

Rights of transgender americans: religion and the state



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The Rights of Transgender Americans: An Examination of the Conflict between Religion and the State

Research question: How and to what extent do religiously conservative actors influence state policies that discriminate against the rights of transgender people in the United States today?

In the United States, most trans people face discrimination in the workplace, courts, schools, military, and other public spaces. While secular society and religious groups alike are polarized in this public debate, the discrimination against the rights of trans people that does exist today is decidedly due to the interaction of two crucial factors: the first factor is a lack of adequate policies which specifically protect the civil and human rights of trans people on local and federal levels; the second factor is civil society's virulent anti-trans rhetoric in public discourse, which often strongly influences the first factor. What both factors have in common is an inextricable connection to secular and religious conservatism. Today, conservative religious actors, predominantly Christians, are able to effectively lobby right-wing political officials and representatives to litigate against the rights of trans people on local and federal levels. Between the religiously conservative beliefs of both lobbyists and government officials themselves, the state is rendered biased when forming laws that affect the rights of trans people. Therefore, the notion of separation of church and state is not continuous in reality and, without secularization of the state, the anti-trans rhetoric of religious conservatives continues to effectually discriminate against the rights of trans people in policymaking. Additionally, a vast portion of civil society publicly disseminates a one-dimensional rhetoric against trans people when <https://assignbuster.com/rights-of-transgender-americans-religion-and-the-state/>

discussing how trans people should be treated in state policy and society. This anti-trans discourse in civil society bears a significant correlation with the values that religious and secular conservatives openly express, and oftentimes has virtually no basis in the reality of the lived experiences and oppression of trans people. The consequence of this interaction between conservative religion, conservative civil society, and a non-secular, right-wing state is that the majority of laws in the United States discriminate against the rights of trans people. Meanwhile, in this ongoing public debate, trans people are experiencing real, profound psychological turmoil due to victimization and suffer: today, trans people face an intense struggle to acquire total validation of their identity and equal rights as citizens of the state and members of civil society, in both religious and secular spaces across the United States.

As the visibility, acceptance, and inclusion of trans people rises in religious and secular spaces across civil society, trans people and their allies lobby the state to be included in and protected by policies at local and federal levels, since the majority of legislation excludes and disenfranchises trans people. On a federal level, trans people do not have legal protections from discrimination because the Equal Protection Clause of the constitution neglects to explicitly and consistently include trans people in its prohibition of unjust and prejudicial treatment based on sex and gender (Oakes 298). Likewise, no federal law designating trans people as a protected class or specifically requiring equal treatment for them exists, and all states except one deny legal recognition of non-binary and gender non-conforming people (O'Hara, The Daily Dot). In public discourse, the existence of trans people

tends to clash with the traditional, conventional beliefs of religious conservatives, particularly Christians, who base their cisnormative conception of gender and sex in a fundamentalist interpretation of the creation story within holy scriptures. By exercising the right of religious freedom, many conservative Christians vocalize their anti-trans rhetoric in order to sway the state to form policies that uphold their religious beliefs. For instance, as recent as August 2017, prominent members of the Trump-Pence Administration's Evangelical Advisory Board participated in the national conference of the Southern Baptist Convention's Ethics and Religious Liberty Commission that released "The Nashville Statement": "We affirm that self-conception as a male or female should be defined by God's holy purposes in creation and redemption as revealed in Scripture. We deny that adopting a homosexual or transgender self-conception is consistent with God's holy purposes in creation and redemption... We deny any obligation to speak in such ways that dishonor God's design of his image-bearers as male and female" (www.cbmw.org). While the alliance between conservative Christian advisors and the executive branch of government violates separation of church and state, the conspicuous dissemination of this explicitly religious manifesto denies the sheer existence of trans people by referencing the biblical verses as evidence of a male-female sex and gender binary. Moreover, the majority of the state legislation that currently regulates public spaces favors and reflects this anti-trans rhetoric from Christian conservatives in this national discourse, causing trans people to be further victimized due to marginalization and disenfranchisement in civil society.

