

R Rutgers Law School
Prof. Anibal Rosario Lebrón
March 20, 2025

THE COMORBIDITIES OF SSOIGIE
EQUALITY: A CRISIS LENS TO
UNDERSTANDING ITS FUTURE

NKU
CHASE LAW

OBERGEFELL V. HODGES

10 Years Later

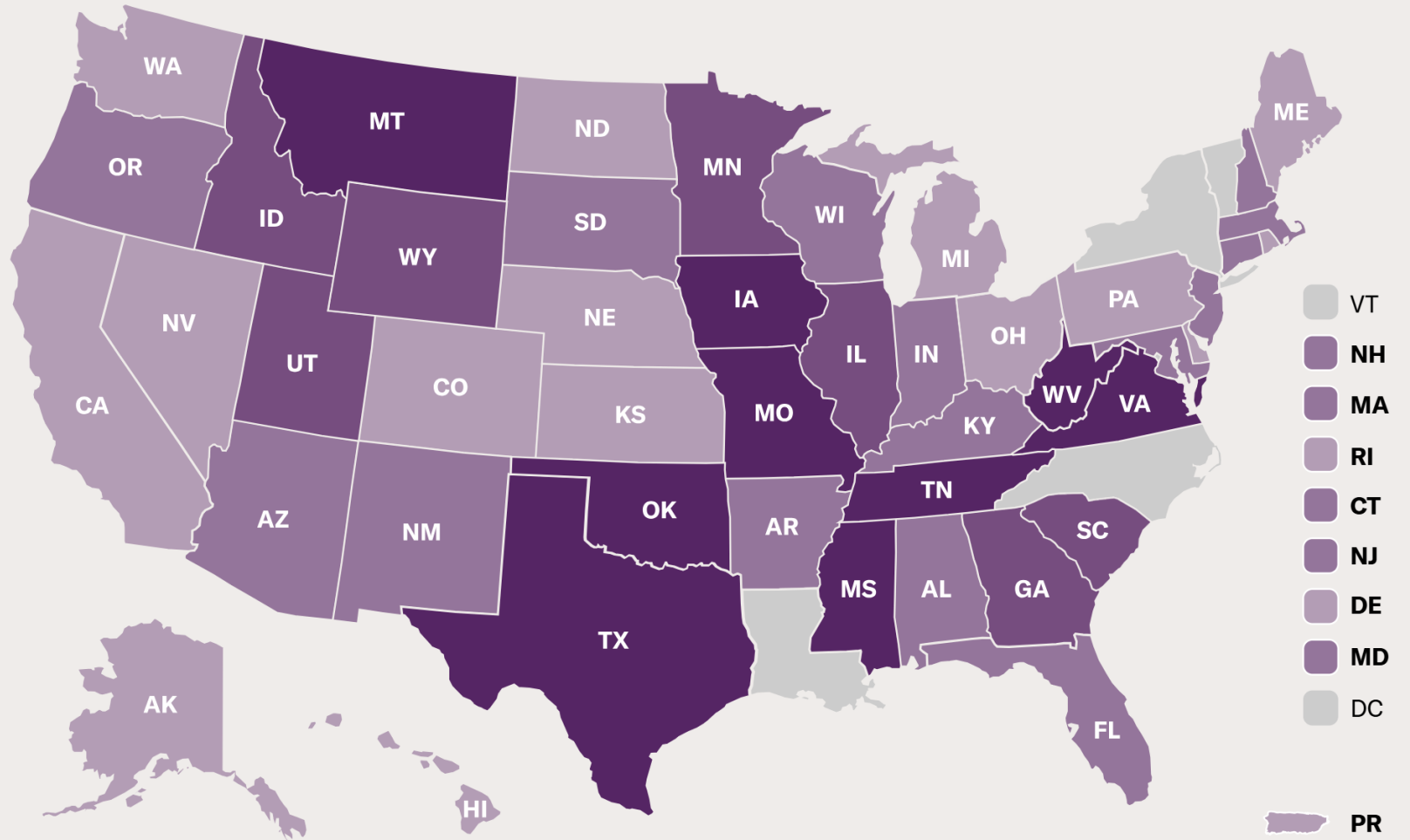
▼ 2025 Legislative Session

The ACLU is tracking **527** anti-LGBTQ bills in the U.S.

Choose a state on the map to show the different bills targeting LGBTQ Rights and take action. While not all of these bills will become law, they all cause harm for LGBTQ people.

