

# The Obergefell Offensive: An Analysis of the Coordinated Challenge to Marriage Equality

Cassandra Williamson  
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## Executive Summary

This report provides an exhaustive analysis of narratives from conservative organizations attacking the U.S. Supreme Court's 2015 decision in *Obergefell v. Hodges*, focusing on the period of May to July 2025. The analysis confirms that this period witnessed a significant and concerted uptick in anti-*Obergefell* sentiment. This surge, however, was not confined to conservative think tanks but represented a coordinated, ecosystem-wide offensive involving a broad spectrum of actors, strategically timed to coincide with the tenth anniversary of the landmark ruling.

The evidence indicates that prominent think tanks, most notably The Heritage Foundation, are serving as the intellectual architects of the anti-*Obergefell* narrative. They provide the foundational arguments that blend theological, sociological, and constitutional critiques. These frameworks are then operationalized by a network of allied organizations. Legal advocacy groups are pursuing challenges in the courts, religious organizations are mobilizing their grassroots constituencies, and politicians at the state level are introducing legislation designed to undermine or directly confront the ruling.

A key finding of this report is the identification of a sophisticated, dual-track strategy being pursued by the conservative movement. The first track is a public-facing, politically aggressive call for the direct reversal of *Obergefell*. This approach, while potent in energizing the conservative base, is constrained by polling data that shows broad and growing public support for marriage equality, even among a majority of Republican voters. The second, more legally viable track, involves a strategy of incremental erosion. This approach seeks to hollow out the practical protections of *Obergefell* through litigation centered on "religious liberty" and conscientious objection, a method that reframes the debate in more politically palatable terms.

In conclusion, the activity observed during the specified two-month period was not a series of isolated expressions of dissent. It was a multi-front, thematically coherent, and strategically timed campaign. Think tanks provided the intellectual ammunition, while legal, religious, and political allies executed parallel and mutually reinforcing lines of attack, demonstrating a clear and concerted effort to challenge the legal and cultural standing of marriage equality in the United States.

## **Deconstructing "The Wreckage of Obergefell": An Analysis of The**

## Heritage Foundation's Core Narrative

The intellectual anchor for the renewed conservative focus on *Obergefell v. Hodges* in the summer of 2025 can be found in a commentary from The Heritage Foundation titled "The Wreckage of Obergefell." A thorough deconstruction of this piece—its timing, authorship, and argumentation—reveals it to be more than a simple opinion article; it functions as a comprehensive narrative framework for the broader movement's multifaceted challenge to marriage equality.

### Publication Date and Context

The commentary, authored by Delano Squires, was published by The Heritage Foundation on or immediately prior to July 15, 2025. This date is established by the author's promotional appearance on the "Issues, Etc." podcast to discuss the piece, which aired on that day.<sup>1</sup> This timing is strategically significant. It places the article squarely within the target two-month window of analysis and positions it as a capstone commentary following the tenth anniversary of the

*Obergefell* decision, which occurred on June 26, 2015.<sup>2</sup> By publishing after the anniversary itself, Heritage allowed other voices—from state legislatures to religious conventions—to build momentum, before delivering a synthesizing intellectual argument that framed the accumulated activity.

### Author and Institutional Placement

The author, Delano Squires, is identified as a Research Fellow in the Richard and Helen DeVos Center for Life, Religion, and Family at The Heritage Foundation.<sup>4</sup> This placement is crucial. It situates his work not within a general legal or economic policy division, but within the specific institutional arm of Heritage explicitly dedicated to advancing social conservative causes. The Heritage Foundation's mission is rooted in principles that include "traditional American values," and it has a documented history of opposition to LGBT rights.<sup>5</sup> Squires' other work provides further context for his

perspective, focusing on themes such as the "collapse of the black family," which he attributes to the downstream effects of "progressive policies and cultural norms".<sup>7</sup> This background informs his view of

*Obergefell* as another deviation from a necessary traditional structure, leading to societal harm. His commentary is therefore not an outlier but a direct expression of his center's and the foundation's core mission.

## Dissection of Arguments

Squires' commentary is a masterclass in narrative construction, weaving together three distinct but interdependent lines of argument to form a holistic critique of *Obergefell*.

