



Addressing Challenges to Progressive Religious Liberty in Michigan

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The state of Michigan is rich with religious diversity and home to many religious traditions, including significantly high numbers of Catholics, evangelicals, and Muslims. Michigan is also home to a significant number of people who classify themselves as religiously unaffiliated—roughly one in four, or 24 percent of the state’s residents identifies as such.¹ As in the rest of the United States, a commitment to religious liberty in Michigan must respect the right of all Americans to freely express their religious and spiritual beliefs—or lack thereof. Properly applied, religious liberty rejects the use of religion to harm or discriminate and embraces religious pluralism, which is essential to maintaining a vibrant, free, and economically strong society. However, some extremely conservative Michigan lawmakers are attempting to enshrine discrimination and religious beliefs into state law.

The Michigan legislature has seen a flood of bills designed to limit the rights of lesbian, gay, bisexual, and transgender, or LGBT, Americans by legalizing discrimination in sectors such as public accommodations, employment, and adoption services—all in the name of religion. In 2015, Gov. Rick Snyder (R) signed a three-bill package into law that put the personal beliefs of taxpayer-funded adoption agencies above the needs of thousands of foster children in Michigan.² Women in the state also are seeing their reproductive health care options continue to narrow as extreme conservatives impose their religious beliefs through laws that defund women’s health centers and make abortion access increasingly impossible.³

Michigan is also home to large concentrated populations of Arab Americans and practicing Muslims, and the state has felt the intense sting of violence and harassment from a national upswing in anti-Muslim bigotry. The negative, potentially violent environment created by anti-Muslim bigotry challenges the ability of Michigan Muslims to freely practice their faith.

In order to create an economically prosperous, healthy, and equitable Michigan, the state must strike a proper balance between true religious freedom and the other cherished rights and freedoms that keep the nation’s democracy strong. This issue brief details the challenges to the true notion of religious freedom posed by overly broad and discriminatory versions of religious liberty, as well as rising anti-Muslim bigotry.

Michigan leaders, lawmakers, advocates, and stakeholders must reclaim religious liberty as a progressive value by using four tactics: promote an understanding of religious liberty that resists discrimination and embraces a dynamic plurality of beliefs; illustrate how discriminatory bills disproportionately harm vulnerable communities, such as LGBT people and women of color; condemn anti-Muslim bigotry as a violation of religious liberty; and oppose overly broad religious exemptions that threaten equal rights for many Americans.

Michigan women face a shrinking number of reproductive health care options

The expansive religious diversity of Michigan contributes to a varied and vibrant tapestry of belief in the state. Significant religious populations include strong numbers of Catholics, at 20 percent; white evangelical Protestants, at 19 percent; white mainline Protestants, at 16 percent; and black Protestants, at 8 percent.⁴ However, strains of conservatism in several of these traditions have had a major effect on both health care delivery policy and state legislation that affects women's reproductive health. Moreover, the number of women who hold office in the state senate has fallen from 28.9 percent in 2004 to 10.5 percent in 2015, which illustrates the troubling gender gap in the state legislature that more than likely plays a role when it comes to prioritizing women's health and wellness.⁵

Currently, the Michigan legislature is considering a series of so-called religious liberty laws that restrict access to reproductive health care. For example, H.B. 4309, the Michigan Religious Liberty and Conscience Protection Act, would allow health care payers, health facilities, and health care providers to decline to pay for or provide health care services that they find religiously objectionable, such as sterilization, contraception, or abortion.⁶ Additionally, a series of state laws imposing unnecessary regulations on abortion providers have pushed many clinics in Michigan out of business.⁷ At present, 86 percent of counties in Michigan lack an abortion provider.⁸ The state also provides funds directly to crisis pregnancy centers, which are frequently run by religious organization that oppose abortion and often offer misleading, limited, and medically inaccurate information to the women they purport to serve.⁹

Catholic health care systems present challenges to Michigan women in need of reproductive health care

The number of Catholic-owned health care systems is rising across the country, and this has created tremendous challenges to medical care in Michigan. At present, one in six Americans nationwide receives health care from a Catholic hospital.¹⁰ Furthermore, there are many communities that are exclusively served by Catholic hospitals; the federal government has determined that there are 46 Catholic “sole community hospitals” nationwide.¹¹ This forces individuals in certain areas to rely on Catholic hospitals as their only option for obtaining critical health services, or otherwise receive sub-standard care.¹² In Michigan, Catholic hospitals account for up to 29 percent of all hospital admissions in a state that is 20 percent Catholic, meaning that Catholic health care directives have an especially acute impact in the state.¹³

The expansive reach of Catholic health care, especially in Michigan, can have significant consequences for women’s health care. Catholic hospitals are instructed to operate under the Ethical and Religious Directives for Catholic Health Care Services, a set of rules determined by the United States Council of Catholic Bishops.¹⁴ These rules guide a variety of treatment protocols and include prohibitions on pregnancy termination, contraception prescriptions, and sterilization procedures.¹⁵ As a result, women seeking care from Catholic hospitals have been denied treatments ranging from emergency pregnancy termination to tubal ligations during cesarean section births along with otherwise medically standard forms of care that ensure women are not put at risk of potentially life-threatening complications.

