

WE THE PEOPLE

The ACLU Strategy for Defending the Constitution

The next few months will be pivotal in the fight to defend the Constitution. While the Trump administration attempts to distract us with claims of fake news, endless finger-pointing and alternative facts, they press forward with policies and laws that are in direct opposition to core American values of truth, fairness and equality.

At the same time, while millions of people across the country are already feeling the devastating impact of the administration's actions and plans, others are becoming numb to the news of the next crisis, the next agenda. And it is clear that many in Washington have no intention of challenging the overreach and unconstitutional practices that are running rampant.

It is at times like this that people turn to the ACLU. And, we are turning to supporters like you to stand with us and ensure that we have the resources to be there wherever and whenever people's rights are on the line.

That's why I want to share this plan for responding to the extraordinary threats to our rights and liberties presented by the Trump administration. As you read it, I hope that you will consider it not simply an update on our activities, but a call to action. Without your engagement and support, the plans outlined here will be nothing more than words on a page — and it is going to take all of us coming together to get the job done.

In the months ahead, our fortitude and determination will be tested. There will be victories, but there will also be disappointment and defeat. We cannot let up.

With more than 1.3 million members and leadership supporters like you alongside us, the ACLU will not yield in our fight to protect the freedoms enshrined in the Constitution and the Bill of Rights.

Challenging the Muslim Ban

Donald Trump and his administration wasted no time acting on his unconstitutional, xenophobic campaign promises. And the ACLU has been — and will continue to be — there to challenge him every step of the way.

During his first week in office, Trump sought to implement his Muslim ban. Within 16 hours of the executive order being signed, the ACLU won an immediate stay — marking the first successful challenge to one of Trump's executive orders.

But we didn't stop there. In total, the ACLU filed 12 different legal challenges to the Muslim ban in courts across the country. We provided emergency legal assistance to detained individuals and their families, and created Know Your Rights materials and model legal documents for volunteer attorneys to use nationwide.

In addition, when reports indicated that U.S. Customs and Border Protection (CBP) officials were continuing to detain and deport people even after the stay was handed down, we launched a 50-state campaign to investigate their actions and demand an end to further enforcement.

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Equally as important, we helped to mobilize protesters who spoke out at airports nationwide, sending a clear and undeniable signal to the courts and to the Trump administration that people in this country would not stand idly by as the Constitution was tested. It was a testament to the power of protest and legal action working in concert to fight back.

Eventually, the Trump administration was forced to concede that its original Muslim ban was indefensible. And, when they replaced it with a scaled-back version, we fought back again — and we won again.

Now, we wait for the government to decide what it will do next — Muslim Ban 3.0 or an appeal of the recent rulings. Whatever happens, with your support the ACLU will be there to fight back and defend the Constitution every step of the way.

Protecting Immigrants' Rights

The ACLU is also moving aggressively to resist Donald Trump's attacks on immigrants and his illegal, out-of-control deportation policies. Trump issued executive orders that dramatically ramp up immigration detention, give government agents unbridled discretion to target whomever they wish to deport, and seek to defund cities and states that protect people's rights regardless of immigration status (also known as "sanctuary cities").

He's also seeking to triple the number of Immigration and Customs Enforcement agents from 5,000 to 15,000, outlining a blueprint for a massive deportation machine, which will tear families apart. The painful human consequences are already becoming evident with stories of DREAMers who came here with their families as young children, hard-working people who have obeyed the law since they arrived here decades ago, and victims of domestic violence falling prey to Trump's henchmen.

The ACLU is responding on several fronts. We have begun legal challenges to the tactics being used to round up and deport immigrants, which impinge on the civil liberties of every person in this country. These tactics include racial profiling, roving checkpoints, coercive interrogation tactics in the guise of "voluntary" contacts with people going about their daily business, and an expected increase in the use of "expedited removal," which bypasses immigration courts and allows for the deportation of people without due process.

We are challenging the Trump administration's attempt to roll back sanctuary city agreements, including filing suit in California.

The ACLU is also ramping up our Know Your Rights work, educating people about how to exercise their constitutional rights in the face of an Immigration and Customs Enforcement (ICE) or CBP action. And, we have created rapid-response networks, involving hotlines, shared intake systems, and recruitment of volunteer attorneys to assist in the response to large-scale raids on businesses and housing complexes.

At the same time, we're working at the local level to encourage people to demand that their towns, cities and states resist the Trump administration's overreach. Through People Power, an ACLU project designed to create coordinated, impactful citizen action, we have launched our Freedom Cities campaign. We're asking people to meet with local law enforcement and officials to demand that our cities not give in to the Trump administration's attempts to use local law enforcement as part of the federal immigration and deportation force.