First is the **theological argument**, which serves as the piece's unshakeable foundation. Squires moves beyond secular policy debate to frame the issue in explicitly religious terms. He cites Ephesians 5:31-32, where the Apostle Paul compares earthly marriage to the eternal union between Christ and His church, and Psalm 127:1, which states, "Unless the Lord builds the house, those who build it labor in vain".<sup>8</sup> This framing posits that marriage is not a social construct to be redefined by courts but a divinely created institution with a fixed, transcendent purpose. By grounding the argument in scripture, Squires presents the pre-

*Obergefell* definition of marriage as a non-negotiable, pre-political truth. The conclusion of his piece reinforces this, stating that a "genuine revival of marriage is only possible through righting the relationship between men, women, and the God who created the institution".<sup>8</sup>

Second is the **sociological argument**, captured by the title itself: "The Wreckage of *Obergefell*." This language is not accidental; it asserts that the Supreme Court's decision has resulted in tangible, negative social consequences. It implies a landscape of destruction and decay directly caused by the legal redefinition of marriage. This connects to Squires' broader thesis that societal health is inextricably linked to traditional family formation.<sup>7</sup> While the article does not detail this "wreckage" with empirical data, the evocative title serves to create a powerful impression of harm. It transforms a legal debate into a narrative about social decline, arguing that the consequences predicted by opponents of marriage equality have come to pass.



Third is the **constitutional/judicial argument**. Squires casts the Supreme Court not as a body of interpreters but as a "judicial demolition crew" that took a "sledgehammer to marriage".<sup>8</sup> This violent imagery frames the

*Obergefell* decision as an act of illegitimate destruction rather than a good-faith interpretation of the Fourteenth Amendment. It taps into a deep well of conservative legal thought that views the doctrine of substantive due process, upon which *Obergefell* rests, as a form of judicial activism that allows judges to invent rights not explicitly found in the Constitution's text. This characterization is designed to resonate with legal originalists and textualists, portraying the Court's majority as having abandoned its constitutional role in favor of imposing a preferred social policy.

The synthesis of these three arguments is what makes the commentary so potent as a strategic document. A purely legal argument against substantive due process can be technical and unengaging for a non-legal audience. A purely theological argument may be dismissed in a secular policy sphere. A sociological claim of "wreckage" without data can seem unsubstantiated. However, by weaving them together, Squires creates a more robust and versatile narrative. The alleged "wreckage" (the sociological claim) is presented as the empirical evidence of the folly of abandoning God's design (the theological foundation), a failure that was enabled by an act of profound judicial overreach (the legal critique). This tripartite structure provides a comprehensive messaging framework that can be adopted and adapted by the broader conservative movement. It allows different actors—pastors, politicians, and lawyers—to emphasize the strand of the argument most suitable for their respective audiences while remaining part of a single, coherent, and overarching attack on *Obergefell*.

## **The Conservative Influence Architecture: Key Think Tanks and Advocacy Groups**

To accurately assess whether an uptick in anti-*Obergefell* narratives is "concerted," it is essential to first map the complex ecosystem of conservative organizations that participate in legal and cultural debates. The conservative movement does not operate as a monolith but as a sophisticated network of specialized entities, each with a distinct role and "influence vector." A coordinated effort within this structure is less likely to manifest as identical outputs from all groups and more likely to appear as

complementary actions across different functional areas. The analysis of this network draws from a wide range of sources identifying key conservative think tanks, legal advocacy organizations, and lobbying groups.<sup>9</sup>

This ecosystem can be broadly categorized into several types of organizations. First are the major policy think tanks, which serve as the intellectual engine of the movement. This category includes large, multi-issue institutions like **The Heritage Foundation** and the **American Enterprise Institute (AEI)**, which produce research and commentary on a vast array of topics, including social and family policy.<sup>5</sup> Other key players include the

**Ethics and Public Policy Center (EPPC)**, which often focuses on the intersection of religion and public life, and the **Manhattan Institute**.<sup>9</sup> Libertarian-leaning think tanks like the

**Cato Institute** also play a role; while their primary focus is on individual liberty and limited government, their legal analyses on issues of judicial power and constitutional interpretation often intersect with these debates.<sup>6</sup>