Inextricably linked, religious and secular conservatives alike inform the way civil society views gender as a non-traversable binary, which in turn exacerbates discrimination against trans people in state policies. In the United States, dominating Christian beliefs have enabled courts to rule that “God created a man that neither the law nor the medical community could turn into a woman” and vice versa (Greenberg 66). Numerous jurisdictions and states have passed so-called bathroom bills to restrict the use of transgender people’s access to public restrooms, forcing them to use ones that match their sex assigned at birth (Gerstenfeld 65). For example, North Carolina’s bathroom bills revokes the right to sue under a state antidiscrimination law and Mississippi allows institutions to deny services to trans people on the basis of religious beliefs (Green, The Atlantic). In the public debate on this controversial issue of bathroom bills, Republican presidential candidate Mike Huckabee, who self-identifies as Christian, announced, “Now I wish that someone told me that when I was in high school that I could have felt like a woman when it came time to take showers in P. E. I’m pretty sure that I would have found my feminine side and said, ‘Coach, I think I’d rather shower with the girls today’” (Bradner, CNN). Although there is no evidence that trans-inclusive and gender-neutral public spaces pose any threats to cisgender people, trans people are physically and psychologically traumatized and victimized by bathroom bills. This legislation reveals how anti-trans rhetoric from religious conservatives and secular actors almost always centers around the discriminatory over-sexualization of trans people, and this bigotry renders the existence of trans people as inherently inappropriate and perverse due to their unconventional and non-conforming sexuality and gender identity. By tapping into civil society’s

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ignorant anxieties that trans people spawn gender chaos and ungrounded fears that vulnerable children and women are at risk of sexual assault, religious conservatives are able to effectively shape state policies that deny trans people access to a variety of public spaces. Far from an issue of privacy or a security risk, these bathroom bills systematically erase trans people's identities from public spaces, which prevents trans people from getting the support, resources, and services they need to fully exist and thrive as equal members of civil society and citizens of the state.

As a systemically oppressed minority, trans people are reduced to vulnerable citizens of the United States, but their marginalization enables religious conservatives to freely deny the rights of trans people in the name of protecting their religion. In public discourse, American pastor Neil Cazares-Thomas understands "the foundations of evangelical Christianity in the United States as a deliberate strategic attempt to ensure that Christians were at every level of government. To that end, they have been extremely successful. But also because of that, the church has become a representation of the culture and not a representation of Jesus... Isn't there separation of church and state here? And if it was true, why would you have a Christian minister or any minister open a state event? There is this blurry line between the separation of church and state and the importance of God and religion in civic life" (Dart, The Guardian). As conservative Christians hold the most influence on the current administration, their beliefs are significantly relevant in the formation of policies that discriminate against trans people. In contrast to this stance in public debate, the Texas Pastor Council claimed, "It's really a moral issue... It's a public decency issue, it's a public safety

issue... It's not overtly religious at all. Unfortunately, it seems like the only significant voice left that has any framework of opposing such an ordinance has come from the church" (Caballero, Christian Daily). Because of this anti-trans rhetoric, there have been cases in which a trans parent's child custody and visitation rights are sometimes relinquished because their gender identity is presumed to be inherently unfit for a child's well-being in the eyes of conservative Christianity (Cooper 9). Silenced by a secular society that pressures them to tolerate trans people, conservative Christians seek to lobby policymakers with an anti-trans rhetoric that appeals to national, American morality rather than strictly Christian principles regarding gender and sexuality. From this angle, the public discourse on laws that discriminate against the rights of trans people emerges from the way secular and religious conservatives perceive a growing erosion of traditional values in American life, which, in turn, effectually appeals to the way right-wing officials in the state perceive trans-inclusive policies as an attack on American liberty.