Last updated on March 14, 2025 ⓘ

Bills per state





Donald J. Trump

@realDonaldTrump

[washingtontimes.com/news/2025/...](https://www.washingtontimes.com/news/2025/...)



www.washingtontimes.com

Army recruitment ads look quite different under Trump

President Trump and Secretary of Defense Pete Hegseth are accomplishing what often takes years in a matter of weeks.



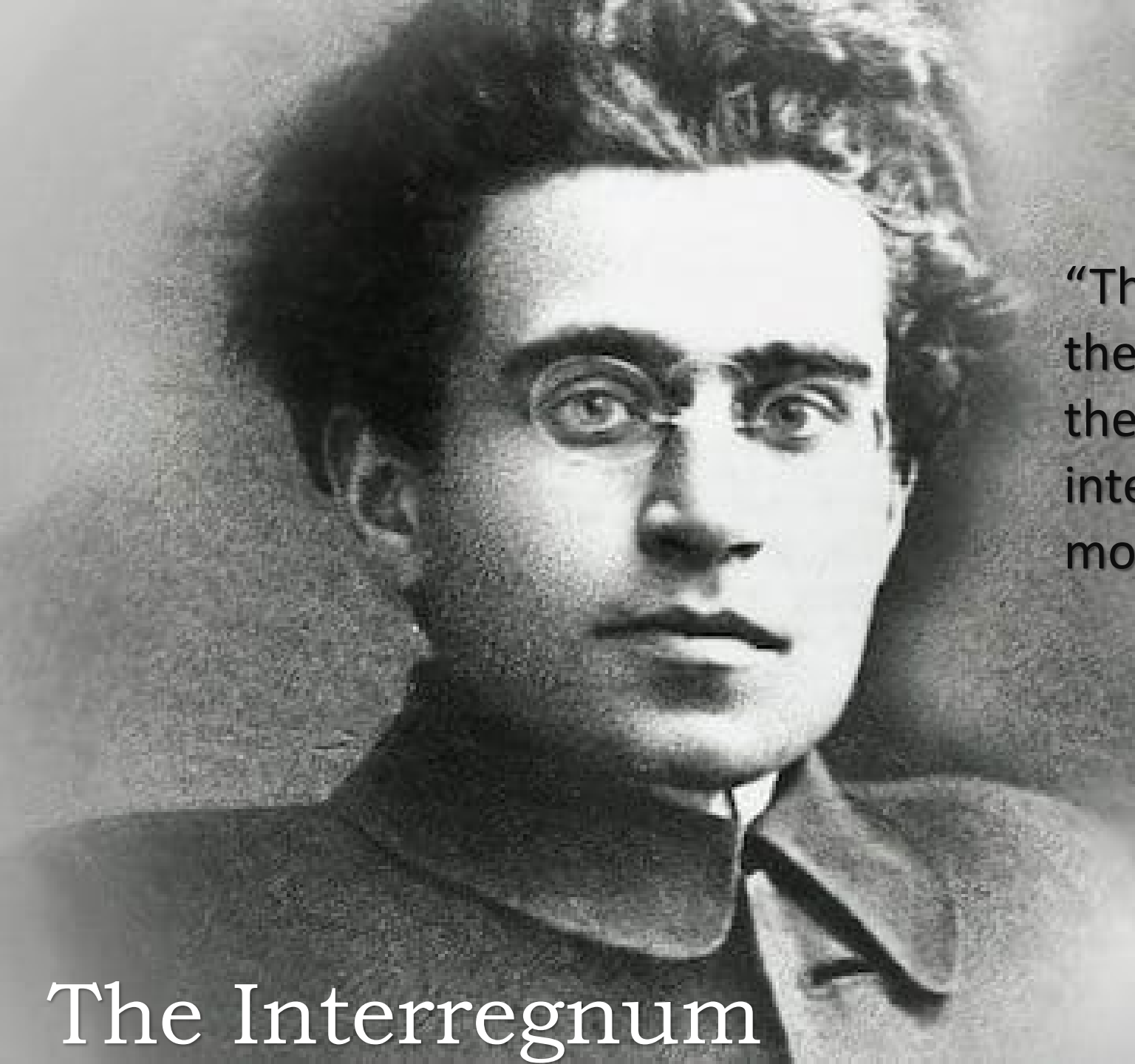


Physical
Force

Hegemony



The Interregnum



“The crisis consists precisely in the fact that the old is dying and the new cannot be born; in this interregnum a great variety of morbid symptoms appear.”

