



# Advancing Progressive Religious Liberty in 2016

By Carolyn Davis March 30, 2016

# Introduction and summary

On March 23, 2016, the U.S. Supreme Court took up *Zubik v. Burwell*. Supreme Court justices once again heard from those challenging the employer contraceptive coverage mandate in the Affordable Care Act, or ACA. The plaintiffs argue that the law violates their religious freedoms, even though the ACA allows them to avoid actually providing the insurance if they fill out a simple form.<sup>1</sup> *Zubik* is an example of cynical efforts by extreme conservatives to exploit religion as a smokescreen for policies that discriminate and endanger the rights of Americans everywhere. It is a version of religious freedom that allows certain religious beliefs to trump the rights of others, cause harm, and allow one group to impose their religion on another. This bears little resemblance to the liberty our country's founders intended.

Religious liberty has always been a core American value, enshrined in the First Amendment and central to maintaining the democratic experiment in our perennially diverse society. But contrary to the intent of the country's founders, state legislatures across the country are advancing bills that create harmful, imbalanced religious liberty protections for business owners, government officials, and even private parties opposed to national marriage equality, certain health care decisions, lesbian, gay, bisexual, or transgender, or LGBT, adoption, and more.<sup>2</sup> Conservative congressional lawmakers have pledged their support to the First Amendment Defense Act, or FADA—which would allow marriage equality opponents and those with objections to premarital sex to refuse to follow laws without penalty or intervention from the government.<sup>3</sup> Conservative activists and media figures also continue to advance a “war on religion” narrative to justify resisting civil rights for LGBT Americans and denying women legally mandated health care—while also regularly questioning whether Muslims and other religious minorities deserve religious liberty protections.<sup>4</sup>

Extreme conservatives cannot and should not have the monopoly on defining religious liberty. Current efforts to twist religious liberty distort the very meaning of one of the country's founding freedoms: Religious liberty belongs to all Americans. This report demonstrates that Americans of faith and conscience

across the ideological spectrum reject the use of religion to discriminate and justify harm against others. Furthermore, it articulates a hopeful, progressive understanding of religious liberty that restores balance and inclusion for religious and nonreligious Americans alike—a framework that is critical to reaching increasingly influential demographics, including Millennials:

- Religious liberty is a core value that belongs to all Americans and serves to ensure that one group cannot impose its beliefs or practices on another.
- Religious liberty should exist in a balanced relationship with the other freedoms that are afforded to all Americans. It should not be interpreted to permit harm to others or limit civil rights.
- Religious liberty protections should be enforced for all Americans and not only for those of a specific religious faith.

Finally, this report offers four recommendations to lawmakers, candidates, advocates, and stakeholders to advance progressive religious liberty in 2016 and beyond:

- Highlight the support of the faith community for progressive policies, such as reproductive health care access and comprehensive nondiscrimination protections, in conjunction with opposition to overly broad religious exemptions
- Demonstrate that abuses of religious liberty protections can have a disproportionate negative impact on vulnerable communities, such as women of color and LGBT youth
- Call out the hypocrisy of war on religion narratives by framing anti-Muslim bigotry as a religious liberty issue and calling it what it is—discrimination against Muslim citizens and immigrants alike
- Fight overly broad religious exemptions on the state and federal levels; support comprehensive nondiscrimination protections; and advance legislation that affirms a progressive vision of religious liberty that is balanced with protections against harm to others

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