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Summary

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Forcing people to be good

by Michael Barton, Ph.D.

Proponents of new and more extensive laws against discrimination seem to lack the courage of their convictions. They want to ban only certain kinds of decisions based on racial or other characteristics but not others. While there is no shortage of lofty sentiments expressed by those advocating enforceable civil rights for every group imaginable, these same advocates are strangely reluctant to apply their legal remedies broadly to Oregonians and American society generally.

Anti-discrimination legislation is in the news lately as Oregon lawmakers maneuver around a proposal to forbid certain decisions from being made on the basis of sexual orientation. This is just the latest in a long series of proposals, mostly successful, to control decisions Oregonians make that might not conform to the ethics of the legislators.

This past November the Beaverton City Council passed an ordinance to ban discrimination based on sexual orientation or gender identity. In 2001 the City of Portland adopted a similar ordinance, which stated:

“It is the policy of the City of Portland to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income. Such discrimination poses a threat to the health, safety and general welfare of the citizens of Portland and menaces the institutions and foundation of our community.”

This ordinance, like that in Beaverton and the statewide law proposed in Salem, applies to employment, housing and “public accommodation,” but creates exceptions for rooms rented within a home or for dwellings with two or fewer living units where one is occupied by the owner. It also exempts facilities used primarily for religious purposes.

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If discrimination is a public evil, as described by the proponents of these laws and ordinances, and if forbidding such discrimination is the proper response, why should there be exceptions? If legal action can cure this evil why not cure it in religious facilities? If it is wrong for an individual to rent her three apartments only to people who are white or heterosexual (or young or German), why can she rent the guest room in her house to anyone and for any reason she wishes?

In fact, why stop at employment, housing and public accommodation? In a census study from the year 2000, of nearly 47 millions married couples where both the husband and wife were identified as either white or black, over 99 percent involved a white married to a white or a black married to a black. Here is blatant discrimination that is being ignored by our public officials.

A similar discrepancy exists in the gender preferences of our citizens where a solid majority of people favor romantic partners of the opposite sex. Clearly this must be stopped! An ordinance allowing rejected romantic partners to sue based on racial or gender discrimination seems just the ticket.

Are these last two examples just silly? Perhaps, but follow the reasoning of the proponents of civil rights laws to its logical conclusion. First identify a behavior you consider immoral (e.g. racial discrimination); then pass a law forbidding that behavior. Or the other side of that coin, as with the Americans with Disabilities Act, is to identify “good” behavior (in this case accommodating those with disabilities) and mandate it.

Making judgments about a person based on the irrelevant fact of skin color is evil. And it is wrong to reject the best candidate for a job or an apartment based on irrelevant factors such as sexual orientation. But the appropriate response to a moral evil is a moral judgment, not a legal ban. Decent people condemn and shun racists just as they avoid liars and others who behave dishonorably.

In a free society governments exist to protect individual rights. But while people have the right to pursue a job or housing or a romantic partner, no one has the right to a specific job, house or partner and no rights are violated when people express their preferences in these areas. Voluntary relationships should be left to individuals, not regulated through force by the government.

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