The five female plaintiffs in a recent Michigan American Civil Liberties Union, or ACLU, lawsuit against Trinity Health—a large Catholic health

and social service provider in Michigan and the parent company to Mercy Health Partners hospital—claimed that they suffered severe infections and risked other grave consequences such as sterility and even death when Mercy Health Partners refused to perform necessary pregnancy terminations after the women began to miscarry.¹⁶ Further, the plaintiffs say that the Catholic hospital failed to inform them of the full range of medical options available.¹⁷ These options included abortion, which would have reduced the medical risks associated with prolonged miscarriage. In their suit, the women say that they were neither informed of their options nor transferred to other hospitals and instead were left to suffer infection and complications, some of which required surgery.¹⁸ The suit, which was ultimately dismissed on standing, alleged that the hospitals violated federal standards contained in the Emergency Medical Treatment and Labor Act of 1986, or EMTLA.¹⁹ The EMTLA requires emergency departments to “stabilize any individual determined to have a medical emergency.”²⁰

There is no denying that Catholic health care has done enormous good and provided for many Americans in need of care. But the fact remains that, by restricting care based on religious beliefs, the Catholic Church is challenging Michigan women’s access to reproductive health care and the related medical information they need to make informed decisions. The continuing trend of hospital mergers, which increases the expansiveness of Catholic medical care, will only exacerbate the issue of accessible reproductive health care both in Michigan and across the United States.²¹

In Michigan, Catholic health care systems represent more than one-quarter of health care providers in the state. For many women in Michigan, Catholic hospitals are the nearest option for reproductive health care services. Catholic hospitals also serve a disproportionate number of low-income patients, and often also become the default hospital choice for low-income women in Michigan who have limited care options.²² However, Catholic ethical and religious health care directives in hospitals and related facilities generally forbid some standard medical procedures—such as tubal ligations or dilation and evacuation at the onset of miscarriage symptoms.²³ These restrictions have sparked lawsuits, including an ACLU of Michigan suit against the U.S. Council of Catholic Bishops on behalf of a 27-year-old Michigan mother of three who suffered a severe infection when health care providers at Mercy Health Partners neglected to

provide her with a comprehensive set of treatment options.²⁴ The suit—which was ultimately dismissed on standing—claimed that, rather than providing options, the hospital sent the plaintiff home multiple times despite clear evidence that she was experiencing a miscarriage. The actions of the hospital staff increased the risk of infection for the plaintiff. As a growing number of hospitals in Michigan and the nation merge with religiously affiliated hospitals and their associated religious organizations, women face the threat of being refused critical and at times lifesaving medical services.²⁵

Challenges to women’s reproductive health care access not only affect Michigan women but their families as well. The ability to plan and space pregnancies is critical to the financial security of a woman and her family.²⁶ More than 1 in 10 Michigan women lives below the poverty line. For African American Michigan women, the number jumps to just more than 3 in 10.²⁷ Michigan women head nearly 488,000 households and more than one in three of those families has an income that falls below the poverty line.²⁸ In some parts of the state, Michigan families are also struggling to access basic needs, such as clean water.²⁹ When Michigan politicians use religion to justify inserting themselves into a woman’s critical health care decisions, Michigan families suffer.

LGBT Michigan residents and their families face discriminatory legislation

Since the 2015 *Obergefell v. Hodges* Supreme Court decision affirmed marriage equality nationwide, conservative state lawmakers have attempted to limit LGBT rights through the introduction of a variety of discriminatory bills that sanction discrimination based on religious beliefs. Increasing public backlash has helped to deter a number of governors in places such as Georgia, West Virginia, and Missouri from signing or supporting religious freedom restoration legislation that progressive advocates say would sanction discrimination against LGBT Americans.³⁰ In Michigan, however, the legislature has introduced the Michigan Religious Freedom Restoration Act, S.B. 4, for consideration in the state senate, notwithstanding the fact that state and federal constitutions already secure robust religious rights for Michigan residents.³¹

