

IDEAS

The Inventors of America's Most Dangerous Idea

Freedom was once a rallying cry for justice, but the country's Realtors had a better use for it.

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About the author: Gene Slater, a senior adviser to federal, state, and local agencies on affordable housing for more than 40 years, is the author of *Freedom to Discriminate: How Realtors Conspired to Segregate Housing and Divide America*.

Conservatives in America have, in recent months, used the idea of freedom to argue against wearing masks, oppose vaccine mandates, and justify storming the Capitol. They routinely refer to themselves as “freedom-loving Americans.” Freedom, as a cause, today belongs almost entirely to the right.

This was not always the case. In the early 1960s, civil-rights activists invoked freedom as the purpose of their struggle. Martin Luther King Jr. used the word *equality* once at the March on Washington, but he used the word *freedom* 20 times.

The conservative use of the idea of absolute freedom, of freedom as your personal property, to shift American politics to the right came shortly after King’s speech, and indeed was a direct reaction to his argument that one’s own freedom depended on everyone else’s. This wasn’t an organic response. Rather, conservative activists and business leaders designed an opposite idea of American freedom to protect their own interests. That effort can be seen in the role played by one of the most overlooked yet powerful forces in 20th-century America: the nation’s Realtors.

In 1963, California, with half of the country’s Realtors, passed a fair-housing law to limit housing discrimination. Realtors decided to fight back. They asked voters to approve a state constitutional amendment, Proposition 14, prohibiting the state and any municipality from ever limiting residential discrimination in any way.

Realtors had big incentives for maintaining segregation. Having invented it in the early 1900s as a marketing tool for selling homes, they had made segregation central to their business practices. They created racial covenants to exclude members of minority groups from new developments, existing neighborhoods, and entire cities and shaped federal redlining maps, all premised on the idea that anyone selling to minority families was destroying the future of all the neighbors. Any broker who did so was therefore destroying his future business. Despite the Supreme Court outlawing court enforcement of racial covenants in 1948, Realtors used racial steering—such as

lying to minority prospective buyers that a home had just been sold and controlling newspaper real-estate listings—so effectively that by the early '60s, Black Americans were excluded from 98 percent of new homes and 95 percent of neighborhoods.

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But in asking voters to constitutionally authorize residential discrimination in Proposition 14, Realtors had a fundamental problem. How, at the height of the civil-rights movement, could they publicly campaign for sanctioning discrimination in California? No state's constitution, even in the Deep South, had such a provision. No prominent politician—not Barry Goldwater, not Ronald Reagan—would support the Realtors for fear of seeming racist.

Victory would depend, realized Spike Wilson, the president of the California Real Estate Association, on convincing the large majority of white voters—who did not want to see themselves as racially prejudiced in any way—that the Realtors were campaigning not for discrimination but for American freedom. Realtors would need to secretly and systematically redefine American freedom as the freedom to discriminate—to challenge the idea at the heart of the civil-rights movement itself.

The first step was inventing what became known as “color-blind freedom” to justify discrimination. Per Wilson's request, the national Realtors' organization created a secret action kit to oppose fair housing everywhere. The kit's detailed scripts instructed Realtors to “focus on freedom” and avoid “discussion of emotionally charged subjects,” such as “inferiority of races.” This kit, weighing a pound and a half and distributed to the local real-estate board in every American city, provided form speeches, Q&As, and press releases for their cause. Freedom, the kit explained, meant

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each owner's right to discriminate, and Realtors were in favor of "freedom for all": the equal rights of all owners to choose whom to sell to. Realtors claimed that they, unlike civil-rights advocates, were color-blind.

The key to color-blind freedom was what was left out. Wilson drafted a Property Owners' Bill of Rights that Realtors advertised in newspapers nationwide, emphasizing owners' absolute right to dispose of their property—never mentioning anyone's right to buy or rent a home in the first place. The right to be treated equally, to not be discriminated against, to choose where to live, was not part of American freedom but *a special privilege*. Wilson therefore claimed that "militant minorities have organized and vocalized for equal rights until equal rights have become special privileges." Color-blind freedom meant that government must be oblivious to, must forever allow, organized private discrimination.

Realtors thus made government the enemy, not minority groups. "Am I anti-Negro? By God, I am not. I am their champion," Wilson insisted at a meeting of apartment owners, the *Los Angeles Times* reported. By making state bureaucrats the enemy, Realtors could be on the side of the underdog, the individual owner. Proposition 14, Realtors claimed, was not about race but about "the rights of the individual."

This idea of absolute individual rights was at the heart of how Realtors redefined American freedom. FREEDOM OF CHOICE was blazoned on L.A. freeway billboards. To discriminate simply means to choose, Realtors insisted. Freedom of choice *required* the right to discriminate.

This became Wilson's most important argument to millions of Californians who did not want to see themselves as racially biased. To be in favor of Proposition 14, to limit where millions of fellow Americans could live, did not mean that you were prejudiced but that you believed in individual freedom.

Calling the Realtors' campaign "Gettysburg—1964!" in the monthly magazine *California Real Estate*, Wilson cited Abraham Lincoln: "We are involved in a great battle for liberty and freedom. We have prepared a final resting place for the drive to destroy individual freedom."