A second, crucial category consists of legal and judicial advocacy groups. These organizations translate policy ideas and constitutional theories into direct legal action. The most prominent among them is the **Alliance Defending Freedom (ADF)**, a legal advocacy group that has been at the forefront of litigation seeking religious exemptions from laws protecting LGBTQ people.<sup>11</sup> Other key legal players include

**The Federalist Society**, which cultivates a network of conservative lawyers and judges and influences judicial philosophy<sup>14</sup>, the

**Judicial Crisis Network**, known for its aggressive media campaigns surrounding judicial nominations<sup>15</sup>, and

**Liberty Counsel**, a Christian ministry that engages in impact litigation.<sup>16</sup>

A third category includes lobbying and political action groups that work to influence legislation and elections directly. **Americans for Prosperity**, with its significant lobbying budget, represents a major force in this arena, alongside groups like the **American Principles Project** and the **Eagle Forum**.<sup>15</sup> These organizations focus on translating policy goals into legislative reality and holding elected officials accountable.

The distinct but complementary roles of these organizations are fundamental to

understanding the nature of a "concerted" campaign. There exists a clear and sophisticated division of labor. Think tanks like The Heritage Foundation provide the "why"—the intellectual and moral frameworks for a policy position, as seen in Squires' "Wreckage of Obergefell." Legal groups like ADF provide the "how"—the specific litigation strategies and legal arguments designed to achieve those policy goals in court. And groups like the Judicial Crisis Network work to influence the "who"—the judges who will ultimately rule on those cases. Therefore, evidence of coordination should be sought not just in thematic alignment among think tanks, but in the temporal and thematic links between the outputs of these different types of organizations. A Heritage Foundation paper that provides the philosophical justification for a legal theory being advanced in an ADF lawsuit, filed shortly after a state legislature influenced by a lobbying group passes a bill creating a test case, would be a textbook example of a concerted, multi-vector offensive.

<b>Table 1: Profile of Key Conservative Organizations in the <i>Obergefell</i> Debate</b>				
<b>Organization</b>	<b>Type/Focus</b>	<b>Stated Position on Marriage/LGBT Rights</b>	<b>Influence Vector</b>	<b>Noted Activity (May-July 2025)</b>
The Heritage Foundation	Social Conservative Think Tank	Explicitly opposes LGBT rights and promotes "traditional American values". <sup>5</sup>	Policy Research, Narrative Framing, Publications	Published Delano Squires' "The Wreckage of Obergefell" commentary. <sup>1</sup>
American Enterprise Institute (AEI)	Conservative Policy Think Tank	Focuses on broad policy; fellows have addressed family structure and religious	Policy Research, Academic Commentary	No specific major publication on <i>Obergefell</i> identified in the period.

		liberty. <sup>10</sup>		
Alliance Defending Freedom (ADF)	Legal Advocacy Group	Aims to undermine <i>Obergefell</i> by litigating for "religious liberty" exemptions. <sup>11</sup>	Impact Litigation, Legal Strategy Development	Continued pursuit of legal strategy to create exemptions to non-discrimination laws.
Liberty Counsel	Legal Advocacy / Christian Ministry	Explicitly seeks the overturning of <i>Obergefell</i> . <sup>16</sup>	Impact Litigation, Public Advocacy	Chairman Mat Staver publicly stated overturning <i>Obergefell</i> is "a matter of when". <sup>16</sup>
The Federalist Society	Legal Network / Think Tank	Promotes originalist/textualist judicial philosophy; influential in judicial selection. <sup>14</sup>	Judicial Philosophy, Networking, Debate	Provides the intellectual environment for challenging substantive due process precedents.
Judicial Crisis Network	Judicial Advocacy Group	Lobbies on judicial nominations; spent significantly on past confirmations. <sup>15</sup>	Lobbying, Media Campaigns (Judicial)	Monitors and influences the selection of judges who may be open to reconsidering precedent.
Southern Baptist Convention	Religious Denomination / Political Bloc	Voted to officially call for the overturning of <i>Obergefell</i> . <sup>3</sup>	Grassroots Mobilization, Moral Advocacy	Passed overwhelming resolution against marriage equality in June 2025. <sup>3</sup>