Your voice and support will help us make it clear to the Trump administration that when they attempt to deny rights to vulnerable communities, we will all stand up and fight back.

Resisting New Assaults on Voting Rights

Donald Trump lost the popular vote by nearly three million votes. But he continues to insist that there was widespread voter fraud in the 2016 elections.

There is zero evidence to support the President's claim. There were more than 135 million ballots cast in November, and a careful review by the *Washington Post* documented a grand total of just four cases of voter fraud nationwide — including an Iowa woman who voted twice for Mr. Trump.

But, we can't dismiss President Trump's seemingly inexplicable tweets and rants on the subject, because there is an insidious and calculating agenda behind them: to suppress the vote of people less likely to support his hateful, xenophobic and anti-liberties agenda.

And now that Jeff Sessions — who has an abysmal record on voting rights — is attorney general, we know that when it comes to voting rights, justice is the last thing we can expect from the federal government. Under Sessions, the Justice Department has already dropped the government's longstanding contention that a far-reaching Texas Voter ID law was intentionally discriminatory.

Attempts to disenfranchise targeted groups of voters including African-Americans, Latinos, the elderly and the poor have been escalating ever since President Obama was elected. The ACLU has led the way in challenging this wave of voter suppression efforts in state legislatures and courtrooms across the country for the past eight years. We know what it takes to win and how to carve out victories even in the most challenging circumstances.

But we've got our work cut out for us this year. The ACLU is currently litigating 14 voting rights cases in 11 states. **And we are currently tracking over 15 pieces of legislation aimed at restricting access to registration and voting in 2017.** These proposals run the gamut from restrictive Voter ID laws, to cutbacks to early voting, to proof of residency requirements that call for law enforcement to show up at a voter's home.

With Trump and Sessions in power, it's clearer than ever that the vigorous defense of vulnerable voters is up to us. We're counting on your active involvement as we challenge voter suppression efforts that make it harder for Americans — particularly Black people, the elderly, students, and people with disabilities — to exercise their fundamental right to cast a ballot.

Defending Reproductive Rights

With Donald Trump in the White House and anti-choice majorities in control of Congress, those out to undermine reproductive rights are wasting no time pushing their agenda.

The ACLU has a long history of standing up to assaults on access to abortion and birth control in even the most challenging of circumstances. At the federal level, we are facing substantial threats to abortion and reproductive health services, ranging from defunding Planned Parenthood, to barring insurance plans from covering abortion, to taking away a woman's right to coverage for birth control.

And, in the states, anti-choice legislatures emboldened by Trump's election are moving legislation forward at an unprecedented pace. As of March, **anti-choice politicians had already introduced 271 restrictions on abortion in 40 states across the country.**

We have the public and the medical community on our side in this fight, but we also need your active support as we gird for one high-profile battle after another.

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As the Women's March — the largest single day of protest in American history — demonstrated, those out to undermine women's rights and women's health will face resistance from a huge, highly motivated movement. We are bringing that determination and commitment to bear as we call on legislators at both the state and federal levels to recognize — and act on the fact — that the majority of Americans support reproductive choice.

Yet we know that in too many states new restrictions on a woman's ability to get an abortion will pass. And we are ready to fight them in court when they do. We are already challenging restrictions in states in every corner of the nation from Alaska to Ohio to Florida and so many places in between.

We are currently challenging laws that curtail access to abortion in Maine, North Carolina, Georgia, Alabama, Florida, Indiana, Ohio and Alaska. We filed suit in Kentucky in late March to stop attempts to close down the only remaining abortion clinic in the state. We are also continuing our challenge, brought with Planned Parenthood Federation of America, to South Dakota's law that would prevent women from getting an abortion unless they first visit an anti-abortion organization. Our litigation has kept that law on hold for five years.

With your support, we will continue to fight until the law respects every woman's right to make decisions about her body, her family, and her future.

Demanding Equality for LGBT People

There is no question that President Trump hopes to stop progress toward full LGBT equality in this country. In fact, one of his earliest targets has been a group that is among the most vulnerable in our society, transgender children.

Just weeks into his administration, Trump rescinded Obama-era guidelines that protected transgender students from discrimination. That action had an immediate ripple effect. The ACLU was on the verge of arguing a Supreme Court case on behalf of Gavin Grimm, a 17-year-old high school student who is challenging his school's discriminatory restroom policy that segregates transgender students from their peers. Because of this change in guidance, the Supreme Court decided to send this potentially landmark case on behalf of transgender rights back to a lower court for reconsideration.