The Interregnum

The Interregnum



latent

explicit

*conjunc-
tural*

organic



Physical

- Augmenting Police Power while Subverting Democratic Values to Oppose Counter-Hegemonic Views

Physical & Hegemony

- Intellectual Mediation to Maintain/Undermine Power Systems

Hegemony

- Concealment of the reinforcement of hegemonic discourses under an acceptable worldview for Counter-Hegemonic Groups



Increase
Criminalization



Defunding SSOIGIE
Equality Initiatives



History Erasure



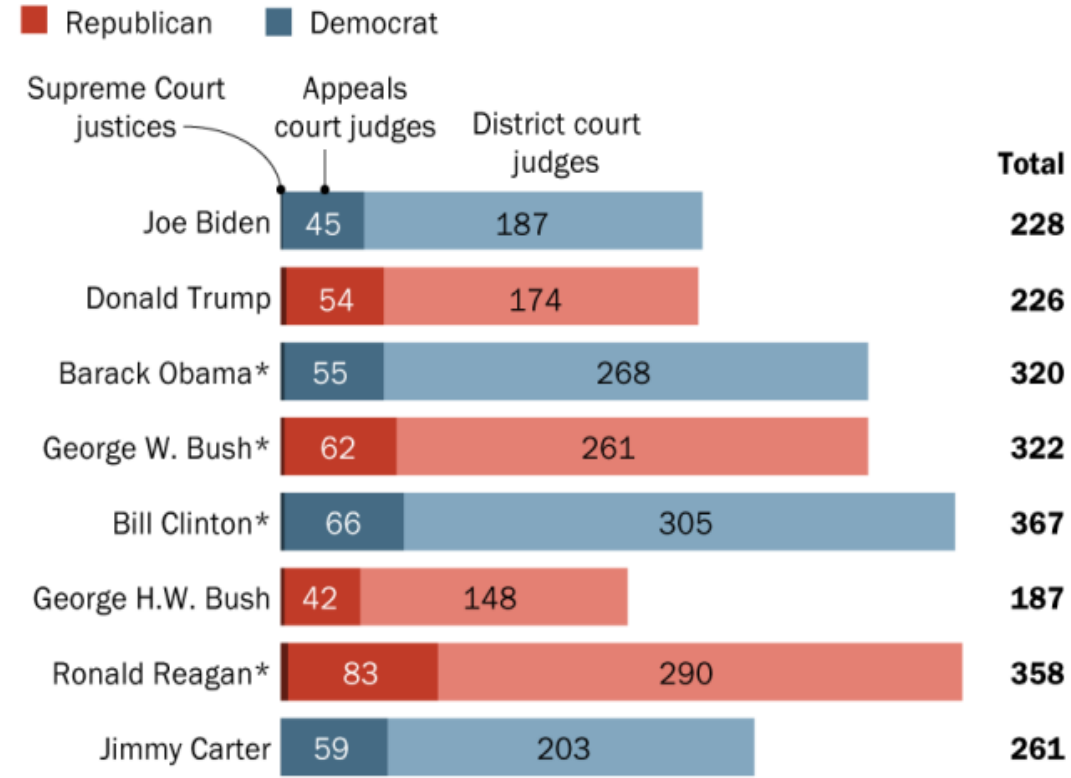
Multiplied Control
over Courts



Policing Using
Private Citizens

Biden appointed more federal judges than Trump overall but fewer at highest levels of judiciary

Federal judges appointed by each president



* Served two terms.