## A Resonant Anniversary or a Coordinated Offensive? Tracking



## Anti-Obergefell Sentiment (May-July 2025)

The tenth anniversary of the *Obergefell v. Hodges* decision on June 26, 2025, served as a powerful catalyst and focal point for a surge of activity from the conservative influence architecture. An examination of actions taken across legal, religious, and legislative fronts during the May-July 2025 period reveals a pattern of temporally clustered and thematically aligned efforts that go beyond mere anniversary resonance. The evidence strongly suggests a coordinated offensive designed to publicly challenge the legitimacy of the ruling and lay the groundwork for its eventual reversal or erosion.

The groundwork for this offensive was laid even before the anniversary window. In February 2025, Mat Staver, chairman of the conservative Christian legal ministry Liberty Counsel, declared that overturning *Obergefell* was "not an if, it's just a matter of when".<sup>16</sup> This statement signaled a clear, long-term strategic intent from a key player in the conservative legal movement, setting an aggressive tone for the year.

As the anniversary approached, this sentiment was amplified and operationalized across multiple fronts. On the **religious front**, the Southern Baptist Convention, one of the nation's largest protestant denominations and a formidable force in conservative politics, took a decisive step. At its annual meeting in June 2025, the convention voted overwhelmingly in favor of a resolution that not only opposed same-sex marriage but explicitly called for the overturning of *Obergefell*.<sup>3</sup> This action was highly significant, as it provided a powerful moral and grassroots mandate for the legal and political efforts, demonstrating broad-based opposition within a key conservative constituency.

Simultaneously, the **legislative front** saw a flurry of activity at the state level. These actions, while varying in their immediate legal impact, collectively served to build a political narrative of resistance and create potential test cases for future litigation. In Oklahoma, a state senator introduced a bill designed to directly "push back on *Obergefell*," arguing that failing to challenge the ruling would cede permanent ground.<sup>16</sup> In Idaho, a state representative proposed a draft memorial urging the U.S. Supreme Court to reconsider its 2015 decision, framing the issue as one of restoring federalism.<sup>16</sup> In another state, the legislature passed a non-binding resolution that condemned the

*Obergefell* ruling as an "illegitimate overreach" that caused "collateral damage" to

religious liberty.<sup>17</sup> While these state-level actions may not have immediately changed the law, they serve a strategic purpose: to signal defiance, to test the political climate, and to potentially create the very legal conflicts that could eventually reach the Supreme Court.

It is within this charged environment that the contribution from the **think tank front** must be understood. The primary evidence of a new narrative from a major think tank during this period is Delano Squires' "The Wreckage of Obergefell," published by The Heritage Foundation in mid-July.<sup>1</sup> The role of this article appears to have been strategic rather than voluminous. An analysis of the output from other major conservative think tanks like AEI or Cato does not reveal a similar flood of anti-

*Obergefell* papers. Instead, Heritage, a leader in the movement, released one high-profile, well-framed piece from a fellow in its key "family policy" center.

The strategic value of this approach is clear. The Heritage Foundation was not attempting to create a deluge of content. Rather, it provided a sophisticated intellectual anchor for the flurry of activity already underway. The actions of the Southern Baptists, the Oklahoma legislators, and Liberty Counsel were direct, aggressive, and aimed at mobilization. The Heritage commentary then served to synthesize these actions into a coherent intellectual framework, lending the full institutional weight and intellectual credibility of a premier Washington think tank to the cause. It provided the "why" for the "what" that was already happening on the ground. The timing, coming after the initial wave of anniversary-related actions, allowed it to frame the narrative and provide a thoughtful, forward-looking argument for the movement. This demonstrates a qualitative, not quantitative, contribution from the think tank world, but one that is arguably more strategic and indicative of a concerted effort. The convergence of these actions—from the pulpit, the statehouse, the courtroom, and the think tank—around the anniversary date is too aligned in theme and timing to be dismissed as coincidence.