If enacted, S.B. 4 could allow widespread religious discrimination against LGBT people, women, and religious minorities. For instance, people in same-sex marriages could be denied their right to housing and employment on religious grounds. Last year, Gov. Snyder said that he would veto S.B. 4 unless it was paired with expansion of the state’s antidiscrimination law to include protections for LGBT residents in employment, housing, and public accommodations.³² Yet even with those protections in place, the bill could enable other far-reaching negative consequences, such as allowing law-enforcement officials to refuse to protect houses of worship such as mosques or other sites that they find personally objectionable.³³

Moreover, conservative Michigan lawmakers have sought to enshrine discrimination into other parts of state law. For example, H.B. 4309 could allow health care providers to decline medically necessary care to LGBT patients.³⁴ Although it failed to make it out of committee in 2015, H.B. 4733 attempted to make it illegal for anyone but an ordained minister to perform a wedding, which would presumably have narrowed the options for many same-sex couples in a state with a strong streak of religious conservatism.³⁵ Lastly, a bill signed into law in June 2015 allows publicly funded foster care and adoption programs to use religious belief as justification for discrimination against LGBT parents seeking to adopt and protects them from facing legal penalty and from the loss of state funding.³⁶

The good news is: Public opposition to this kind of discrimination is high. Nationally, 59 percent of Americans “oppose allowing a small business owner in [their] state to refuse to provide products or services to gay or lesbian people, even if doing so violates their religious beliefs.”³⁷ Notably, the opposition in Michigan is even higher—at 61 percent.³⁸ Moreover, an overwhelming majority of those from the Wolverine State—71 percent—favor “laws that would protect gay, lesbian, bisexual, and transgender people against discrimination in jobs, public accommodations, and housing.”³⁹ More than one in six Americans now believes that “same-sex couples should have the legal right to adopt a child.”⁴⁰ Even religiously-affiliated institutions are coming on board—as evidenced by the fact that one such organization, the Michigan Catholic Conference, recently voted to extend domestic partner benefits to its employees without restrictions for marital status or sexual orientation.⁴¹

Michigan Muslims face religious discrimination and violence

As noted earlier, Michigan contains a remarkable amount of religious diversity, including large concentrated populations of Muslims and Arab Americans in Dearborn, Michigan.⁴² The buying power and tax revenue generated by these communities greatly enrich the state’s economic landscape; Arab Americans in Michigan alone produce an estimated \$544 million in state tax revenue each year.⁴³ And Arab American populations are highly entrepreneurial, dominating the state’s commercial industry by opening coffee shops, restaurants, dry cleaners, and other small businesses.⁴⁴ Between 1990 and 2005, 32.8 percent of all high-tech startups in the state had an immigrant founder, many of whom were from the Arab American community. Indeed, Michigan has the third highest proportion among the 50 states of high-tech startups created by a foreign born resident and its foreign born residents are more than six times as likely to start a high-tech firm than American-born residents.⁴⁵

Sadly, fear-mongering and anti-Muslim bigotry also appear to be gaining traction among Americans. In 2015, one poll demonstrated that 82 percent of Americans strongly favor religious liberty for Christians, but far fewer, just 67 percent, supported protecting

the religious freedom of American Muslims.⁴⁶ Disturbingly, a majority of conservative Republicans believe that Muslims in the United States, “should be subject to greater scrutiny than those in other religious groups.”⁴⁷

Such rhetoric has brought violent consequences, however that has not stopped some politicians from continuing to call for bans on Muslim immigration.⁴⁸ As a consequence, protestors and vandals are targeting mosques as well as Gurdwaras, where Sikhs—a religious group that is distinct from, but often confused for, Muslims—gather to worship.⁴⁹ Some Muslim children have expressed increased fear that they will be rounded up and detained or deported.⁵⁰ Such events and attitudes challenge the right of Muslims to believe and worship freely in Michigan and across the United States.

Recommendations for a progressive approach to religious liberty in Michigan

Successful advancement of progressive health care laws, nondiscrimination policies, and religious tolerance depends on restoring a progressive interpretation of religious liberty that maintains the balance between this core American value and the government’s compelling interest in protecting people from harm or the burden of another’s religious belief. This restoration needs to happen not only through progressive action that fights against discriminatory laws and judicial interpretations, but also as a part of a broader cultural conversation. In this critical conversation, progressive lawmakers and advocates should clearly articulate a progressive vision of religious liberty while at the same time underscore the fact that the vision already enjoys widespread support among both people of faith and the religiously unaffiliated. It must be made clear that religious liberty is a core American value—a founding principle that is balanced with protections against harm to others while having the capacity to strengthen progressive reforms. To that end, the Center for American Progress recommends that progressive leaders, lawmakers, and advocates take the following actions.