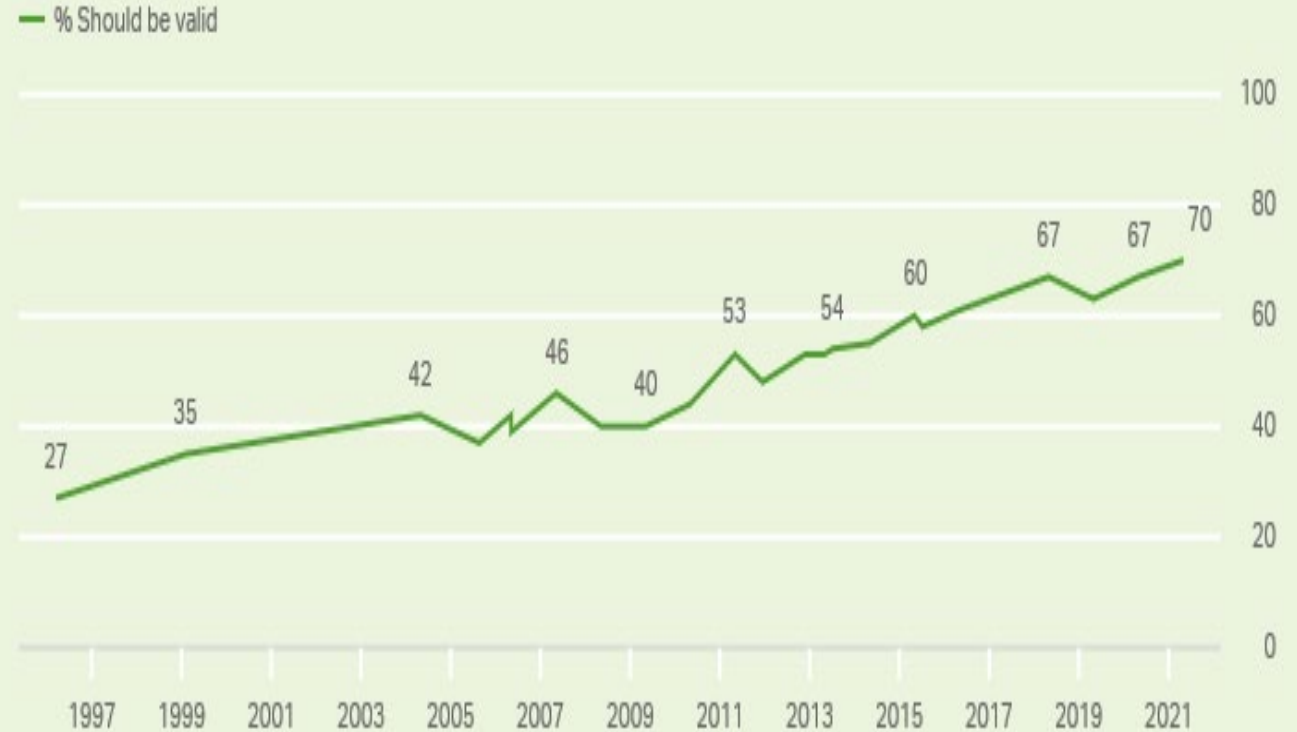
Note: Excludes judges confirmed to certain specialized or territorial courts. Judges confirmed to multiple positions, such as those first appointed to a district court and later elevated to an appeals court, are counted separately for each position, but only once in each president's total.

Source: Pew Research Center analysis of Federal Judicial Center data.

PEW RESEARCH CENTER

U.S. Support for Same-Sex Marriage, 1996-2021

Do you think marriages between same-sex couples should or should not be recognized by the law as valid, with the same rights as traditional marriages?



GALLUP

SUPREME COURT OF THE UNITED STATES

No. 19-1392

DOBBS, STATE HEALTH OFFICER OF MISSISSIPPI DEPARTMENT OF HEALTH, ET AL. PETITIONERS v. JACKSON WOMEN'S HEALTH ORGANIZATION, ET AL.

For the first 185 years after the adoption of the Constitution, each State was left to address this issue in accordance with the views of its citizens. Then, in 1973, this Court decided *Roe v. Wade*, 410 U.S. 113. Even though the Constitution makes no mention of abortion, the Court held that it confers a broad right to obtain one. It did not claim that American law or the common law had ever recognized

Abortion presents a profound question. Americans hold sharply conflicting views. Some believe that a human person is created at fertilization and that abortion is the destruction of a human life. Others strongly believe in a woman's right to control her own body and to achieve her goals. The Court has previously held that the Constitution protects the right to privacy, and that the right to privacy includes the right to decide whether to abort.

...creating," at eight weeks. The Court found that the State's interest in potential life begins at fertilization and that the State's interest in potential life is compelling at eight weeks. The Court found that the State's interest in potential life is compelling at eight weeks. The Court found that the State's interest in potential life is compelling at eight weeks. The Court found that the State's interest in potential life is compelling at eight weeks.