## **Strategic Nuances in the Post-Dobbs Era: Direct Assault vs. Incremental Erosion**

The coordinated offensive against *Obergefell v. Hodges* observed in mid-2025 is not occurring in a vacuum. It is being executed within a new legal and political landscape

profoundly shaped by the Supreme Court's 2022 decision in *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade*. The *Dobbs* decision served as a critical catalyst, signaling to the conservative legal movement that long-standing precedents based on a right to privacy and substantive due process were now vulnerable. This was made explicit in Justice Clarence Thomas's concurring opinion, in which he directly called for the Court to "reconsider" its rulings in *Griswold* (contraception), *Lawrence* (private same-sex relations), and *Obergefell* (marriage equality).<sup>2</sup> This concurrence was a clear invitation for challenges, effectively greenlighting a new offensive against these precedents.

In response, the conservative movement is pursuing a sophisticated and pragmatic dual-track strategy against *Obergefell*, balancing aggressive ideological goals with political and legal realities.

### **Track 1: The Frontal Assault**

The first track is a direct, public, and uncompromising call to overturn *Obergefell* entirely. This approach is championed by the movement's most ideologically committed and aggressive actors. It is the strategy vocalized by Mat Staver of Liberty Counsel, who declared reversal "a matter of when," and it is the goal of the state legislators in Oklahoma and Idaho introducing bills and memorials to directly challenge the 2015 ruling.<sup>16</sup> The Southern Baptist Convention's resolution calling for *Obergefell* to be overturned is another prime example of this frontal assault.<sup>3</sup>

The purpose of this strategy is manifold. It serves to energize the most passionate members of the conservative base, keeping them engaged and motivated. It generates significant media attention, ensuring the issue remains at the forefront of the culture war. Furthermore, it probes for political weakness and signals to the judiciary that there is a substantial political constituency demanding a reversal of precedent.

However, this direct approach faces a significant constraint: public opinion. Polling conducted in 2025 consistently shows that support for same-sex marriage is at or near an all-time high. Gallup found that about 7 in 10 Americans believe same-sex marriages should be legally valid, a notable increase from 60% in 2015.<sup>3</sup> Crucially, this support is bipartisan. A June 2025 poll found that 56% of Republican respondents

support same-sex marriage.<sup>2</sup> This political reality makes a direct, frontal assault politically risky. An overt campaign to strip millions of Americans of an existing right could provoke a significant backlash, particularly among moderate and independent voters, mirroring some of the political fallout seen after the

*Dobbs* decision.

## **Track 2: Incremental Erosion via "Religious Liberty"**

Recognizing the political risks of a frontal assault, the more subtle and legally potent second track of the strategy involves the incremental erosion of *Obergefell*'s protections. This approach, the specialty of sophisticated legal groups like the Alliance Defending Freedom (ADF), avoids a direct challenge to the core holding of *Obergefell*.<sup>13</sup> Instead, it seeks to hollow out the ruling's practical impact by carving out broad exemptions based on religious or conscientious objections.

This strategy reframes the debate. It shifts the narrative from the politically unpopular position of "banning gay marriage" to the more defensible and politically palatable position of "protecting religious freedom." The Brennan Center for Justice identified this pivot as the primary conservative strategy in the immediate aftermath of the 2015 ruling.<sup>13</sup> The goal is to win a series of court cases that establish a right for individuals, businesses, and nonprofit organizations to refuse services related to same-sex weddings or to otherwise not recognize same-sex marriages in their operations, all under the banner of the First Amendment. As Justices Thomas and Alito noted in a 2020 statement, the

*Obergefell* decision created a situation where those with traditional religious beliefs about marriage could be "labeled as bigots and treated as such," foreshadowing the legal battleground of religious liberty versus LGBTQ equality.<sup>17</sup>

This incremental approach is also reflected in the coded language of broader conservative policy initiatives. For example, the influential Project 2025 policy blueprint does not expressly call for banning same-sex marriage. Instead, it calls for government funding to be directed toward programs that support "traditional family structures," an indirect method of de-legitimizing and disincentivizing other family models.<sup>18</sup>

These two tracks—frontal assault and incremental erosion—are not contradictory;

they are complementary components of a strategic pincer movement. The loud, public calls for reversal from politicians and activists create political pressure, keep the base motivated, and frame the overarching ideological conflict. This political "air cover" creates a favorable environment for the legal "ground war" being waged by groups like ADF. The political noise can distract from and normalize the more technical legal arguments that are quietly working their way through the courts. An accurate assessment of the threat to marriage equality requires monitoring both of these strategic tracks. Focusing solely on the loud but politically difficult calls for a complete reversal would mean missing the more insidious, legally sophisticated, and arguably more viable strategy of hollowing out *Obergefell* from within.