Include progressive religious liberty in issue advocacy

A progressive vision for religious liberty not only is compatible with progressive values, but also essential to a broader progressive social agenda. Lawmakers, candidates, advocates, and stakeholders who are committed to the values of nondiscrimination, expanded health care access, diversity, and tolerance should incorporate a positive understanding of a religious liberty inclusive of these values into their advocacy. This approach affirms the fact that progressive social values and progressive religious liberty are mutually reinforcing: Resisting discrimination and embracing diversity strengthens the ability of all Americans to freely exercise their belief or nonbelief according to their values.

For example, opponents to the Michigan H.B. 4309, the Michigan Religious Liberty and Conscience Protection Act, should include arguments for how religious liberty is also a reproductive justice issue. Women's access to quality health care should not be jeopardized by the efforts of certain health care payers, health facilities, and health providers to impose their religious beliefs through overly broad religious exemptions. The government, both state and federal, is constitutionally charged with protecting citizens from the imposition of religious belief and the corresponding harms it creates.

Demonstrate that religious liberty has an intersectional effect on vulnerable communities

Progressives must be willing to see religious liberty as an intersectional issue that transcends interest-group politics. The use of religious liberty as a cover for discrimination and restricted health care access will always hit vulnerable populations the hardest. For this reason, potentially discriminatory bills create such an enhanced risk to marginalized communities.

For example, a religious exemption adoption law signed by Gov. Snyder in 2015 allows adoption agencies to discriminate against potential LGBT parents on religious grounds without the risk of losing state funding.⁵¹ Nearly half of all childless LGB people have expressed an interest in adopting someday, and same-sex couples may be more likely to adopt children with disabilities, who are often harder to place in permanent homes.⁵² But religious exemption laws, such as the current Michigan adoption law, would deny foster children with disabilities an increased opportunity for a permanent home.

Likewise, Catholic hospitals often handle a disproportionate number of uninsured and Medicare-enrolled patients, or may be the only hospital in a given area. Consequently, poor women, women of color, young women, and women in rural areas may be especially affected by the restrictive reproductive health care policies and practices of these hospital systems. The negative outcomes related to this reality are further amplified by bills that attempt to further impede access to critical health care on the grounds of religion or opposition to abortion.

Frame anti-Muslim bigotry as a religious liberty issue

When condemning anti-Muslim bigotry and acts of violence, intimidation, and discrimination against religious minorities, it is imperative that progressive leaders frame such events as violations of religious liberty. Moreover, these leaders should call out the hypocrisy of the so-called war on religion narratives advanced by the same extreme conservative circles that also advocate discrimination against Muslim citizens and immigrants. At the same time, leaders should find opportunities to lift up the

broad support for religious tolerance found across America's ideological spectrum. Doing so would serve as a powerful contrast to the rhetoric of hate that is advanced too often in conservative media and politics.

Fight overly broad religious exemptions and better serve Michigan constituents

Despite a significant lack of public support for new religious freedom bills on both the federal and state levels, lawmakers continue to disregard their constituents and invest their energies into these unnecessary, unwanted, and dangerous laws. Progressives must continue to point out the threat that overly broad religious exemption bills pose to civil rights, comprehensive health care access, and the economic security of women and families, especially the most vulnerable communities. These bills take valuable time and attention away from policies that would truly strengthen Michigan's democracy and the well-being of its citizenry—such as policies that would increase access to reproductive health care; further expand Medicaid; deepen nondiscrimination protections for LGBT Americans; and strengthen the enforcement of religious and civil liberty protections for religious minorities.

Conclusion

Progressives have a long history of leadership when it comes to advancing fair, inclusive policies that seek to allow every American to achieve stability and experience a sense of well-being for themselves, their families, and their communities. Religious liberty is a core value that belongs to all Americans and serves to ensure that one group cannot impose its beliefs and practices on others. A balanced approach to religious liberty—an approach that protects this fundamental right while refusing to relinquish other fundamental freedoms—should be amplified as a key component of a progressive agenda in Michigan.

Opportunities abound to integrate a progressive interpretation of religious liberty into current policy advocacy and responses to the radical rhetoric of fear and discrimination. This is more than counter messaging; it is a positive, hopeful declaration that reveres and restores the original core value of religious liberty, prevents harm, and affirms the right of all Americans to freely exercise their beliefs.

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