Adoption of Minorities' Litigation Strategies



Adoption of Minorities' Constitutional Frameworks



Weaponizing Civil Liberties



Seeking Greater State Independence While Subverting That Independence By Imposing Federal Standards Of Civil Rights



Retreating from Litigation

15

Supreme Court Victories

80%

Win Rate

2,700+

Allied Attorneys

4,500+

Network Attorneys

Featured Article



Recent Articles



January 17th, 2024

[ADF Assists Idaho AG to Defend State's Life-Affirming Law at Supreme Court](#)



January 24th, 2024

[New Jersey, the Latest State to Harass Pro-Life Pregnancy Centers](#)



Depiction as Nascent Minorities



Reshaping of Bigotry & Misogyny Narratives



Temporary Embrace of Outcomes in Favor of Minorities



Minorities Accepting the Majority's Narrative



Re-Appropriation of Minorities' Worldviews & Unequivocal Language



Animus Doctrine



Ginsburg

wrote



Dissenting opinion

Ginsburg says the majority is making false comparisons between bakers who refused to create specific cakes with an offensive message and a refusal based on homosexual identity.

joined



Sotomayor



Kagan

wrote



Concurring opinion

Kagan says states can distinguish between bakers who refuse offensive requests and those who deny service based on identity, but only “if the State’s decisions are not infected by religious hostility or bias.”

joined



Breyer



Kennedy

wrote



Majority Opinion

Kennedy writes that a Colorado state commission was impermissibly hostile to the baker’s religious beliefs but reaffirmed protections for gay rights. The ruling didn’t decide whether the refusal to bake for the marrying couple was legal.

joined

joined

joined

joined

joined

joined



Gorsuch

wrote



Concurring opinion

Gorsuch doesn’t distinguish between the bakers’ different kinds of service denials— that is, a specific, offensive cake as opposed to an event that offends— as they are all ideological refusals.

joined



Alito



Thomas

wrote



Partial concurring opinion

Thomas argues that the least popular opinions should be protected under the First Amendment and that the refusal to bake for a same-sex wedding could certainly qualify because it’s outside “the new orthodoxy.”

Question

1. To succeed on their free exercise claim, must plaintiffs prove that the government would allow the same conduct by someone who held different religious views, or only provide sufficient evidence that a law is not neutral and generally applicable?
2. Should the Court revisit its decision in *Employment Division v. Smith*?
3. Does the government violate the First Amendment by conditioning a religious agency's ability to participate in the foster care system on taking actions and making statements that directly contradict the agency's religious beliefs?

Conclusion

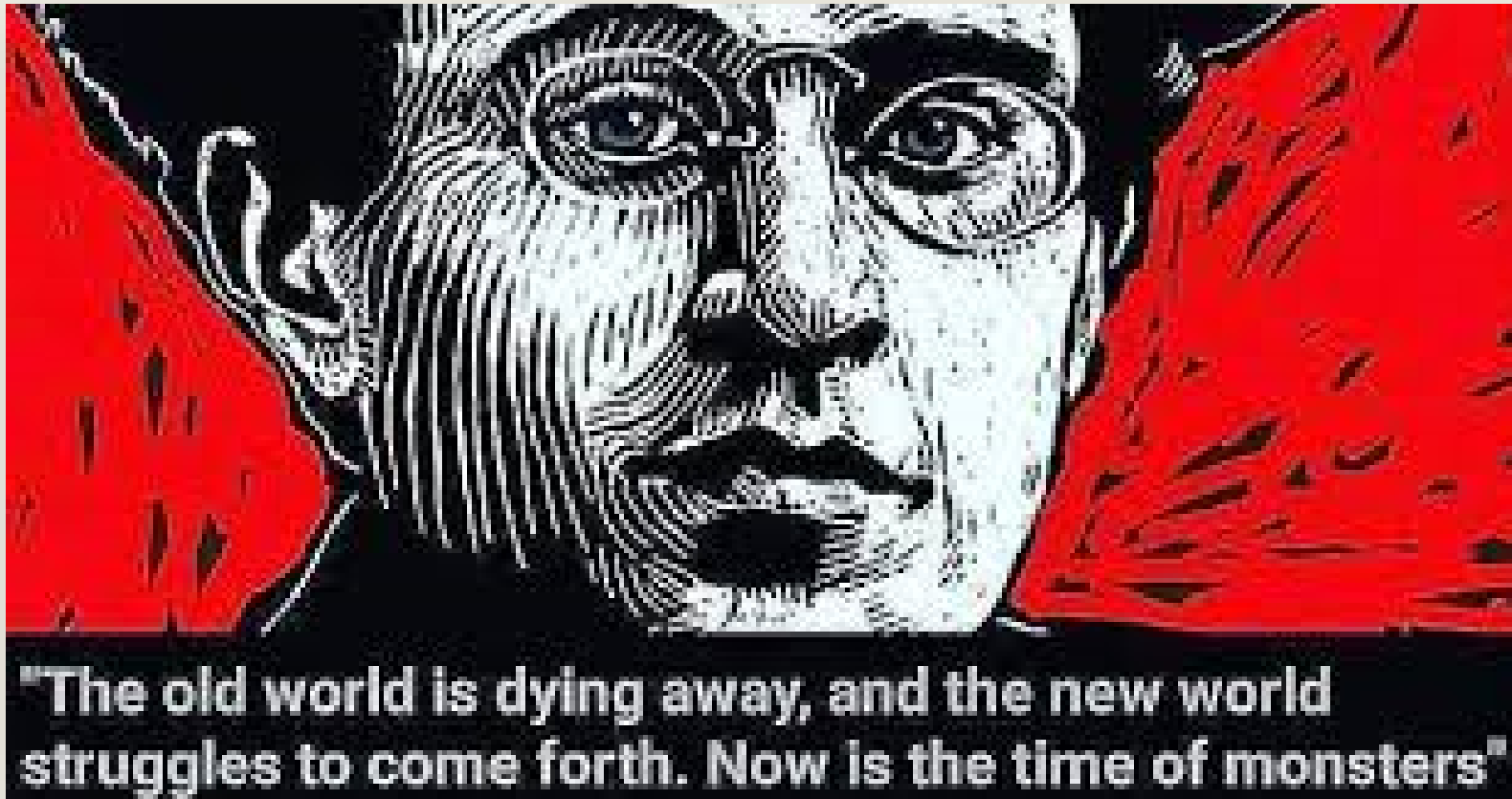
Sort: [by seniority](#) [by ideology](#)