And, emboldened by the Trump administration's disregard for transgender rights, the Texas Senate has passed legislation requiring individuals to use bathrooms and other facilities that match the gender on their birth certificate, much like North Carolina did last year.

In all, 20 different states have introduced 35 different pieces of legislation in 2017 that pointedly discriminate against transgender people. Where bills do become law, we're preparing to go to court to fight back.

Beyond this, we are also seeing an uptick in the use of one of our opponents' most frequent tactics — using religion as an excuse to discriminate.

Donald Trump has surrounded himself with a vice president and cabinet members who have repeatedly sought to sanction discrimination against LGBT people and women in the name of religion.

In February, the administration leaked a draft of a proposed executive order that would have created a slew of new religious exemptions and effectively created a license to discriminate.

The ACLU and partner organizations mobilized broad public opposition to this leaked draft, helping to effectively kill the order, at least for now. At the same time, we stand ready to challenge it in court if it is signed in the near future.

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We are also focused on state-based challenges, as **22 states have introduced 48 different religious exemption laws this year alone** to limit the rights of the LGBT community. Many of these laws rely on the argument that “sincerely held” religious beliefs of an individual or organization should outweigh the rights and protections of LGBT people in everything from adoption to health care to social services and even to marriage. In essence, these laws allow for taxpayer-funded discrimination.

The ACLU has a long, and successful, history of challenging these kinds of laws. In fact, when Vice President Mike Pence was governor of Indiana, the ACLU helped create a national outcry that forced him to pull back on measures that would have allowed for discrimination in the name of religion.

Just as we did then, we must make sure attempts to pass such legislation are defeated, because they represent a direct assault on the rights and dignity of LGBT people and women.

Standing Up for Free Speech and Protester Rights

From Standing Rock to the Women’s March, from airport protests of the Muslim ban to Black Lives Matter marches across the country, we are experiencing historic levels of protest. The whole point of lifting up your voice is making sure that your elected officials hear you.

The response to these powerful displays of democracy in action? **Legislators in at least 15 states have proposed new laws to criminalize and penalize protest activities.** Some of these have been dressed up as bills having to do with obstruction or public safety, but at their core they have one intent and effect — and that is to suppress dissent.

For example, in opposition to the construction of the Dakota Access pipeline, protesters and water protectors camped out for more than a year near North Dakota’s Standing Rock reservation. Although the pipeline is going forward, the protests were resoundingly effective, creating worldwide awareness and delaying the construction.

Legislators in North Dakota introduced a cascade of anti-protest bills — including one that says, literally, if you’re driving and you kill a protester, you won’t be charged with vehicular manslaughter. The ACLU is fighting this bill and others like it.

In Minnesota, following the police shooting death of Philando Castile, protests shut down part of a highway. As a result, Minnesota legislators drafted bills that would punish highway protestors with heavy fines and prison time and would make protesters liable for the policing costs of an *entire protest* if they individually were convicted of unlawful assembly or public nuisance.

We’re confident the courts will see these bills for what they are: unlawful infringements on people’s right to speak out.

We’ve also seen a troubling trend of companies attempting to squelch the free speech of people who disagree with their practices. Take the residents of Uniontown, Alabama for example. When four residents of Uniontown — a poor, predominantly Black town with a median per capita income of around \$8,000 — decided to fight the hazardous coal ash that Georgia-based Green Group Holdings keeps in a landfill in their community, they were sued for defamation by the company to the tune of \$30 million.

No one should have to face a multimillion-dollar federal lawsuit just for organizing and speaking out for the health and well-being of their community. The ACLU took up the case and won a critical victory on behalf of the residents of Uniontown when the court dismissed the case.

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Throughout our history, the ACLU has stood up for freedom of speech and the right to dissent. From providing Know Your Rights materials, to sending trained legal observers to protests, to bringing critical lawsuits defending free speech, the ACLU is on the ground across the country ensuring that people's voices can be heard.

CONCLUSION

As this document shows, the ACLU is moving on many different fronts to confront the Trump administration's zealous and wide-ranging attack on fundamental civil liberties. Day after day, on issue after issue, people across the country are counting on us to forcefully stand up for their rights. And we need you to stand with us as we lead the fight to uphold our nation's foundational principles during this period of unprecedented challenges.

We don't know how the fight ahead will shape up, but we do know that if we care about what happens in our country, you and the ACLU have to be there.

I won't sugar-coat it: We are facing a lengthy and resource-intensive struggle. And we are counting on your active engagement and ongoing financial support to ensure that rights and liberties promised in the Constitution are available to *every person* in this country, not just a select few.

That is the America we believe in, and if you agree I hope you will continue to fight with us every step of the way.