Additionally, Trump's administration has rolled back guidelines for protecting trans students under Title IX, so trans identities and non-binary gender expressions are not consistently recognized and protected in schools. In states like Maryland, there exist discrimination bans on the basis of gender identity, except for religious organizations, private clubs, and educational institutions (Kunkle, The Washington Post). Likewise, "Texas lawmakers introduced a bill that would allow conversion therapy practitioners to continue the so-called treatment under the guise of religious freedom, which helps trans people find either deliverance from their sinful desires in Christ or strength to resist those urges by obedience to His will and not their own"

(Rodriguez, Business Insider). Christian conservatives oppose trans-inclusive policies to defend constitutional rights, yet they appear to seek legal recognition of their religiously moral authority. In this public debate, David French claims that emerging legal protection for trans people represents “the destruction of the civil rights of the faithful for the sake of the convenience of the radicals” (French, National Review). Complaining of a war on religion, religious conservatives appear to seek exemptions from laws. In the wake of grappling with political power, Christian conservatives display a trend of implementing policies that utilize the coercion of law to promote their religious beliefs of genders identity, yet in the face of backlash they invoke their constitutional right to religious freedom. However, the overarching inequality in this public debate over trans-inclusive policies remains unchanged: gender identity and expression are not protected on a federal level by the constitution whereas religion is. Therefore, trans people still face disenfranchisement on a federal level.

To a significant extent, religiously conservative actors influence state policies that discriminate against the rights of trans people in the United States today. The anti-trans rhetoric that fuels right-wing legislators’ formation of policies stems from the struggle of conservative Christians to assert their freedom of religion in political power as well as conservative civil society’s grapple with preserving traditional American values that explicitly discriminate against trans people as valid and equal citizens and human beings. Undoubtedly, the absence of trans-inclusive policy on a federal level causes many trans people to feel that their identities are illegitimate, unequal, and unworthy of respect and dignity in the eyes of the law. Without

effective and comprehensive protection in policies, anti-trans groups in civil society like religious and secular conservatives are able to successfully oppress and victimize trans people in private and public spaces alike, which marginalizes trans people to the point that their lives and holistic wellbeing are gravely endangered. Through this complex interaction between religion, civil society, and the state, trans people are denied the basic human dignity and right of having their gender identity be recognized as uniquely immutable and deserving of equal protection in state legislation.

Bibliography

- Bradner, Eric. “Huckabee: I wish I could’ve identities as female in high school gym.” *CNN*. 3 June 2015.
- Caballero, Lorraine. “Texas Christians divided over transgender ‘bathroom bill’.” *Christian Daily*. 8 August 2017.
- CBMW. ORG. “The Nashville Statement: A Coalition for Biblical Sexuality.” August 2017.
- Cooper, Leslie. “Protecting the Rights of Transgender Parents and their Children: A Guide for Parents and Lawyers.” *American Civil Liberties Union*. March 2013.
- Dart, Tom. “Transgender ‘bathroom bill’ leaves Texas Christians deeply divided.” *The Guardian*. 6 August 2017.
- French, David. “Turning American Law Upside Down for the Transgendered.” *National Review*. 19 April 2016.
- Gerstenfeld, Phyllis. *Hate Crimes: Causes, Controls, and Controversies*. Sage Publications: 2017.

- Green, Emma. “ When Doctors Refuse to Treat LGBT Patients.” *The Atlantic*. 19 April 2016.
- Greenberg, Julie. *Transgender Rights*. University of Minnesota Press, 2006.
- Kunkle, Fredrick. “ Maryland Senate passes bill banning discrimination against transgender people.” *The Washington Post* . 4 March 2014.
- Oakes, Anne. *Controversies in Equal Protection Cases in America: Race, Gender and Sexual Orientation*. Routledge, 2016.
- O’Hara, Mary. “ ‘ Nonbinary’ is now a legal gender, Oregon court rules.” *The Daily Dot*. 10 June 2016.
- Rodriguez, Mathew. “ Conservatives push to rebrand conversion therapy as ‘ Christian counseling’.” *Business Insider*. 2 May 2017.