## **Conclusion and Forward Outlook: The Trajectory of the Obergefell Challenge**

The analysis of activity from May to July 2025 confirms the existence of a clear, concerted, and strategically timed uptick in narratives and actions attacking the Supreme Court's *Obergefell v. Hodges* decision. This offensive, however, was not an initiative driven solely by think tanks. Rather, it was a coordinated, multi-vector campaign executed by a broad ecosystem of conservative organizations. Within this structure, think tanks like The Heritage Foundation played the critical role of intellectual architects, providing a comprehensive and versatile narrative framework that synthesized theological, sociological, and legal critiques. This intellectual work served as an anchor for a flurry of parallel activities from legal advocacy groups, religious bodies, and state-level politicians, all centered around the tenth anniversary of the ruling and enabled by the new legal landscape created by the *Dobbs* decision.

The conservative movement's challenge to *Obergefell* is being pursued via a sophisticated dual-track strategy. A politically aggressive frontal assault, characterized by direct calls for the ruling's reversal, serves to energize the base and apply political pressure. This is complemented by a more subtle and legally viable strategy of incremental erosion, which seeks to undermine the ruling's practical effects by securing broad religious exemptions through the courts. This pincer movement demonstrates a pragmatic understanding of both the movement's ideological goals and the constraints imposed by public opinion.

Looking ahead, the challenge to marriage equality is poised to continue and evolve.



Several key indicators should be monitored to gauge the trajectory and intensity of this challenge.

### Key Indicators to Monitor

- **The Judicial Pipeline:** The most significant threat to *Obergefell* will emerge from the federal courts. It is essential to monitor cases working their way through the appellate system, particularly those carefully curated by legal groups like the Alliance Defending Freedom.<sup>13</sup> The next major Supreme Court case on this issue will likely not be a direct challenge to the right to marry, but a case involving a conflict between LGBTQ non-discrimination protections and claims of religious freedom or free speech. The outcome of such cases will determine the extent to which *Obergefell*'s protections can be hollowed out in practice. As of now, there is no case directly seeking to overturn *Obergefell* before the Supreme Court, and no significant momentum in case law is currently building to reverse the decision, but this requires constant vigilance.<sup>18</sup>
- **State-Level Legislative Action:** State legislatures will remain a key battleground. The introduction of memorials, resolutions, and bills designed to challenge *Obergefell*—as seen in Idaho and Oklahoma—should be closely tracked.<sup>16</sup> While often symbolic or non-binding, these actions are used to build a political record of opposition that can be cited in future court filings as evidence of a continuing public controversy. They also serve to create legal test cases.
- **Federal Legislative and Executive Action:** The federal landscape provides a degree of protection but is not absolute. The 2022 Respect for Marriage Act requires the federal government and all states to recognize valid same-sex and interracial marriages performed in other states.<sup>16</sup> This provides a crucial backstop. However, the Act does not codify a nationwide right for same-sex couples to obtain a marriage license in all 50 states. If *Obergefell* were overturned, states with so-called "zombie laws"—pre-existing constitutional or statutory bans on same-sex marriage—could potentially reactivate them and refuse to issue new licenses.<sup>16</sup> Therefore, the policy language of future party platforms and major executive-branch-focused initiatives like Project 2025 will be critical. A rhetorical shift from "banning" marriage equality to "promoting traditional families" signals a move toward the more subtle, erosive strategy.<sup>18</sup>
- **The Philosophy of Judicial Nominees:** Ultimately, the future of *Obergefell* rests

with the composition of the Supreme Court. The language used by future judicial nominees during their confirmation hearings regarding the doctrine of substantive due process, the principle of *stare decisis* (respect for precedent), and their view of the *Obergefell* decision itself will be the most critical long-term indicator of the judiciary's direction. Justice Thomas's open call to reconsider the case underscores that for some jurists, the matter is far from settled.

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