers' money to run public social services and still fire staff people who do not agree with its fundamentalist dogma.

In 2004, several former employees of the Salvation Army's Social Service for Children division sued the religious organization charging that they were forced out of their publicly funded social service jobs after they disagreed with the organization's religious policies, including requirements to divulge their faith. The lawsuit argued that the Salvation Army's employment practice created a religiously hostile environment for many employees and resulted in the unlawful firings of several professional employees.

The DOJ jumped right into the action, on the side of the Salvation Army's alleged right to discriminate. The department filed a brief in *Lown v. Salvation Army* with the federal court arguing that the Army should be allowed to "preserve its character and identity as a religious organization through its personnel practices." The Los Angeles Times reported that the Justice Department dismissed the former employees' discrimination claims against the Salvation Army as "irrelevant."

Lynn noted the apparent discrepancy in this action and the DOJ's claim to oppose discrimination.

"Thanks to the Justice Department, the Salvation Army could literally place newspaper ads reading, 'Help Wanted for Government-Funded Jobs: No Jews, Buddhists, Muslims, Liberal Christians, Atheists Or Gays Need Apply,' and this would be perfectly acceptable to Gonzales," said Lynn. "This is a perverse way of supposedly defending our religious freedom rights."

In his Nashville address, Gonzales praised the "good works" of the Southern Baptist Convention (SBC) and said it was "a pleasure for me to be here with you, among men and women of faith, who are guided by Scripture, as it says: 'Let your light shine before others, so that they may see your good works and give glory to your Father who is in heaven.'"

He also asked the SBC leaders to help the Justice Department "spread the word" about the First Freedom Project.

Gonzales introduced the SBC audience to Eric Treene, an attorney who was named DOJ Special Counsel for Religious Discrimination in 2002. Gonzales said Treene is the point person for the First Freedom Project.

Before joining the administration, Treene was a lead attorney for the Becket Fund, a right-wing legal outfit that seeks to undercut church-state separation.

Gonzales and the department's report attempt to play up the instances where minority faiths were defended, such as the situation involving a Muslim student who was suspended from an Oklahoma public school for refusing to remove her headscarf. But critics say most of the DOJ's work has come on behalf of the majority faith.

In a 2005 interview with National Public Radio (NPR), Lynn said that the religious garb case was not representative of those Treene was pursuing.

"The great majority of cases do not involve Muslims or Hindus or Zoroastrians or Scientologists," Lynn said in the NPR segment on Treene's endeavors. "They involve fundamentalist Christians trying to

promote a radical agenda, now with the backing--and taxpayer-funded backing--of the Department of Justice."

More illustrative of the department's work in the area of religious liberty are the cases where Christians are complaining of religious discrimination. Although the DOJ's Civil Rights Division is likely best remembered for its work in combating racial segregation late last century, it now appears increasingly interested in far less weighty matters.

For example, the report notes that the department intervened in a New Jersey dispute over an elementary school student's request to sing a Christian song at an after-school talent show, demanded that a student Christian club at a Florida community college be allowed to screen Mel Gibson's "The Passion of the Christ" on campus and insisted that a Massachusetts public school allow students to distribute candy canes wrapped with Christian religious messages.

All of these actions occurred, critics note, while the administration is struggling with saving a failing War in Iraq and a floundering war against terrorism.

Another incident that riled Treene's unit occurred at Texas Tech University where a biology professor based recommendations for medical school partly on students' understanding and acceptance of evolution.

A fundamentalist student objected, and the Civil Rights Division opened an investigation. The professor was forced to promise only to ask students to explain evolution.

And for all the Civil Rights Division's talk of concern over protecting religious groups from discrimination, the department last year asked the U.S. Supreme Court to allow the government to prosecute a small religious group in New Mexico that uses a hallucinogenic tea in its services.

The high court turned away the administration's arguments, siding with the religious group's free exercise in *Gonzales v. O Centro Espirita Beneficente Uniao Do Vegetal*.

Under Treene's leadership, the religious unit of the Civil Rights Division has also promoted the use of tax dollars to pay for religious schooling. The department weighed in on Florida's ongoing battle over a statewide school voucher program.

An administration friend-of-the-court brief in *Holmes v. Bush* urged the Florida Supreme Court to uphold public funding of religious and other private schools. The federal government claimed that prohibiting the religious school aid would somehow violate the U.S. Constitution, a claim the U.S. Supreme Court has never endorsed.

A broad range of civil rights, civil liberties and religious leaders have questioned the Bush administration initiative.

The Rev. Bob Edgar, head of the National Council of the Churches of Christ, commended the DOJ's interest in religious liberty, but expressed concern over Gonzales' decision to promote the event only with the Southern Baptist Convention.

Edgar found it "unsettling that only one single denomination, representing a fraction of the rich diversity of religious life of America, was selected to receive the attorney general's personal presentation."

"No group enjoys religious freedom," he said, "if any group is denied equal treatment under the law or the appearance of such equality."

When Gonzales announced the First Freedom Project, public interest groups also raised concerns that the Civil Rights Division was straying from its longtime work of ending racial discrimination.

"There is still a big problem with racial discrimination issues, gender discrimination issues, and there is a belief that the resources that should normally be used to look at those kinds of issues are being diverted elsewhere," Hilary Shelton, the Washington director of the National Association for the Advancement of Colored People, told Forward, the prominent Jewish daily.

Others have made similar points in the past.

In 2005, Marc Stern, co-director of the Commission on Law and Social Action of the American Jewish Congress, told the Los Angeles Times that he did not see the need for the department's stepped-up efforts.

"This is not the equivalent of the Southern resistance to the black vote that you need to have the Justice Department pursuing it," Stern told the newspaper. "The litigation [in church-state areas] goes very nicely without the United States government intervening."

U.S. Sen. Patrick Leahy (D-Vt.), head of the Senate Judiciary Committee, told Forward that his committee plans to monitor the DOJ's actions.

"Sadly, in recent years, I have grown more concerned about the division's abysmal record of enforcing core civil rights protections for minorities," said Leahy. "We have asked the attorney general and assistant attorney general for civil rights questions about the Department's enforcement of these laws, but have yet to receive the satisfactory answers we need to conduct our constitutionally mandated oversight role."

Aaron Schuham, Americans United's director of legislative affairs, says AU is urging senators to engage in aggressive oversight of the DOJ's handling of religious liberty cases.

In contrast to the concerns expressed by civil rights and civil liberties advocates, Religious Right leaders were enthusiastic.

The Religion News Service reported that the Union of Orthodox Jewish Congregations applauded the move, and the Family Research Council, the Alliance Defense Fund and other powerful Religious Right groups voiced strong support for the Gonzales program.

Richard Land, head of the SBC's Ethics & Religious Liberty Commission, lauded Gonzales' project, saying that, "When individuals find themselves in a confrontation concerning their free exercise rights, it helps to have the attorney general and the Department of Justice on your side."

Gonzales gave an exclusive interview to TV preacher Pat Robertson's "700 Club" to talk about the project.

Although Robertson questioned the administration's support for Muslims' religious liberty rights, he praised Gonzales. "I think he's an excellent attorney general, Robertson said. "I think he's hewing a conservative line, and he's representing the president very well."

The reaction was telling to administration critics.

"Religious liberty is for everyone," AU's Lynn said, "but it seems clear this new initiative has more to do with keeping the administration's Religious Right allies happy than advancing a great constitutional principle."