King recognized the danger of the Realtors' ideology. Rushing from ongoing civil-rights conflicts in the South, he warned at a freedom rally in Fresno, a few miles from

Wilson's office, "If this initiative passes, it will defeat all we have been struggling to win." King's terms evoked his speech at the March on Washington, but he was now defending shared freedom not against southern diehards but against northern salesmen promoting color-blind "freedom of choice."

Proposition 14's sweeping passage stunned politicians in both parties. The Realtors' victory was overwhelming, with 65 percent of the total votes in favor, including 75 percent of the white vote and 80 percent of the white union vote. Two years later, in 1966, when the California Supreme Court ruled Proposition 14 unconstitutional, Reagan, running for governor, adopted the Realtors' cause and their message as his own: "If an individual wants to discriminate against Negroes or others in selling or renting his house, he has a right to do so."

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Reagan and other conservatives saw that the Realtors had zeroed in on something extremely powerful—something whose full force would not be limited to housing segregation but could be used on virtually any issue.

The timing was crucial. At the very moment when liberalism seemed most dominant—on the same 1964 ballot where Lyndon B. Johnson had crushed Goldwater by the largest landslide in history—Realtors had shown how conservatives could succeed. If this idea of freedom could triumph in California, it could work anywhere.

The Realtors themselves ultimately lost their war against fair housing when Congress passed a fair-housing bill, weakened by the shadow of Proposition 14, days after King's assassination in 1968. Realtor organizations today distance themselves from their past role in segregation. Dave Walsh, the president of the California Association of Realtors (the modern-day incarnation of the California Real Estate Association) acknowledged by email the "sad truth that real estate agents, REALTOR® associations, real estate developers, government officials, and others developed and supported systems and policies designed to exclude people of color, especially Blacks, from many neighborhoods and homeownership opportunities." He added that Realtors today "must own the fact that in the past, we advocated for" rights that supported discrimination. But though Realtors have disavowed their past arguments, the vision of freedom they created has had lasting effects on American politics as a whole.

This vision of freedom proved so enduring because it solved three structural problems for American conservatism.

First, Realtors used the language of individual freedom, of libertarianism, to justify its seeming opposite, community conformity. Here was a way to unite the two separate and competing strands of conservatism, to link libertarians and social conservatives in defense of American freedom—and create the way many, if not most, Americans understand freedom today.

Thus, the more disparate the issues on which this idea of freedom was invoked—abortion, guns, public schools, gender rights, campaign finance, climate change—the more powerful the message became. The conservative movement’s ability to grow and thrive depended not on an adventitious alliance but on a unifying idea: freedom of choice.

Second, by defining as *freedom* what government seemed to be taking away from “ordinary Americans,” Realtors helped create a polarizing, transcendent view of what was at stake in our politics. As one homeowner described Proposition 14 in a *Sacramento Bee* letter to the editor, “We are fighting for our rights, and this, voters, is the only way we can do it. It appears to be our last chance.” This picture of government taking away your rights would provide a compelling reason, far beyond economics, for millions of union members, Catholics, and white Americans who had long been part of Franklin D. Roosevelt’s coalition to see, in issue after issue, why they should define themselves as conservatives.

Timeliest of all, the Realtors’ redefinition of freedom offered a common ideology for something new in modern America: a national conservative political party. First proposed by southern racists in 1948 to protect Jim Crow, it would have white southerners abandon the national Democratic Party in return for a pledge from pro-business northern Republicans to protect local racial customs. This proposed party, devoted to limiting federal regulation of business and civil rights, could dominate American politics and push it to the right for generations to come.

Such party, when it finally emerged after Goldwater’s defeat, needed a publicly acceptable ideology that could work in both the North and the South. The Realtors’ color-blind freedom, which had proved so successful in California, could unite

southerners, working-class northern Democrats, and conservative and moderate Republicans in a new national majority party—one very different from the Republican Party whose congressmen had voted 80 percent in favor of the Civil Rights and Voting Rights Acts.

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Over time, the internal dynamics of a national conservative party would only push it further and further toward those who most ardently embraced the Realtors' vision of freedom as the only meaning of American freedom. This dynamic has produced today's Republican Party.

Republican politicians now view every issue through this single lens: that American freedom means placing one's own absolute rights over those of others. To go against that credo, to view freedom as belonging to the country itself and, as such, to everyone equally, threatens the party's most basic tenet.

This idea of freedom is based on a technique that the Realtors perfected. They identified a single, narrow, obscure right, an owner's right to choose a buyer—which Realtors themselves had restricted for decades with racial covenants—as American freedom itself. Elevating as absolute a right rarely mentioned before, so government cannot limit it or protect the rights of others, became the model for the conservative movement. The concept can be and has been used regarding virtually any issue.

Everything that is not one of these carefully selected rights becomes, by definition, a privilege that government cannot protect, no matter how fundamental. Since January 6, two-thirds of Republicans—more than 40 percent of all Americans—now see voting not as a basic right, an essential part of our freedom, but as a privilege for those who deserve it.

This picture of freedom has a purpose: to effectively prioritize the freedoms of certain Americans over the freedoms of others—without directly saying so. By defining freedom as they did, Realtors did not have to say that it belonged more to some Americans than others. But it did—and it has ever since.