UNANIMOUS DECISION FOR FULTON
MAJORITY OPINION BY JOHN G. ROBERTS, JR.

The refusal of Philadelphia to contract with CSS for the provision of foster care services unless CSS agrees to certify same-sex couples as foster parents violates the Free Exercise Clause of the First Amendment.



Organization is “the most important weapon an antagonistic force may deploy when the equilibrium is constantly oscillating.” However, when the counter-hegemonic forces are incapable of organizing, “the crisis is transformed from an opportunity to a situation of great danger for the subaltern classes.”



BELLA CIAO

Traditional

Brightly

Em

Stu-mat - ti - na mi son al -
gia - no por - ta mi
muo - io da par - ti -

B

za - to, O bel - la ciao, bel - la ciao, bel - la ciao, ciao, ciao. Stu - mat -
vi - a, O bel - la ciao, bel - la ciao, bel - la ciao, ciao, ciao. Par - ti -
gia - no O bel - la ciao, bel - la ciao, bel - la ciao, ciao, ciao. Se - io

Am Em B C#m7b5 B/D#

ti - na mi son al - za - to, E ho tro - va - to l'in - va -
gia - no por - ta mi vi - a, Che mi sen - to di mor -
muo - io da par - ti - gia - no, Tu mi de - vi sep - pel -

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"The old world is dying away, and the new world struggles to come forth. Now is the time of monsters"

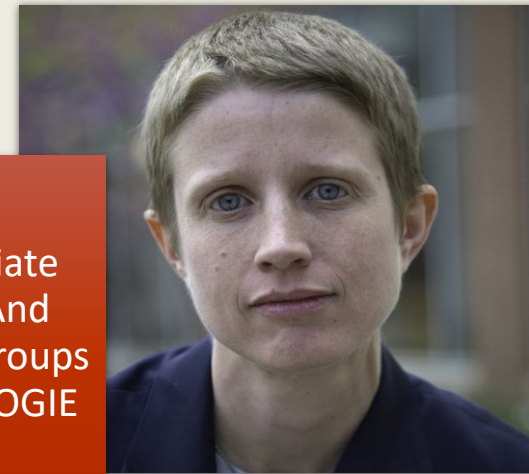
Understanding The Tensions In Re-Organizing As LGBTQ+



Creating New Litigation Strategies and Worldviews and rejecting the ones from Groups opposing SSOIE Equality



Re-appropriate Language And Tools From Groups Opposing SSOIE Equality





"The old world is dying away, and the new world struggles to come forth. Now is the time of monsters"



Horizontal Effect



Antisubordination Approach



Recovering the Race Analogy



Apply the Evolving Standards of Decency' Test to Determine Fundamental Rights under the Due Process Clause

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Role

[Faculty](#)

Areas of Expertise

[Trial Advocacy](#), [Philosophy \(Law &\)](#), [Legal Writing](#), [Family Law](#), [Evidence](#)